Findings--Intent--Severability--1997 c 266: See notes following RCW 28A.600.455.

RCW 28A.195.080 Record checks--Findings--Authority to require.

(1) The legislature finds additional safeguards are necessary to ensure safety of school children attending private schools in the state of Washington. Private schools approved under this chapter are authorized to require that employees who have regularly scheduled unsupervised access to children, whether current employees on May 5, 1999, or applicants for employment on or after May 5, 1999, undergo a record check through the Washington state patrol criminal identification system under RCW 43.43.830 through 43.43.838, 10.97.030, and 10.97.050 and through the federal bureau of investigation. The record check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card. Employees or applicants for employment who have completed a record check in accordance with RCW 28A.410.010 shall not be required to undergo a record check under this section. The superintendent of public instruction shall provide a copy of the record report to the employee or applicant. If an employee or applicant has undergone a record check as authorized under this section, additional record checks shall not be required unless required by other provisions of law.

(2) The approved private school, the employee, or the applicant shall pay the costs associated with the record check authorized in this section.

(3) Applicants may be employed on a conditional basis pending completion of the investigation. If the employee or applicant has had a record check within the previous two years, the approved private school or contractor may waive any record check required by the approved private school under subsection (1) of this section.

[1999 c 187 § 1.]

Notes:

Effective date--1999 c 187: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 5, 1999]." [1999 c 187 § 2.]

Chapter 28A.200 RCW
HOME-BASED INSTRUCTION

Sections

28A.200.010 Home-based instruction--Duties of parents.
28A.200.020 Home-based instruction--Certain decisions responsibility of parent unless otherwise specified.

RCW 28A.200.010 Home-based instruction--Duties of parents.

Each parent whose child is receiving home-based instruction under RCW 28A.225.010(4) shall have the duty to:

(1) File annually a signed declaration of intent that he or she is planning to cause his or her child to receive home-based instruction. The statement shall include the name and age of the

child, shall specify whether a certificated person will be supervising the instruction, and shall be written in a format prescribed by the superintendent of public instruction. Each parent shall file the statement by September 15 of the school year or within two weeks of the beginning of any public school quarter, trimester, or semester with the superintendent of the public school district within which the parent resides or the district that accepts the transfer, and the student shall be deemed a transfer student of the nonresident district. Parents may apply for transfer under RCW 28A.225.220;

(2) Ensure that test scores or annual academic progress assessments and immunization records, together with any other records that are kept relating to the instructional and educational activities provided, are forwarded to any other public or private school to which the child transfers. At the time of a transfer to a public school, the superintendent of the local school district in which the child enrolls may require a standardized achievement test to be administered and shall have the authority to determine the appropriate grade and course level placement of the child after consultation with parents and review of the child's records; and

(3) Ensure that a standardized achievement test approved by the state board of education is administered annually to the child by a qualified individual or that an annual assessment of the student's academic progress is written by a certificated person who is currently working in the field of education. The state board of education shall not require these children to meet the student learning goals, master the essential academic learning requirements, to take the assessments, or to obtain a certificate of mastery pursuant to *RCW 28A.630.885. The standardized test administered or the annual academic progress assessment written shall be made a part of the child's permanent records. If, as a result of the annual test or assessment, it is determined that the child is not making reasonable progress consistent with his or her age or stage of development, the parent shall make a good faith effort to remedy any deficiency.

Failure of a parent to comply with the duties in this section shall be deemed a failure of such parent's child to attend school without valid justification under RCW 28A.225.020. Parents who do comply with the duties set forth in this section shall be presumed to be providing home-based instruction as set forth in RCW 28A.225.010(4).

[1995 c 52 § 1; 1993 c 336 § 1103; 1990 c 33 § 178; 1985 c 441 § 2. Formerly RCW 28A.27.310.]

Notes:

***Reviser's note:** RCW 28A.630.885 was recodified as RCW 28A.655.060 pursuant to 1999 c 388 § 607.

Findings--Intent--Part headings not law--1993 c 336: See notes following RCW 28A.150.210.

Findings--1993 c 336: See note following RCW 28A.150.210.

Severability--1985 c 441: See note following RCW 28A.225.010.

Part-time students--Defined--Enrollment in public schools authorized: RCW 28A.150.350.

Private schools--Extension programs for parents to teach children in their custody: RCW 28A.195.010.

RCW 28A.200.020 Home-based instruction--Certain decisions responsibility of parent unless otherwise specified.

The state hereby recognizes that parents who are causing their children to receive home-based instruction under RCW 28A.225.010(4) shall be subject only to those minimum

state laws and regulations which are necessary to insure that a sufficient basic educational opportunity is provided to the children receiving such instruction. Therefore, all decisions relating to philosophy or doctrine, selection of books, teaching materials and curriculum, and methods, timing, and place in the provision or evaluation of home-based instruction shall be the responsibility of the parent except for matters specifically referred to in this chapter.

[1990 c 33 § 179; 1985 c 441 § 3. Formerly RCW 28A.27.320.]

Notes:

Severability--1985 c 441: See note following RCW 28A.225.010.

Chapter 28A.205 RCW
EDUCATION CENTERS

(Formerly: Educational clinics)

Sections

28A.205.010 "Education center," "basic academic skills," defined--Certification as education center and withdrawal thereof.
28A.205.020 Common school dropouts--Reimbursement.
28A.205.030 Reentry of prior dropouts into common schools, rules--Eligibility for GED test.
28A.205.040 Fees--Rules--Priority for payment--Review of records.
28A.205.050 Rules.
28A.205.070 Allocation of funds--Criteria--Duties of superintendent.
28A.205.080 Legislative findings--Distribution of funds--Cooperation with school districts.
28A.205.090 Inclusion of education centers program in biennial budget request--Quarterly plans--Funds--Payment.

RCW 28A.205.010 "Education center," "basic academic skills," defined--Certification as education center and withdrawal thereof.

(1) As used in this chapter, unless the context thereof shall clearly indicate to the contrary:

"Education center" means any private school operated on a profit or nonprofit basis which does the following:

(a) Is devoted to the teaching of basic academic skills, including specific attention to improvement of student motivation for achieving, and employment orientation.

(b) Operates on a clinical, client centered basis. This shall include, but not be limited to, performing diagnosis of individual educational abilities, determination and setting of individual goals, prescribing and providing individual courses of instruction therefor, and evaluation of each individual client's progress in his or her educational program.

(c) Conducts courses of instruction by professionally trained personnel certificated by the

state board of education according to rules adopted for the purposes of this chapter and providing, for certification purposes, that a year's teaching experience in an education center shall be deemed equal to a year's teaching experience in a common or private school.

(2) For purposes of this chapter, basic academic skills shall include the study of mathematics, speech, language, reading and composition, science, history, literature and political science or civics; it shall not include courses of a vocational training nature and shall not include courses deemed nonessential to the accrediting of the common schools or the approval of private schools under RCW 28A.305.130.

(3) The state board of education shall certify an education center only upon application and (a) determination that such school comes within the definition thereof as set forth in subsection (1) of this section and (b) demonstration on the basis of actual educational performance of such applicants' students which shows after consideration of their students' backgrounds, educational gains that are a direct result of the applicants' educational program. Such certification may be withdrawn if the board finds that a center fails to provide adequate instruction in basic academic skills. No education center certified by the state board of education pursuant to this section shall be deemed a common school under RCW 28A.150.020 or a private school for the purposes of RCW 28A.195.010 through 28A.195.050.

[1999 c 348 § 2; 1993 c 211 § 1; 1990 c 33 § 180; 1983 c 3 § 38; 1977 ex.s. c 341 § 1. Formerly RCW 28A.97.010.]

Notes:

Intent--1999 c 348: "During 1997 and 1998, a committee of the state board of education reviewed all board rules and related authorizing statutes. Based on the findings and recommendations resulting from the review, the state board prepared a report to the legislature requesting action be taken. It is the intent of this act to implement recommendations of the state board of education." [1999 c 348 § 1.]

Severability--1977 ex.s. c 341: "If any provision of this 1977 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 341 § 7.]

RCW 28A.205.020 Common school dropouts--Reimbursement.

Only eligible common school dropouts shall be enrolled in a certified education center for reimbursement by the superintendent of public instruction as provided in RCW 28A.205.040. A person is not an eligible common school dropout if: (1) The person has completed high school, (2) the person has not reached his or her twelfth birthday or has passed his or her twentieth birthday, (3) the person shows proficiency beyond the high school level in a test approved by the state board of education to be given as part of the initial diagnostic procedure, or (4) less than one month has passed after the person has dropped out of any common school and the education center has not received written verification from a school official of the common school last attended in this state that the person is no longer in attendance at the school. A person is an eligible common school dropout even if one month has not passed since the person dropped out if the board of directors or its designee, of that common school, requests the center to admit the person because the person has dropped out or because the person is unable to attend a

particular common school because of disciplinary reasons, including suspension and/or expulsion. The fact that any person may be subject to RCW 28A.225.010 through 28A.225.140, 28A.200.010, and 28A.200.020 shall not affect his or her qualifications as an eligible common school dropout under this chapter.

[1999 c 348 § 3; 1997 c 265 § 7; 1993 c 211 § 2; 1990 c 33 § 181; 1979 ex.s. c 174 § 1; 1977 ex.s. c 341 § 2. Formerly RCW 28A.97.020.]

Notes:

Intent--1999 c 348: See note following RCW 28A.205.010.

Severability--1997 c 265: See note following RCW 13.40.160.

Severability--1979 ex.s. c 174: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 174 § 4.]

Severability--1977 ex.s. c 341: See note following RCW 28A.205.010.

RCW 28A.205.030 Reentry of prior dropouts into common schools, rules--Eligibility for GED test.

The superintendent of public instruction shall adopt, by rules, policies and procedures to permit a prior common school dropout to reenter at the grade level appropriate to such individual's ability: PROVIDED, That such individual shall be placed with the class he or she would be in had he or she not dropped out and graduate with that class, if the student's ability so permits notwithstanding any loss of credits prior to reentry and if such student earns credits at the normal rate subsequent to reentry.

Notwithstanding any other provision of law, any certified education center student sixteen years of age or older, upon completion of an individual student program, shall be eligible to take the general educational development test as given throughout the state.

[1993 c 218 § 2; 1993 c 211 § 3; 1990 c 33 § 182; 1977 ex.s. c 341 § 3. Formerly RCW 28A.97.030.]

Notes:

Reviser's note: This section was amended by 1993 c 211 § 3 and by 1993 c 218 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability--1977 ex.s. c 341: See note following RCW 28A.205.010.

RCW 28A.205.040 Fees--Rules--Priority for payment--Review of records.

(1)(a) From funds appropriated for that purpose, the superintendent of public instruction shall pay fees to a certified center on a monthly basis for each student enrolled in compliance with RCW 28A.205.020. The superintendent shall set fees by rule.

(b) Revisions in such fees proposed by an education center shall become effective after thirty days notice unless the superintendent finds such a revision is unreasonable in which case the revision shall not take effect. An education center may, within fifteen days after such a finding by the superintendent, file notification of appeal with the state board of education which

shall, no later than its second regularly scheduled meeting following notification of such appeal, either grant or deny the proposed revision. The administration of any general education development test shall not be a part of such initial diagnostic procedure.

(c) Reimbursements shall not be made for students who are absent.

(d) No center shall make any charge to any student, or the student's parent, guardian or custodian, for whom a fee is being received under the provisions of this section.

(2) Payments shall be made from available funds first to those centers that have in the judgment of the superintendent demonstrated superior performance based upon consideration of students' educational gains taking into account such students' backgrounds, and upon consideration of cost effectiveness. In considering the cost effectiveness of nonprofit centers the superintendent shall take into account not only payments made under this section but also factors such as tax exemptions, direct and indirect subsidies or any other cost to taxpayers at any level of government which result from such nonprofit status.

(3) To be eligible for such payment, every such center, without prior notice, shall permit a review of its accounting records by personnel of the state auditor during normal business hours.

(4) If total funds for this purpose approach depletion, the superintendent shall notify the centers of the date after which further funds for reimbursement of the centers' services will be exhausted.

[1999 c 348 § 4; 1990 c 33 § 183; 1979 ex.s. c 174 § 2; 1977 ex.s. c 341 § 4. Formerly RCW 28A.97.040.]

Notes:

Intent--1999 c 348: See note following RCW 28A.205.010.
Severability--1979 ex.s. c 174: See note following RCW 28A.205.020.
Severability--1977 ex.s. c 341: See note following RCW 28A.205.010.

RCW 28A.205.050 Rules.

In accordance with chapter 34.05 RCW, the administrative procedure act, the state board of education with respect to the matter of certification, and the superintendent of public instruction with respect to all other matters, shall have the power and duty to make the necessary rules to carry out the purpose and intent of this chapter.

[1995 c 335 § 201; 1993 c 211 § 4; 1990 c 33 § 184; 1977 ex.s. c 341 § 5. Formerly RCW 28A.97.050.]

Notes:

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.
Severability--1977 ex.s. c 341: See note following RCW 28A.205.010.

RCW 28A.205.070 Allocation of funds--Criteria--Duties of superintendent.

In allocating funds appropriated for education centers, the superintendent of public instruction shall:

(1) Place priority upon stability and adequacy of funding for education centers that have demonstrated superior performance as defined in RCW 28A.205.040(2).

(2) Initiate and maintain a competitive review process to select new or expanded center programs in unserved or underserved areas. The criteria for review of competitive proposals for new or expanded education center services shall include but not be limited to:

(a) The proposing organization shall have obtained certification from the state board of education as provided in RCW 28A.205.010;

(b) The cost-effectiveness of the proposal; and

(c) The availability of committed nonstate funds to support, enrich, or otherwise enhance the basic program.

(3) In selecting areas for new or expanded education center programs, the superintendent of public instruction shall consider factors including but not limited to:

(a) The proportion and total number of dropouts unserved by existing center programs, if any;

(b) The availability within the geographic area of programs other than education centers which address the basic educational needs of dropouts; and

(c) Waiting lists or other evidence of demand for expanded education center programs.

(4) In the event of any curtailment of services resulting from lowered legislative appropriations, the superintendent of public instruction shall issue pro rata reductions to all centers funded at the time of the lowered appropriation. Individual centers may be exempted from such pro rata reductions if the superintendent finds that such reductions would impair the center's ability to operate at minimally acceptable levels of service. In the event of such exceptions, the superintendent shall determine an appropriate rate for reduction to permit the center to continue operation.

(5) In the event that an additional center or centers become certified and apply to the superintendent for funds to be allocated from a legislative appropriation which does not increase from the immediately preceding biennium, or does not increase sufficiently to allow such additional center or centers to operate at minimally acceptable levels of service without reducing the funds available to previously funded centers, the superintendent shall not provide funding for such additional center or centers from such appropriation.

[1993 c 211 § 6; 1990 c 33 § 185; 1985 c 434 § 3. Formerly RCW 28A.97.120.]

Notes:

Intent--1985 c 434: "It is the intent of this act to provide for an equitable distribution of funds appropriated for educational clinics, to stabilize existing programs, and to provide a system for orderly expansion or retrenchment in the event of future increases or reductions in program appropriations." [1985 c 434 § 1.]

RCW 28A.205.080 Legislative findings--Distribution of funds--Cooperation with school districts.

The legislature recognizes that education centers provide a necessary and effective service for students who have dropped out of common school programs. Education centers have demonstrated success in preparing such youth for productive roles in society and are an integral part of the state's program to address the needs of students who have dropped out of school. The superintendent of public instruction shall distribute funds, consistent with legislative

appropriations, allocated specifically for education centers in accord with chapter 28A.205 RCW. The legislature encourages school districts to explore cooperation with education centers pursuant to RCW 28A.150.305.

[1997 c 265 § 8; 1993 c 211 § 7; 1990 c 33 § 186; 1987 c 518 § 220. Formerly RCW 28A.97.125.]

Notes:

Severability--1997 c 265: See note following RCW 13.40.160.
Intent--1994 c 166; 1987 c 518: See note following RCW 28A.215.150.
Severability--1987 c 518: See note following RCW 28A.215.150.

RCW 28A.205.090 Inclusion of education centers program in biennial budget request--Quarterly plans--Funds--Payment.

The superintendent shall include the education centers program in the biennial budget request. Contracts between the superintendent of public instruction and the education centers shall include quarterly plans which provide for relatively stable student enrollment but take into consideration anticipated seasonal variations in enrollment in the individual centers. Funds which are not expended by a center during the quarter for which they were planned may be carried forward to subsequent quarters of the fiscal year. The superintendent shall make payments to the centers on a monthly basis pursuant to RCW 28A.205.040.

[1993 c 211 § 8; 1990 c 33 § 187; 1985 c 434 § 4. Formerly RCW 28A.97.130.]

Notes:

Intent--1985 c 434: See note following RCW 28A.205.070.

Chapter 28A.210 RCW
HEALTH--SCREENING AND REQUIREMENTS

Sections

28A.210.010 Contagious diseases, limiting contact--Rules and regulations.
28A.210.020 Visual and auditory screening of pupils--Rules and regulations.
28A.210.030 Visual and auditory screening of pupils--Record of screening--Forwarding of records, recommendations and data.
28A.210.040 Visual and auditory screening of pupils--Rules and regulations, forms used in screenings, distribution.
28A.210.060 Immunization program--Purpose.
28A.210.070 Immunization program--Definitions.
28A.210.080 Immunization program--Attendance of child conditioned upon presentation of alternative proofs.
28A.210.090 Immunization program--Exemptions from on presentation of alternative certifications.
28A.210.100 Immunization program--Source of immunizations--Written records.
28A.210.110 Immunization program--Administrator's duties upon receipt of proof of immunization or certification of exemption.
28A.210.120 Immunization program--Prohibiting child's presence, when--Notice to parent, guardian or adult in loco parentis, contents.
28A.210.130 Immunization program--Superintendent of public instruction to provide information.

28A.210.140 Immunization program--State board of health rules, contents.
28A.210.150 Immunization program--Superintendent of public instruction by rule to adopt procedures for verifying records.
28A.210.160 Immunization program--State board of education rules, contents.
28A.210.170 Immunization program--Department of social and health services' rules, contents.
28A.210.180 Screening program for scoliosis--Purpose.
28A.210.190 Screening program for scoliosis--Definitions.
28A.210.200 Screening program for scoliosis--Examination of children--Personnel making examinations, training for.
28A.210.210 Screening program for scoliosis--Records--Parents or guardians notification, contents.
28A.210.220 Screening program for scoliosis--Distribution of rules, records and forms.
28A.210.240 Screening program for scoliosis--Pupils exempt, when.
28A.210.250 Screening program for scoliosis--Sanctions against school officials failing to comply.
28A.210.260 Public and private schools--Administration of oral medication by--Conditions.
28A.210.270 Public and private schools--Administration of oral medication by--Immunity from liability--Discontinuance, procedure.
28A.210.280 Catheterization of public and private school students.
28A.210.290 Catheterization of public and private school students--Immunity from liability.
28A.210.300 School physician or school nurse may be employed.
28A.210.310 Prohibition on use of tobacco products on school property.

Notes:
State board of health: Chapter 43.20 RCW.

RCW 28A.210.010 Contagious diseases, limiting contact--Rules and regulations.

The state board of health, after consultation with the superintendent of public instruction, shall adopt reasonable rules and regulations regarding the presence of persons on or about any school premises who have, or who have been exposed to, contagious diseases deemed by the state board of health as dangerous to the public health. Such rules and regulations shall specify reasonable and precautionary procedures as to such presence and/or readmission of such persons and may include the requirement for a certificate from a licensed physician that there is no danger of contagion. The superintendent of public instruction shall print and distribute the rules and regulations of the state board of health above provided to appropriate school officials and personnel.

[1971 c 32 § 1; 1969 ex.s. c 223 § 28A.31.010. Prior: 1909 c 97 p 262 § 5; RRS § 4689; prior: 1897 c 118 § 68; 1890 p 372 § 47. Formerly RCW 28A.31.010, 28.31.010.]

RCW 28A.210.020 Visual and auditory screening of pupils--Rules and regulations.

Every board of school directors shall have the power, and it shall be its duty to provide for and require screening for the visual and auditory acuity of all children attending schools in their districts to ascertain which if any of such children have defects sufficient to retard them in their studies. Auditory and visual screening shall be made in accordance with procedures and standards adopted by rule or regulation of the state board of health. Prior to the adoption or

revision of such rules or regulations the state board of health shall seek the recommendations of the superintendent of public instruction regarding the administration of visual and auditory screening and the qualifications of persons competent to administer such screening.

[1971 c 32 § 2; 1969 ex.s. c 223 § 28A.31.030. Prior: 1941 c 202 § 1; Rem. Supp. 1941 § 4689-1. Formerly RCW 28A.31.030, 28.31.030.]

RCW 28A.210.030 Visual and auditory screening of pupils--Record of screening--Forwarding of records, recommendations and data.

The person or persons completing the screening prescribed in RCW 28A.210.020 shall promptly prepare a record of the screening of each child found to have, or suspected of having, reduced visual and/or auditory acuity in need of attention, including the special education services provided by RCW 28A.155.010 through 28A.155.100, and send copies of such records and recommendations to the parents or guardians of such children and shall deliver the original records to the appropriate school official who shall preserve such records and forward to the superintendent of public instruction and the secretary of health visual and auditory data as requested by such officials.

[1991 c 3 § 289; 1990 c 33 § 188; 1971 c 32 § 3; 1969 ex.s. c 223 § 28A.31.040. Prior: 1941 c 202 § 2; Rem. Supp. 1941 § 4689-2. Formerly RCW 28A.31.040, 28.31.040.]

RCW 28A.210.040 Visual and auditory screening of pupils--Rules and regulations, forms used in screenings, distribution.

The superintendent of public instruction shall print and distribute to appropriate school officials the rules and regulations adopted by the state board of health pursuant to RCW 28A.210.020 and the recommended records and forms to be used in making and reporting such screenings.

[1990 c 33 § 189; 1973 c 46 § 1. Prior: 1971 c 48 § 12; 1971 c 32 § 4; 1969 ex.s. c 223 § 28A.31.050; prior: 1941 c 202 § 3; RRS § 4689-3. Formerly RCW 28A.31.050, 28.31.050.]

Notes:

Severability--1973 c 46: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 46 § 5.]

Severability--1971 c 48: See note following RCW 28A.305.040.

RCW 28A.210.060 Immunization program--Purpose.

In enacting RCW 28A.210.060 through 28A.210.170, it is the judgment of the legislature that it is necessary to protect the health of the public and individuals by providing a means for the eventual achievement of full immunization of school-age children against certain vaccine-preventable diseases.

[1990 c 33 § 190; 1984 c 40 § 3; 1979 ex.s. c 118 § 1. Formerly RCW 28A.31.100.]

Notes:

Severability--1984 c 40: See note following RCW 28A.195.050.

Effective date--1979 ex.s. c 118: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on September 1, 1979." [1979 ex.s. c 118 § 13.]

Severability--1979 ex.s. c 118: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 118 § 16.]

Immunization plan: RCW 43.70.525.

RCW 28A.210.070 Immunization program--Definitions.

As used in RCW 28A.210.060 through 28A.210.170:

(1) "Chief administrator" shall mean the person with the authority and responsibility for the immediate supervision of the operation of a school or day care center as defined in this section or, in the alternative, such other person as may hereafter be designated in writing for the purposes of RCW 28A.210.060 through 28A.210.170 by the statutory or corporate board of directors of the school district, school, or day care center or, if none, such other persons or person with the authority and responsibility for the general supervision of the operation of the school district, school or day care center.

(2) "Full immunization" shall mean immunization against certain vaccine-preventable diseases in accordance with schedules and with immunizing agents approved by the state board of health.

(3) "Local health department" shall mean the city, town, county, district or combined city-county health department, board of health, or health officer which provides public health services.

(4) "School" shall mean and include each building, facility, and location at or within which any or all portions of a preschool, kindergarten and grades one through twelve program of education and related activities are conducted for two or more children by or in behalf of any public school district and by or in behalf of any private school or private institution subject to approval by the state board of education pursuant to RCW 28A.305.130(6), 28A.195.010 through 28A.195.050, and 28A.410.120.

(5) "Day care center" shall mean an agency which regularly provides care for a group of thirteen or more children for periods of less than twenty-four hours and is licensed pursuant to chapter 74.15 RCW.

(6) "Child" shall mean any person, regardless of age, in attendance at a public or private school or a licensed day care center.

[1990 c 33 § 191; 1985 c 49 § 2; 1984 c 40 § 4; 1979 ex.s. c 118 § 2. Formerly RCW 28A.31.102.]

Notes:

Severability--1984 c 40: See note following RCW 28A.195.050.

Effective date--Severability--1979 ex.s. c 118: See notes following RCW 28A.210.060.

RCW 28A.210.080 Immunization program--Attendance of child conditioned upon

presentation of alternative proofs.

The attendance of every child at every public and private school in the state and licensed day care center shall be conditioned upon the presentation before or on each child's first day of attendance at a particular school or center, of proof of either (1) full immunization, (2) the initiation of and compliance with a schedule of immunization, as required by rules of the state board of health, or (3) a certificate of exemption as provided for in RCW 28A.210.090. The attendance at the school or the day care center during any subsequent school year of a child who has initiated a schedule of immunization shall be conditioned upon the presentation of proof of compliance with the schedule on the child's first day of attendance during the subsequent school year. Once proof of full immunization or proof of completion of an approved schedule has been presented, no further proof shall be required as a condition to attendance at the particular school or center.

[1990 c 33 § 192; 1985 c 49 § 1; 1979 ex.s. c 118 § 3. Formerly RCW 28A.31.104.]

Notes:

Effective date--Severability--1979 ex.s. c 118: See notes following RCW 28A.210.060.

RCW 28A.210.090 Immunization program--Exemptions from on presentation of alternative certifications.

Any child shall be exempt in whole or in part from the immunization measures required by RCW 28A.210.060 through 28A.210.170 upon the presentation of any one or more of the following, on a form prescribed by the department of health:

(1) A written certification signed by any physician licensed to practice medicine pursuant to chapter 18.71 or 18.57 RCW that a particular vaccine required by rule of the state board of health is, in his or her judgment, not advisable for the child: PROVIDED, That when it is determined that this particular vaccine is no longer contraindicated, the child will be required to have the vaccine;

(2) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the religious beliefs of the signator are contrary to the required immunization measures; and

(3) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the signator has either a philosophical or personal objection to the immunization of the child.

[1991 c 3 § 290; 1990 c 33 § 193; 1984 c 40 § 5; 1979 ex.s. c 118 § 4. Formerly RCW 28A.31.106.]

Notes:

Severability--1984 c 40: See note following RCW 28A.195.050.

Effective date--Severability--1979 ex.s. c 118: See notes following RCW 28A.210.060.

RCW 28A.210.100 Immunization program--Source of immunizations--Written records.

The immunizations required by RCW 28A.210.060 through 28A.210.170 may be obtained from any private or public source desired: PROVIDED, That the immunization is administered and records are made in accordance with the regulations of the state board of

health. Any person or organization administering immunizations shall furnish each person immunized, or his or her parent or legal guardian, or any adult in loco parentis to the child, with a written record of immunization given in a form prescribed by the state board of health.

[1990 c 33 § 194; 1984 c 40 § 7; 1979 ex.s. c 118 § 6. Formerly RCW 28A.31.110.]

Notes:

Severability--1984 c 40: See note following RCW 28A.195.050.

Effective date--Severability--1979 ex.s. c 118: See notes following RCW 28A.210.060.

RCW 28A.210.110 Immunization program--Administrator's duties upon receipt of proof of immunization or certification of exemption.

A child's proof of immunization or certification of exemption shall be presented to the chief administrator of the public or private school or day care center or to his or her designee for that purpose. The chief administrator shall:

(1) Retain such records pertaining to each child at the school or day care center for at least the period the child is enrolled in the school or attends such center;

(2) Retain a record at the school or day care center of the name, address, and date of exclusion of each child excluded from school or the center pursuant to RCW 28A.210.120 for not less than three years following the date of a child's exclusion;

(3) File a written annual report with the department of health on the immunization status of students or children attending the day care center at a time and on forms prescribed by the department of health; and

(4) Allow agents of state and local health departments access to the records retained in accordance with this section during business hours for the purposes of inspection and copying.

[1991 c 3 § 291; 1990 c 33 § 195; 1979 ex.s. c 118 § 7. Formerly RCW 28A.31.112.]

Notes:

Effective date--Severability--1979 ex.s. c 118: See notes following RCW 28A.210.060.

RCW 28A.210.120 Immunization program--Prohibiting child's presence, when--Notice to parent, guardian or adult in loco parentis, contents.

It shall be the duty of the chief administrator of every public and private school and day care center to prohibit the further presence at the school or day care center for any and all purposes of each child for whom proof of immunization, certification of exemption, or proof of compliance with an approved schedule of immunization has not been provided in accordance with RCW 28A.210.080 and to continue to prohibit the child's presence until such proof of immunization, certification of exemption, or approved schedule has been provided. The exclusion of a child from a school shall be accomplished in accordance with rules of the state board of education. The exclusion of a child from a day care center shall be accomplished in accordance with rules of the department of social and health services. Prior to the exclusion of a child, each school or day care center shall provide written notice to the parent(s) or legal guardian(s) of each child or to the adult(s) in loco parentis to each child, who is not in compliance with the requirements of RCW 28A.210.080. The notice shall fully inform such

person(s) of the following: (1) The requirements established by and pursuant to RCW 28A.210.060 through 28A.210.170; (2) the fact that the child will be prohibited from further attendance at the school unless RCW 28A.210.080 is complied with; (3) such procedural due process rights as are hereafter established pursuant to RCW 28A.210.160 and/or 28A.210.170, as appropriate; and (4) the immunization services that are available from or through the local health department and other public agencies.

[1990 c 33 § 196; 1985 c 49 § 3; 1984 c 40 § 8; 1979 ex.s. c 118 § 8. Formerly RCW 28A.31.114.]

Notes:

Severability--1984 c 40: See note following RCW 28A.195.050.

Effective date--Severability--1979 ex.s. c 118: See notes following RCW 28A.210.060.

RCW 28A.210.130 Immunization program--Superintendent of public instruction to provide information.

The superintendent of public instruction shall provide for information about the immunization program and requirements under RCW 28A.210.060 through 28A.210.170 to be widely available throughout the state in order to promote full use of the program.

[1990 c 33 § 197; 1985 c 49 § 4. Formerly RCW 28A.31.115.]

RCW 28A.210.140 Immunization program--State board of health rules, contents.

The state board of health shall adopt and is hereby empowered to adopt rules pursuant to chapter 34.05 RCW which establish the procedural and substantive requirements for full immunization and the form and substance of the proof thereof, to be required pursuant to RCW 28A.210.060 through 28A.210.170.

[1990 c 33 § 198; 1984 c 40 § 9; 1979 ex.s. c 118 § 9. Formerly RCW 28A.31.116.]

Notes:

Severability--1984 c 40: See note following RCW 28A.195.050.

Effective date--Severability--1979 ex.s. c 118: See notes following RCW 28A.210.060.

RCW 28A.210.150 Immunization program--Superintendent of public instruction by rule to adopt procedures for verifying records.

The superintendent of public instruction by rule shall provide procedures for schools to quickly verify the immunization records of students transferring from one school to another before the immunization records are received.

[1985 c 49 § 5. Formerly RCW 28A.31.117.]

RCW 28A.210.160 Immunization program--State board of education rules, contents.

The state board of education shall and is hereby empowered to adopt rules pursuant to chapter 34.05 RCW which establish the procedural and substantive due process requirements governing the exclusion of children from public and private schools pursuant to RCW

28A.210.120.

[1990 c 33 § 199; 1979 ex.s. c 118 § 10. Formerly RCW 28A.31.118.]

Notes:

Effective date--Severability--1979 ex.s. c 118: See notes following RCW 28A.210.060.

RCW 28A.210.170 Immunization program--Department of social and health services' rules, contents.

The department of social and health services shall and is hereby empowered to adopt rules pursuant to chapter 34.05 RCW which establish the procedural and substantive due process requirements governing the exclusion of children from day care centers pursuant to RCW 28A.210.120.

[1990 c 33 § 200; 1979 ex.s. c 118 § 11. Formerly RCW 28A.31.120.]

Notes:

Effective date--Severability--1979 ex.s. c 118: See notes following RCW 28A.210.060.

RCW 28A.210.180 Screening program for scoliosis--Purpose.

The legislature recognizes that the condition known as scoliosis, a lateral curvature of the spine commonly appearing in adolescents, can develop into a permanent, crippling disability if left untreated. Early diagnosis and referral can often result in the successful treatment of this condition and greatly reduce the need for major surgery. Therefore, the purpose of RCW 28A.210.180 through 28A.210.250 is to recognize that a school screening program is an invaluable tool for detecting the number of adolescents with scoliosis. It is the intent of the legislature to insure that the superintendent of public instruction provide and require screening of children for the condition known as scoliosis, to ascertain which, if any, of these children have defects requiring corrective treatment.

[1991 c 86 § 1; 1990 c 33 § 201; 1985 c 216 § 1; 1979 c 47 § 1. Formerly RCW 28A.31.130.]

Notes:

Severability--1979 c 47: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 c 47 § 8.]

RCW 28A.210.190 Screening program for scoliosis--Definitions.

As used in RCW 28A.210.180 through 28A.210.250, the following terms have the meanings indicated.

(1) "Superintendent" means the superintendent of public instruction of public schools in the state, or the superintendent's designee.

(2) "Pupil" means a student enrolled in the public school system in the state.

(3) "Scoliosis" includes idiopathic scoliosis and kyphosis.

(4) "Screening" means an examination to be performed for the purpose of detecting the condition known as scoliosis.

(5) "Public schools" means the common schools referred to in Article IX of the state Constitution and those schools and institutions of learning having a curriculum below the college or university level as now or may be established by law and maintained at public expense.

[1991 c 86 § 2; 1990 c 33 § 202; 1985 c 216 § 2; 1979 c 47 § 2. Formerly RCW 28A.31.132.]

Notes:

Severability--1979 c 47: See note following RCW 28A.210.180.

RCW 28A.210.200 Screening program for scoliosis--Examination of children--Personnel making examinations, training for.

The superintendent shall provide for and require the examination of children attending public schools at least three times between grades four and eleven in accordance with procedures and standards adopted by rule of the state board of health in cooperation with the superintendent of public instruction and the department of health. The examination shall be made by a school physician, school nurse, qualified licensed health practitioner, or physical education instructor or by other school personnel. Proper training of the personnel in the screening process for scoliosis shall be provided by the superintendent.

[1991 c 86 § 3; 1990 c 33 § 203; 1985 c 216 § 3; 1979 c 47 § 3. Formerly RCW 28A.31.134.]

Notes:

Severability--1979 c 47: See note following RCW 28A.210.180.

RCW 28A.210.210 Screening program for scoliosis--Records--Parents or guardians notification, contents.

Every person performing the screening under RCW 28A.210.200 shall promptly prepare a record of the screening of each child found to have or suspected of having scoliosis and shall send copies of the records to the parents or guardians of the children. The notification shall include an explanation of scoliosis, the significance of treating it at an early stage, and the services generally available from a qualified licensed health practitioner for the treatment after diagnosis.

[1990 c 33 § 204; 1985 c 216 § 4; 1979 c 47 § 4. Formerly RCW 28A.31.136.]

Notes:

Severability--1979 c 47: See note following RCW 28A.210.180.

RCW 28A.210.220 Screening program for scoliosis--Distribution of rules, records and forms.

The superintendent shall print and distribute to appropriate school officials the rules adopted by the state board of health in cooperation with the superintendent of public instruction under RCW 28A.210.200 and the recommended records and forms to be used in making and

reporting the screenings.

[1990 c 33 § 205; 1979 c 47 § 5. Formerly RCW 28A.31.138.]

Notes:

Severability--1979 c 47: See note following RCW 28A.210.180.

RCW 28A.210.240 Screening program for scoliosis--Pupils exempt, when.

Any pupil shall be exempt from the examination upon written request of his or her parent or guardian if the parent or guardian certifies that:

(1) The screening conflicts with the philosophical or religious beliefs; or

(2) The student is presently under the care of a health care provider for spinal curvature or a related medical condition.

[1985 c 216 § 5; 1979 c 47 § 6. Formerly RCW 28A.31.140.]

Notes:

Severability--1979 c 47: See note following RCW 28A.210.180.

RCW 28A.210.250 Screening program for scoliosis--Sanctions against school officials failing to comply.

The superintendent may establish appropriate sanctions to be applied to any school officials of the state failing to comply with RCW 28A.210.200 through 28A.210.240 which sanctions may include withholding of any portion of state aid to the district until such time as compliance is assured.

[1990 c 33 § 207; 1979 c 47 § 7. Formerly RCW 28A.31.142.]

Notes:

Severability--1979 c 47: See note following RCW 28A.210.180.

RCW 28A.210.260 Public and private schools--Administration of oral medication by--Conditions.

Public school districts and private schools which conduct any of grades kindergarten through the twelfth grade may provide for the administration of oral medication of any nature to students who are in the custody of the school district or school at the time of administration, but are not required to do so by this section, subject to the following conditions:

(1) The board of directors of the public school district or the governing board of the private school or, if none, the chief administrator of the private school shall adopt policies which address the designation of employees who may administer oral medications to students, the acquisition of parent requests and instructions, and the acquisition of requests from licensed health professionals prescribing within the scope of their prescriptive authority and instructions regarding students who require medication for more than fifteen consecutive school days, the

identification of the medication to be administered, the means of safekeeping medications with special attention given to the safeguarding of legend drugs as defined in chapter 69.41 RCW, and the means of maintaining a record of the administration of such medication;

(2) The board of directors shall seek advice from one or more licensed physicians or nurses in the course of developing the foregoing policies;

(3) The public school district or private school is in receipt of a written, current and unexpired request from a parent, or a legal guardian, or other person having legal control over the student to administer the medication to the student;

(4) The public school district or the private school is in receipt of (a) a written, current and unexpired request from a licensed health professional prescribing within the scope of his or her prescriptive authority for administration of the medication, as there exists a valid health reason which makes administration of such medication advisable during the hours when school is in session or the hours in which the student is under the supervision of school officials, and (b) written, current and unexpired instructions from such licensed health professional prescribing within the scope of his or her prescriptive authority regarding the administration of prescribed medication to students who require medication for more than fifteen consecutive work days;

(5) The medication is administered by an employee designated by or pursuant to the policies adopted pursuant to subsection (1) of this section and in substantial compliance with the prescription of a licensed health professional prescribing within the scope of his or her prescriptive authority or the written instructions provided pursuant to subsection (4) of this section;

(6) The medication is first examined by the employee administering the same to determine in his or her judgment that it appears to be in the original container and to be properly labeled; and

(7) The board of directors shall designate a professional person licensed pursuant to chapter 18.71 RCW or chapter 18.79 RCW as it applies to registered nurses and advanced registered nurse practitioners, to train and supervise the designated school district personnel in proper medication procedures.

[2000 c 63 § 1; 1994 sp.s. c 9 § 720; 1982 c 195 § 1. Formerly RCW 28A.31.150.]

Notes:

Severability--Headings and captions not law--Effective date--1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

Severability--1982 c 195: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 195 § 4.]

RCW 28A.210.270 Public and private schools--Administration of oral medication by--Immunity from liability--Discontinuance, procedure.

(1) In the event a school employee administers oral medication to a student pursuant to RCW 28A.210.260 in substantial compliance with the prescription of the student's licensed health professional prescribing within the scope of the professional's prescriptive authority or the

written instructions provided pursuant to RCW 28A.210.260(4), and the other conditions set forth in RCW 28A.210.260 have been substantially complied with, then the employee, the employee's school district or school of employment, and the members of the governing board and chief administrator thereof shall not be liable in any criminal action or for civil damages in their individual or marital or governmental or corporate or other capacities as a result of the administration of the medication.

(2) The administration of oral medication to any student pursuant to RCW 28A.210.260 may be discontinued by a public school district or private school and the school district or school, its employees, its chief administrator, and members of its governing board shall not be liable in any criminal action or for civil damages in their governmental or corporate or individual or marital or other capacities as a result of the discontinuance of such administration: PROVIDED, That the chief administrator of the public school district or private school, or his or her designee, has first provided actual notice orally or in writing in advance of the date of discontinuance to a parent or legal guardian of the student or other person having legal control over the student.

[2000 c 63 § 2; 1990 c 33 § 208; 1982 c 195 § 2. Formerly RCW 28A.31.155.]

Notes:

Severability--1982 c 195: See note following RCW 28A.210.260.

RCW 28A.210.280 Catheterization of public and private school students.

(1) Public school districts and private schools that offer classes for any of grades kindergarten through twelve may provide for clean, intermittent bladder catheterization of students, or assisted self-catheterization of students pursuant to RCW 18.79.290, if the catheterization is provided for in substantial compliance with:

(a) Rules adopted by the state nursing care quality assurance commission and the instructions of a registered nurse or advanced registered nurse practitioner issued under such rules; and

(b) Written policies of the school district or private school which shall be adopted in order to implement this section and shall be developed in accordance with such requirements of chapters 41.56 and 41.59 RCW as may be applicable.

(2) This section does not require school districts to provide intermittent bladder catheterization of students.

[1994 sp.s. c 9 § 721; 1988 c 48 § 2. Formerly RCW 28A.31.160.]

Notes:

Severability--Headings and captions not law--Effective date--1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

RCW 28A.210.290 Catheterization of public and private school students--Immunity from liability.

(1) In the event a school employee provides for the catheterization of a student pursuant to RCW 18.79.290 and 28A.210.280 in substantial compliance with (a) rules adopted by the state nursing care quality assurance commission and the instructions of a registered nurse or advanced registered nurse practitioner issued under such rules, and (b) written policies of the school district or private school, then the employee, the employee's school district or school of employment, and the members of the governing board and chief administrator thereof shall not be liable in any criminal action or for civil damages in their individual, marital, governmental, corporate, or other capacity as a result of providing for the catheterization.

(2) Providing for the catheterization of any student pursuant to RCW 18.79.290 and 28A.210.280 may be discontinued by a public school district or private school and the school district or school, its employees, its chief administrator, and members of its governing board shall not be liable in any criminal action or for civil damages in their individual, marital, governmental, corporate, or other capacity as a result of the discontinuance: PROVIDED, That the chief administrator of the public school district or private school, or his or her designee, has first provided actual notice orally or in writing in advance of the date of discontinuance to a parent or legal guardian of the student or other person having legal control over the student: PROVIDED FURTHER, That the public school district otherwise provides for the catheterization of the student to the extent required by federal or state law.

[1994 sp.s. c 9 § 722; 1990 c 33 § 209; 1988 c 48 § 3. Formerly RCW 28A.31.165.]

Notes:

Severability--Headings and captions not law--Effective date--1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

RCW 28A.210.300 School physician or school nurse may be employed.

The board of directors of any school district of the second class may employ a regularly licensed physician or a licensed public health nurse for the purpose of protecting the health of the children in said district.

[1975 c 43 § 20; 1969 ex.s. c 223 § 28A.60.320. Prior: 1937 c 60 § 1; RRS § 4776-4. Formerly RCW 28A.60.320, 28.31.080.]

Notes:

Effective date--Severability--1975 c 43: See notes following RCW 28A.535.050.

RCW 28A.210.310 Prohibition on use of tobacco products on school property.

(1) To protect children in the public schools of this state from exposure to the addictive substance of nicotine, each school district board of directors shall have a written policy mandating a prohibition on the use of all tobacco products on public school property.

(2) The policy in subsection (1) of this section shall include, but not be limited to, a requirement that students and school personnel be notified of the prohibition, the posting of signs prohibiting the use of tobacco products, sanctions for students and school personnel who violate the policy, and a requirement that school district personnel enforce the prohibition. Enforcement

policies adopted in the school board policy shall be in addition to the enforcement provisions in RCW 70.160.070.

[1997 c 9 § 1; 1989 c 233 § 6. Formerly RCW 28A.31.170.]

Notes:

Effective date--1997 c 9: "This act takes effect August 1, 1997." [1997 c 9 § 2.]

Chapter 28A.215 RCW
EARLY CHILDHOOD, PRESCHOOLS, AND BEFORE-AND-AFTER SCHOOL CARE

Sections

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BEFORE-AND-AFTER SCHOOL CARE

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28A.215.908 Severability--1988 c 174.

Notes:

Department of community, trade, and economic development: Chapter 43.330 RCW.

NURSERY SCHOOLS, PRESCHOOLS, AND BEFORE-AND-AFTER SCHOOL CARE

RCW 28A.215.010 Authority of school boards.

The board of directors of any school district shall have the power to establish and maintain preschools and to provide before-and-after-school and vacation care in connection with the common schools of said district located at such points as the board shall deem most suitable for the convenience of the public, for the care and instruction of infants and children residing in said district. The board shall establish such courses, activities, rules, and regulations governing preschools and before-and-after-school care as it may deem best: PROVIDED, That these courses and activities shall meet the minimum standard for such preschools as established by the United States Department of Health, Education and Welfare, or its successor agency, and the state board of education. Except as otherwise provided by state or federal law, the board of directors may fix a reasonable charge for the care and instruction of children attending such schools. The board may, if necessary, supplement such funds as are received for the superintendent of public instruction or any agency of the federal government, by an appropriation from the general school fund of the district.

[1995 c 335 § 104; 1969 ex.s. c 223 § 28A.34.010. Prior: 1945 c 247 § 1; 1943 c 220 § 1; Rem. Supp. 1945 § 5109-1. Formerly RCW 28A.34.010, 28.34.010.]

Notes:

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

RCW 28A.215.020 Allocations of state or federal funds--Regulations by state board.

Expenditures under federal funds and/or state appropriations made to carry out the purposes of RCW 28A.215.010 through 28A.215.050 shall be made by warrants issued by the state treasurer upon order of the superintendent of public instruction. The state board of education shall make necessary rules and regulations to carry out the purpose of RCW 28A.215.010.

[1995 c 335 § 308; 1990 c 33 § 210; 1969 ex.s. c 223 § 28A.34.020. Prior: 1943 c 220 § 2; Rem. Supp. 1943 § 5109-2. Formerly RCW 28A.34.020, 28.34.020, 28.34.030.]

Notes:

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

RCW 28A.215.030 Allocations pending receipt of federal funds.

In the event the legislature appropriates any moneys to carry out the purposes of RCW 28A.215.010 through 28A.215.050, allocations therefrom may be made to school districts for the purpose of underwriting allocations made or requested from federal funds until such federal funds are available. Any school district may allocate a portion of its funds for the purpose of carrying out the provisions of RCW 28A.215.010 through 28A.215.050 pending the receipt of reimbursement from funds made available by acts of congress.

[1995 c 335 § 309; 1990 c 33 § 211; 1969 ex.s. c 223 § 28A.34.040. Prior: 1943 c 220 § 3; Rem. Supp. 1943 § 5109-3. Formerly RCW 28A.34.040, 28.34.040.]

Notes:

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

RCW 28A.215.040 Establishment and maintenance discretionary.

Every board of directors shall have power to establish, equip and maintain preschools and/or provide before-and-after-school care for children of working parents, in cooperation with the federal government or any of its agencies, when in their judgment the best interests of their district will be subserved thereby.

[1995 c 335 § 105; 1973 1st ex.s. c 154 § 45; 1969 ex.s. c 223 § 28A.34.050. Prior: 1943 c 220 § 5; Rem. Supp. 1943 § 5109-5. Formerly RCW 28A.34.050, 28.34.050.]

Notes:

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

RCW 28A.215.050 Additional authority--Contracts with private and public entities--Charges--Transportation services.

As a supplement to the authority otherwise granted by RCW 28A.215.010 through 28A.215.050 respecting the care or instruction, or both, of children in general, the board of directors of any school district may only utilize funds outside the state basic education appropriation and the state school transportation appropriation to:

(1) Contract with public and private entities to conduct all or any portion of the management and operation of a child care program at a school district site or elsewhere;

(2) Establish charges based upon costs incurred under this section and provide for the reduction or waiver of charges in individual cases based upon the financial ability of the parents or legal guardians of enrolled children to pay the charges, or upon their provision of other valuable consideration to the school district; and

(3) Transport children enrolled in a child care program to the program and to related sites using district-owned school buses and other motor vehicles, or by contracting for such transportation and related services: PROVIDED, That no child three years of age or younger shall be transported under the provisions of this section unless accompanied by a parent or guardian.

[1995 c 335 § 310; 1990 c 33 § 212; 1987 c 487 § 1. Formerly RCW 28A.34.150.]

Notes:

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

EARLY CHILDHOOD ASSISTANCE PROGRAM

RCW 28A.215.100 Intent.

It is the intent of the legislature to establish an early childhood state education and assistance program. This special assistance program is a voluntary enrichment program to help prepare some children to enter the common school system and shall be offered only as funds are

available. This program is not a part of the basic program of education which must be fully funded by the legislature under Article IX, section 1 of the state Constitution.

[1994 c 166 § 1; 1985 c 418 § 1. Formerly RCW 28A.34A.010.]

Notes:

Effective date--1994 c 166: "This act shall take effect July 1, 1994." [1994 c 166 § 12.]

RCW 28A.215.110 Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908.

(1) "Advisory committee" means the advisory committee under RCW 28A.215.140.

(2) "Department" means the department of community, trade, and economic development.

(3) "Eligible child" means a child not eligible for kindergarten whose family income is at or below one hundred ten percent of the federal poverty level, as published annually by the federal department of health and human services, and includes a child whose family is eligible for public assistance, and who is not a participant in a federal or state program providing comprehensive services and may include children who are eligible under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the early childhood program. Priority for enrollment shall be given to children from families with the lowest income or to eligible children from families with multiple needs.

(4) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department of community, trade, and economic development as meeting the minimum program rules adopted by the department to qualify under RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908 and are designated as eligible for funding by the department under RCW 28A.215.160 and 28A.215.180.

(5) "Comprehensive" means an assistance program that focuses on the needs of the child and includes education, health, and family support services.

(6) "Family support services" means providing opportunities for parents to:

(a) Actively participate in their child's early childhood program;

(b) Increase their knowledge of child development and parenting skills;

(c) Further their education and training;

(d) Increase their ability to use needed services in the community;

(e) Increase their self-reliance.

[1999 c 350 § 1; 1994 c 166 § 2; 1990 c 33 § 213; 1988 c 174 § 2; 1985 c 418 § 2. Formerly RCW 28A.34A.020.]

Notes:

Effective date--1994 c 166: See note following RCW 28A.215.100.

Findings--1994 c 166; 1988 c 174: "The legislature finds that the early childhood education and assistance program provides for the educational, social, health, nutritional, and cultural development of children at risk of failure when they reach school age. The long-term benefits to society in the form of greater educational attainment, employment, and projected lifetime earnings as well as the savings to be realized, from lower crime rates, welfare support, and reduced teenage pregnancy, have been demonstrated through lifelong research of at-risk

children and early childhood programs.

The legislature intends to encourage development of community partnerships for children at risk by authorizing a program of voluntary grants and contributions from business and community organizations to increase opportunities for children to participate in early childhood education." [1994 c 166 § 3; 1988 c 174 § 1.]

RCW 28A.215.120 Department of community, trade, and economic development to administer program--Admission and funding.

The department of community, trade, and economic development shall administer a state-supported early childhood education and assistance program to assist eligible children with educational, social, health, nutritional, and cultural development to enhance their opportunity for success in the common school system. Eligible children shall be admitted to approved early childhood programs to the extent that the legislature provides funds, and additional eligible children may be admitted to the extent that grants and contributions from community sources provide sufficient funds for a program equivalent to that supported by state funds.

[1994 c 166 § 4; 1988 c 174 § 3; 1985 c 418 § 3. Formerly RCW 28A.34A.030.]

Notes:

Effective date--1994 c 166: See note following RCW 28A.215.100.

Findings--1994 c 166; 1988 c 174: See note following RCW 28A.215.110.

RCW 28A.215.130 Approved early childhood programs--Entities eligible to conduct--Use of funds--Requirements for applicants.

Approved early childhood programs shall receive state-funded support through the department. Public or private nonsectarian organizations, including, but not limited to school districts, educational service districts, community and technical colleges, local governments, or nonprofit organizations, are eligible to participate as providers of the state early childhood program. Funds appropriated for the state program shall be used to continue to operate existing programs or to establish new or expanded early childhood programs, and shall not be used to supplant federally supported head start programs. Funds obtained by providers through voluntary grants or contributions from individuals, agencies, corporations, or organizations may be used to expand or enhance preschool programs so long as program standards established by the department are maintained, but shall not be used to supplant federally supported head start programs or state-supported early childhood programs. Persons applying to conduct the early childhood program shall identify targeted groups and the number of children to be served, program components, the qualifications of instructional and special staff, the source and amount of grants or contributions from sources other than state funds, facilities and equipment support, and transportation and personal care arrangements.

[1994 c 166 § 5; 1988 c 174 § 4; 1985 c 418 § 4. Formerly RCW 28A.34A.040.]

Notes:

Effective date--1994 c 166: See note following RCW 28A.215.100.

Findings--1994 c 166; 1988 c 174: See note following RCW 28A.215.110.

RCW 28A.215.140 Advisory committee--Composition.

The department shall establish an advisory committee composed of interested parents and representatives from the state board of education, the office of the superintendent of public instruction, the division of children and family services within the department of social and health services, early childhood education and development staff preparation programs, the head start programs, school districts, and such other community and business organizations as deemed necessary by the department to assist with the establishment of the preschool program and advise the department on matters regarding the on-going promotion and operation of the program.

[1988 c 174 § 5; 1985 c 418 § 5. Formerly RCW 28A.34A.050.]

Notes:

Findings--1994 c 166; 1988 c 174: See note following RCW 28A.215.110.

RCW 28A.215.150 Rules.

The department shall adopt rules under chapter 34.05 RCW for the administration of the early childhood program. Approved early childhood programs shall conduct needs assessments of their service area, identify any targeted groups of children, to include but not be limited to children of seasonal and migrant farmworkers and native American populations living either on or off reservation, and provide to the department a service delivery plan, to the extent practicable, that addresses these targeted populations.

The department in developing rules for the early childhood program shall consult with the advisory committee, and shall consider such factors as coordination with existing head start and other early childhood programs, the preparation necessary for instructors, qualifications of instructors, adequate space and equipment, and special transportation needs. The rules shall specifically require the early childhood programs to provide for parental involvement in participation with their child's program, in local program policy decisions, in development and revision of service delivery systems, and in parent education and training.

[1994 c 166 § 6; 1988 c 174 § 6; 1987 c 518 § 101; 1985 c 418 § 6. Formerly RCW 28A.34A.060.]

Notes:

Effective date--1994 c 166: See note following RCW 28A.215.100.

Findings--1994 c 166; 1988 c 174: See note following RCW 28A.215.110.

Intent--1994 c 166; 1987 c 518: "The long-term social, community welfare, and economic interests of the state will be served by an investment in our children. Conclusive studies and experiences show that providing children with developmental experiences and providing parents with effective parental partnership, empowerment, opportunities for involvement with their child's developmental learning, and expanding parenting skills, learning, and training can greatly improve children's performance in school as well as increase the likelihood of children's success as adults. National studies have also confirmed that special attention to, and educational assistance for, children, their school environment, and their families are the most effective ways in which to meet the state's social and economic goals.

The legislature intends to enhance the readiness to learn of certain children and students by: Providing for an expansion of the state early childhood education and assistance program for children from low-income families and establishing an adult literacy program for certain parents; assisting school districts to establish elementary counseling programs; instituting a program to address learning problems due to drug and alcohol use and abuse; and establishing a program directed at students who leave school before graduation.

The legislature intends further to establish programs that will allow for parental, business, and community

involvement in assisting the school systems throughout the state to enhance the ability of children to learn." [1994 c 166 § 7; 1987 c 518 § 1.]

Severability--1987 c 518: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 518 § 411.]

RCW 28A.215.160 Review of applications--Award of funds.

The department shall review applications from public or private nonsectarian organizations for state funding of early childhood education and assistance programs and award funds as determined by department rules and based on local community needs and demonstrated capacity to provide services.

[1994 c 166 § 8; 1988 c 174 § 7; 1985 c 418 § 7. Formerly RCW 28A.34A.070.]

Notes:

Effective date--1994 c 166: See note following RCW 28A.215.100.

Findings--1994 c 166; 1988 c 174: See note following RCW 28A.215.110.

RCW 28A.215.170 Early childhood educational and assistance services--Report to governor.

The department shall annually report to the governor and the legislature on the findings of the longitudinal study undertaken to examine and monitor the effectiveness of early childhood educational and assistance services for eligible children to measure, among other elements, if possible, how the average level of performance of children completing this program compare to the average level of performance of all state students in their grade level, and to the average level of performance of those eligible students who did not have access to this program. The evaluation system shall examine how the percentage of these children needing access to special education or remedial programs compares to the overall percentage of children needing such services and compares to the percentage of eligible students who did not have access to this program needing such services.

[1995 c 335 § 501; 1994 c 166 § 9; 1988 c 174 § 8; 1985 c 418 § 8. Formerly RCW 28A.34A.080.]

Notes:

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

Effective date--1994 c 166: See note following RCW 28A.215.100.

Findings--1994 c 166; 1988 c 174: See note following RCW 28A.215.110.

RCW 28A.215.180 State support--Priorities--Program funding levels.

For the purposes of RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908, the department may award state support under RCW 28A.215.100 through 28A.215.160 to increase the numbers of eligible children assisted by the federal or state-supported early childhood programs in this state. Priority shall be given to those geographical areas which include a high percentage of families qualifying under the "eligible child" criteria. The overall program funding level shall be based on an average grant per child

consistent with state appropriations made for program costs: PROVIDED, That programs addressing special needs of selected groups or communities shall be recognized in the department's rules.

[1994 c 166 § 10; 1990 c 33 § 214; 1987 c 518 § 102; 1985 c 418 § 9. Formerly RCW 28A.34A.090.]

Notes:

Effective date--1994 c 166: See note following RCW 28A.215.100.
Intent--1994 c 166; 1987 c 518: See note following RCW 28A.215.150.
Severability--1987 c 518: See note following RCW 28A.215.150.

RCW 28A.215.190 Expenses of advisory committee--Reimbursement.

The department from funds appropriated for the administration of the program under chapter 418, Laws of 1985 shall reimburse the expenses of the advisory committee.

[1985 c 418 § 10. Formerly RCW 28A.34A.100.]

RCW 28A.215.200 Authority to solicit gifts, grants, and support.

The department may solicit gifts, grants, conveyances, bequests and devises for the use or benefit of the early childhood state education and assistance program established by RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908. The department shall actively solicit support from business and industry and from the federal government for the state early childhood education and assistance program and shall assist local programs in developing partnerships with the community for eligible children.

[1994 c 166 § 11; 1990 c 33 § 215; 1988 c 174 § 9; 1985 c 418 § 11. Formerly RCW 28A.34A.110.]

Notes:

Effective date--1994 c 166: See note following RCW 28A.215.100.
Findings--1994 c 166; 1988 c 174: See note following RCW 28A.215.110.

RCW 28A.215.900 Short title--1985 c 418.

This act shall be known as the early childhood assistance act of 1985.

[1985 c 418 § 13. Formerly RCW 28A.34A.904.]

RCW 28A.215.904 Contingency--Effective date--1985 c 418.

If specific funding for the purposes of this act, referencing this act by bill number, is not provided by the legislature by July 1, 1987, this act shall be null and void. This act shall be of no effect until such specific funding is provided. If such funding is so provided, this act shall take effect when the legislation providing the funding takes effect.

[1985 c 418 § 12. Formerly RCW 28A.34A.900.]

Notes:

Reviser's note: (1) 1986 c 312 § 211 provides specific funding for the purposes of this act.
(2) 1986 c 312 took effect April 4, 1986.

RCW 28A.215.906 Severability--1985 c 418.

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

[1985 c 418 § 14. Formerly RCW 28A.34A.906.]

RCW 28A.215.908 Severability--1988 c 174.

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

[1988 c 174 § 11. Formerly RCW 28A.34A.908.]

Chapter 28A.220 RCW
TRAFFIC SAFETY

Sections

28A.220.010 Legislative declaration.
28A.220.020 Definitions.
28A.220.030 Administration of program--Powers and duties of school officials.
28A.220.040 Fiscal support--Reimbursement to school districts--Enrollment fees--Deposit.
28A.220.050 Information on proper use of left-hand lane.
28A.220.060 Information on effects of alcohol and drug use.
28A.220.070 Rules.
28A.220.900 Purpose.

RCW 28A.220.010 Legislative declaration.

It is the purpose of chapter 76, Laws of 1977 to provide the students of the state with an improved quality traffic safety education program and to develop in the youth of this state a knowledge of the motor vehicle laws, an acceptance of personal responsibility on the public highways, an understanding of the causes and consequences of traffic accidents, and to provide training in the skills necessary for the safe operation of motor vehicles; to provide financial assistance to the various school districts while permitting them to achieve economies through options in the choice of course content and methods of instructions by adopting in whole or with modifications, a program prepared by the office of the superintendent of public instruction, and keeping to a minimum the amount of estimating, bookkeeping and reporting required of said school districts for financial reimbursement for such traffic safety education programs.

[1977 c 76 § 1. Formerly RCW 28A.08.005, 46.81.005.]

Notes:

Severability--1977 c 76: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 c 76 § 5.]

RCW 28A.220.020 Definitions.

The following words and phrases whenever used in chapter 28A.220 RCW shall have the following meaning:

(1) "Superintendent" or "state superintendent" shall mean the superintendent of public instruction.

(2) "Traffic safety education course" shall mean an accredited course of instruction in traffic safety education which shall consist of two phases, classroom instruction, and laboratory experience. "Laboratory experience" shall include on-street, driving range, or simulator experience or some combination thereof. Each phase shall meet basic course requirements which shall be established by the superintendent of public instruction and each part of said course shall be taught by a qualified teacher of traffic safety education. Any portions of the course may be taught after regular school hours or on Saturdays as well as on regular school days or as a summer school course, at the option of the local school districts.

(3) "Qualified teacher of traffic safety education" shall mean an instructor certificated under the provisions of chapter 28A.410 RCW and certificated by the superintendent of public instruction to teach either the classroom phase or the laboratory phase of the traffic safety education course, or both, under regulations promulgated by the superintendent: PROVIDED, That the laboratory experience phase of the traffic safety education course may be taught by instructors certificated under rules promulgated by the superintendent of public instruction, exclusive of any requirement that the instructor be certificated under the provisions of chapter 28A.410 RCW. Professional instructors certificated under the provisions of chapter 46.82 RCW, and participating in this program, shall be subject to reasonable qualification requirements jointly adopted by the superintendent of public instruction and the director of licensing.

(4) "Realistic level of effort" means the classroom and laboratory student learning experiences considered acceptable to the superintendent of public instruction that must be satisfactorily accomplished by the student in order to successfully complete the traffic safety education course.

[1990 c 33 § 218; 1979 c 158 § 195; 1977 c 76 § 2; 1969 ex.s. c 218 § 1; 1963 c 39 § 2. Formerly RCW 28A.08.010, 46.81.010.]

Notes:

Severability--1977 c 76: See note following RCW 28A.220.010.

RCW 28A.220.030 Administration of program--Powers and duties of school officials.

(1) The superintendent of public instruction is authorized to establish a section of traffic safety education, and through such section shall: Define a "realistic level of effort" required to provide an effective traffic safety education course, establish a level of driving competency required of each student to successfully complete the course, and ensure that an effective state-wide program is implemented and sustained, administer, supervise, and develop the traffic safety education program and shall assist local school districts in the conduct of their traffic safety education programs. The superintendent shall adopt necessary rules and regulations governing the operation and scope of the traffic safety education program; and each school district shall submit a report to the superintendent on the condition of its traffic safety education program: PROVIDED, That the superintendent shall monitor the quality of the program and carry out the purposes of this chapter.

(2) The board of directors of any school district maintaining a secondary school which includes any of the grades 10 to 12, inclusive, may establish and maintain a traffic safety education course. If a school district elects to offer a traffic safety education course and has within its boundaries a private accredited secondary school which includes any of the grades 10 to 12, inclusive, at least one class in traffic safety education shall be given at times other than regular school hours if there is sufficient demand therefor.

(3) The board of directors of a school district, or combination of school districts, may contract with any drivers' school licensed under the provisions of chapter 46.82 RCW to teach the laboratory phase of the traffic safety education course. Instructors provided by any such contracting drivers' school must be properly qualified teachers of traffic safety education under the joint qualification requirements adopted by the superintendent of public instruction and the director of licensing.

(4) The superintendent shall establish a required minimum number of hours of continuing traffic safety education for traffic safety education instructors. The superintendent may phase in the requirement over not more than five years.

[2000 c 115 § 9; 1979 c 158 § 196; 1977 c 76 § 3; 1969 ex.s. c 218 § 2; 1963 c 39 § 3. Formerly RCW 28A.08.020, 46.81.020.]

NOTES:

Finding--2000 c 115: See note following RCW 46.20.075.

Effective date--2000 c 115 §§ 1-10: See note following RCW 46.20.075.

Severability--1977 c 76: See note following RCW 28A.220.010.

RCW 28A.220.040 Fiscal support--Reimbursement to school districts--Enrollment fees--Deposit.

(1) Each school district shall be reimbursed from funds appropriated for traffic safety education.

(a) The state superintendent shall determine the per-pupil reimbursement amount for the traffic safety education course to be funded by the state. Each school district offering an approved standard traffic safety education course shall be reimbursed or granted an amount up to the level established by the superintendent of public instruction as may be appropriated.

(b) The state superintendent may provide per-pupil reimbursements to school districts

only where all the traffic educators have satisfied the continuing education requirement of RCW 28A.220.030(4).

(2) The board of directors of any school district or combination of school districts may establish a traffic safety education fee, which fee when imposed shall be required to be paid by any duly enrolled student in any such school district prior to or while enrolled in a traffic safety education course. Traffic safety education fees collected by a school district shall be deposited with the county treasurer to the credit of such school district, to be used to pay costs of the traffic safety education course.

[2000 c 115 § 10; 1984 c 258 § 331; 1977 c 76 § 4; 1969 ex.s. c 218 § 6; 1967 ex.s. c 147 § 5; 1963 c 39 § 8. Formerly RCW 28A.08.070, 46.81.070.]

NOTES:

Finding--2000 c 115: See note following RCW 46.20.075.

Effective date--2000 c 115 §§ 1-10: See note following RCW 46.20.075.

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

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

Severability--1977 c 76: See note following RCW 28A.220.010.

Traffic safety commission: Chapter 43.59 RCW.

RCW 28A.220.050 Information on proper use of left-hand lane.

The superintendent of public instruction shall include information on the proper use of the left-hand lane on multilane highways in instructional material used in traffic safety education courses.

[1986 c 93 § 4. Formerly RCW 28A.08.080.]

Notes:

Keep right except when passing, etc: RCW 46.61.100.

RCW 28A.220.060 Information on effects of alcohol and drug use.

The superintendent of public instruction shall include information on the effects of alcohol and drug use on motor vehicle operators, including information on drug and alcohol related traffic injury and mortality rates in the state of Washington, and current penalties for driving under the influence of drugs or alcohol in instructional material used in traffic safety education courses.

[1991 c 217 § 2.]

RCW 28A.220.070 Rules.

The superintendent of public instruction, in consultation with the department of licensing, shall adopt rules for implementing RCW 46.20.075(1)(d).

[2000 c 115 § 11.]

Notes:

Sunset Act application: See note following RCW 46.20.075.
Finding--2000 c 115: See note following RCW 46.20.075.

RCW 28A.220.900 Purpose.

It is the purpose of this act to provide the financial assistance necessary to enable each high school district to offer a course in traffic safety education and by that means to develop in the youth of this state a knowledge of the motor vehicle laws, an acceptance of personal responsibility on the public highways, and an understanding of the causes and consequences of traffic accidents, with an emphasis on the consequences, both physical and legal, of the use of drugs or alcohol in relation to operating a motor vehicle. The course in traffic safety education shall further provide to the youthful drivers of this state training in the skills necessary for the safe operation of motor vehicles.

[1991 c 217 § 1; 1969 ex.s. c 218 § 7; 1963 c 39 § 1. Formerly RCW 28A.08.900, 46.81.900.]

Chapter 28A.225 RCW
COMPULSORY SCHOOL ATTENDANCE AND ADMISSION

Sections

28A.225.005 Compulsory education, requirements--Informing students and parents annually.
28A.225.010 Attendance mandatory--Age--Exceptions.
28A.225.015 Attendance mandatory--Six or seven year olds--Unexcused absences--Petition.
28A.225.020 School's duties upon child's failure to attend school.
28A.225.025 Community truancy boards.
28A.225.030 Petition to juvenile court for violations by a parent or child--School district responsibilities.
28A.225.031 Alcohol or controlled substances testing--Authority to order.
28A.225.035 Petition to juvenile court--Contents--Court action--Referral to community truancy board--Transfer of jurisdiction upon relocation.
28A.225.060 Custody and disposition of child absent from school without excuse.
28A.225.080 Employment permits.
28A.225.090 Court orders--Penalties--Parents' defense.
28A.225.095 Authority of court commissioners and family law commissioners to hear cases under this chapter.
28A.225.110 Fines applied to support of schools.
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28A.225.140 Enforcing officers not personally liable for costs.
28A.225.151 Reports.
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28A.225.300 Enrollment options information to parents.
28A.225.310 Attendance in school district of choice--Impact on existing cooperative arrangements.
28A.225.330 Enrolling students from other districts--Requests for information and permanent records--Withheld transcripts, effect--Immunity from liability--Notification to teachers and security personnel--Rules.

RCW 28A.225.005 Compulsory education, requirements--Informing students and parents annually.

Each school within a school district shall inform the students and the parents of the students enrolled in the school about the compulsory education requirements under this chapter. The school shall distribute the information at least annually.

[1992 c 205 § 201.]

Notes:

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

RCW 28A.225.010 Attendance mandatory--Age--Exceptions.

(1) All parents in this state of any child eight years of age and under eighteen years of age shall cause such child to attend the public school of the district in which the child resides and such child shall have the responsibility to and therefore shall attend for the full time when such school may be in session unless:

(a) The child is attending an approved private school for the same time or is enrolled in an extension program as provided in RCW 28A.195.010(4);

(b) The child is receiving home-based instruction as provided in subsection (4) of this section;

(c) The child is attending an education center as provided in chapter 28A.205 RCW;

(d) The school district superintendent of the district in which the child resides shall have excused such child from attendance because the child is physically or mentally unable to attend school, is attending a residential school operated by the department of social and health services, is incarcerated in an adult correctional facility, or has been temporarily excused upon the request of his or her parents for purposes agreed upon by the school authorities and the parent: PROVIDED, That such excused absences shall not be permitted if deemed to cause a serious adverse effect upon the student's educational progress: PROVIDED FURTHER, That students excused for such temporary absences may be claimed as full time equivalent students to the

extent they would otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260 and shall not affect school district compliance with the provisions of RCW 28A.150.220; or

(e) The child is sixteen years of age or older and:

(i) The child is regularly and lawfully employed and either the parent agrees that the child should not be required to attend school or the child is emancipated in accordance with chapter 13.64 RCW;

(ii) The child has already met graduation requirements in accordance with state board of education rules and regulations; or

(iii) The child has received a certificate of educational competence under rules and regulations established by the state board of education under RCW 28A.305.190.

(2) A parent for the purpose of this chapter means a parent, guardian, or person having legal custody of a child.

(3) An approved private school for the purposes of this chapter and chapter 28A.200 RCW shall be one approved under regulations established by the state board of education pursuant to RCW 28A.305.130.

(4) For the purposes of this chapter and chapter 28A.200 RCW, instruction shall be home-based if it consists of planned and supervised instructional and related educational activities, including a curriculum and instruction in the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of an appreciation of art and music, provided for a number of hours equivalent to the total annual program hours per grade level established for approved private schools under RCW 28A.195.010 and 28A.195.040 and if such activities are:

(a) Provided by a parent who is instructing his or her child only and are supervised by a certificated person. A certificated person for purposes of this chapter and chapter 28A.200 RCW shall be a person certified under chapter 28A.410 RCW. For purposes of this section, "supervised by a certificated person" means: The planning by the certificated person and the parent of objectives consistent with this subsection; a minimum each month of an average of one contact hour per week with the child being supervised by the certificated person; and evaluation of such child's progress by the certificated person. The number of children supervised by the certificated person shall not exceed thirty for purposes of this subsection; or

(b) Provided by a parent who is instructing his or her child only and who has either earned forty-five college level quarter credit hours or its equivalent in semester hours or has completed a course in home-based instruction at a postsecondary institution or a vocational-technical institute; or

(c) Provided by a parent who is deemed sufficiently qualified to provide home-based instruction by the superintendent of the local school district in which the child resides.

(5) The legislature recognizes that home-based instruction is less structured and more experiential than the instruction normally provided in a classroom setting. Therefore, the provisions of subsection (4) of this section relating to the nature and quantity of instructional and related educational activities shall be liberally construed.

[1998 c 244 § 14; 1996 c 134 § 1; 1990 c 33 § 219; 1986 c 132 § 1; 1985 c 441 § 1; 1980 c 59 § 1; 1979 ex.s. c 201 § 4; 1973 c 51 § 1; 1972 ex.s. c 10 § 2. Prior: 1971 ex.s. c 215 § 2; 1971 ex.s. c 51 § 1; 1969 ex.s. c 109 § 2; 1969 ex.s. c 223 § 28A.27.010; prior: 1909 p 364 § 1; RRS § 5072; prior: 1907 c 240 § 7; 1907 c 231 § 1; 1905 c 162 § 1; 1903 c 48 § 1; 1901 c 177 § 11; 1899 c 140 § 1; 1897 c 118 § 71. Formerly RCW 28A.27.010, 28.27.010.]

Notes:

Effective date--Severability--1998 c 244: See RCW 28A.193.900 and 28A.193.901.

Severability--1985 c 441: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 441 § 6.]

Severability--1973 c 51: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 51 § 5.]

Private schools: RCW 28A.305.130(6), 28A.195.010 through 28A.195.050.

Work permits for minors required: RCW 49.12.123.

RCW 28A.225.015 Attendance mandatory--Six or seven year olds--Unexcused absences--Petition.

(1) If a parent enrolls a child who is six or seven years of age in a public school, the child is required to attend and that parent has the responsibility to ensure the child attends for the full time that school is in session. An exception shall be made to this requirement for children whose parents formally remove them from enrollment if the child is less than eight years old and a petition has not been filed against the parent under subsection (3) of this section. The requirement to attend school under this subsection does not apply to a child enrolled in a public school part-time for the purpose of receiving ancillary services. A child required to attend school under this subsection may be temporarily excused upon the request of his or her parent for purposes agreed upon by the school district and parent.

(2) If a six or seven year-old child is required to attend public school under subsection (1) of this section and that child has unexcused absences, the public school in which the child is enrolled shall:

(a) Inform the child's custodial parent, parents, or guardian by a notice in writing or by telephone whenever the child has failed to attend school after one unexcused absence within any month during the current school year;

(b) Request a conference or conferences with the custodial parent, parents, or guardian and child at a time reasonably convenient for all persons included for the purpose of analyzing the causes of the child's absences after two unexcused absences within any month during the current school year. If a regularly scheduled parent-teacher conference day is to take place within thirty days of the second unexcused absence, then the school district may schedule this conference on that day; and

(c) Take steps to eliminate or reduce the child's absences. These steps shall include, where appropriate, adjusting the child's school program or school or course assignment, providing more individualized or remedial instruction, offering assistance in enrolling the child in available alternative schools or programs, or assisting the parent or child to obtain

supplementary services that may help eliminate or ameliorate the cause or causes for the absence from school.

(3) If a child required to attend public school under subsection (1) of this section has seven unexcused absences in a month or ten unexcused absences in a school year, the school district shall file a petition for civil action as provided in RCW 28A.225.035 against the parent of the child.

(4) This section does not require a six or seven year old child to enroll in a public or private school or to receive home-based instruction. This section only applies to six or seven year old children whose parents enroll them full time in public school and do not formally remove them from enrollment as provided in subsection (1) of this section.

[1999 c 319 § 6.]

RCW 28A.225.020 School's duties upon child's failure to attend school.

(1) If a child required to attend school under RCW 28A.225.010 fails to attend school without valid justification, the public school in which the child is enrolled shall:

(a) Inform the child's custodial parent, parents, or guardian by a notice in writing or by telephone whenever the child has failed to attend school after one unexcused absence within any month during the current school year. School officials shall inform the parent of the potential consequences of additional unexcused absences;

(b) Schedule a conference or conferences with the custodial parent, parents, or guardian and child at a time reasonably convenient for all persons included for the purpose of analyzing the causes of the child's absences after two unexcused absences within any month during the current school year. If a regularly scheduled parent-teacher conference day is to take place within thirty days of the second unexcused absence, then the school district may schedule this conference on that day; and

(c) Take steps to eliminate or reduce the child's absences. These steps shall include, where appropriate, adjusting the child's school program or school or course assignment, providing more individualized or remedial instruction, providing appropriate vocational courses or work experience, referring the child to a community truancy board, if available, requiring the child to attend an alternative school or program, or assisting the parent or child to obtain supplementary services that might eliminate or ameliorate the cause or causes for the absence from school. If the child's parent does not attend the scheduled conference, the conference may be conducted with the student and school official. However, the parent shall be notified of the steps to be taken to eliminate or reduce the child's absence.

(2) For purposes of this chapter, an "unexcused absence" means that a child:

(a) Has failed to attend the majority of hours or periods in an average school day or has failed to comply with a more restrictive school district policy; and

(b) Has failed to meet the school district's policy for excused absences.

(3) If a child transfers from one school district to another during the school year, the receiving school or school district shall include the unexcused absences accumulated at the previous school or from the previous school district for purposes of this section, RCW

28A.225.030, and 28A.225.015.

[1999 c 319 § 1; 1996 c 134 § 2; 1995 c 312 § 67; 1992 c 205 § 202; 1986 c 132 § 2; 1979 ex.s. c 201 § 1. Formerly RCW 28A.27.020.]

Notes:

Short title--1995 c 312: See note following RCW 13.32A.010.

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

RCW 28A.225.025 Community truancy boards.

For purposes of this chapter, "community truancy board" means a board composed of members of the local community in which the child attends school. Juvenile courts may establish and operate community truancy boards. If the juvenile court and the school district agree, a school district may establish and operate a community truancy board under the jurisdiction of the juvenile court. Juvenile courts may create a community truancy board or may use other entities that exist or are created, such as diversion units. However, a diversion unit or other existing entity must agree before it is used as a truancy board. Duties of a community truancy board shall include, but not be limited to, recommending methods for improving school attendance such as assisting the parent or the child to obtain supplementary services that might eliminate or ameliorate the causes for the absences or suggesting to the school district that the child enroll in another school, an alternative education program, an education center, a skill center, a dropout prevention program, or another public or private educational program.

[1999 c 319 § 5; 1996 c 134 § 9; 1995 c 312 § 66.]

NOTES:

Short title--1995 c 312: See note following RCW 13.32A.010.

RCW 28A.225.030 Petition to juvenile court for violations by a parent or child--School district responsibilities.

(1) If a child is required to attend school under RCW 28A.225.010 and if the actions taken by a school district under RCW 28A.225.020 are not successful in substantially reducing an enrolled student's absences from public school, not later than the seventh unexcused absence by a child within any month during the current school year or not later than the tenth unexcused absence during the current school year the school district shall file a petition and supporting affidavit for a civil action with the juvenile court alleging a violation of RCW 28A.225.010: (a) By the parent; (b) by the child; or (c) by the parent and the child. Except as provided in this subsection, no additional documents need be filed with the petition.

(2) The district shall not later than the fifth unexcused absence in a month:

(a) Enter into an agreement with a student and parent that establishes school attendance requirements;

(b) Refer a student to a community truancy board, if available, as defined in RCW 28A.225.025. The community truancy board shall enter into an agreement with the student and parent that establishes school attendance requirements and take other appropriate actions to reduce the child's absences; or

(c) File a petition under subsection (1) of this section.

(3) The petition may be filed by a school district employee who is not an attorney.

(4) If the school district fails to file a petition under this section, the parent of a child with five or more unexcused absences in any month during the current school year or upon the tenth unexcused absence during the current school year may file a petition with the juvenile court alleging a violation of RCW 28A.225.010.

(5) Petitions filed under this section may be served by certified mail, return receipt requested. If such service is unsuccessful, or the return receipt is not signed by the addressee, personal service is required.

[1999 c 319 § 2; 1996 c 134 § 3; 1995 c 312 § 68; 1992 c 205 § 203; 1990 c 33 § 220; 1986 c 132 § 3; 1979 ex.s. c 201 § 2. Formerly RCW 28A.27.022.]

Notes:

Short title--1995 c 312: See note following RCW 13.32A.010.

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

RCW 28A.225.031 Alcohol or controlled substances testing--Authority to order.

The authority of a court to issue an order for testing to determine whether the child has consumed or used alcohol or controlled substances applies to all persons subject to a petition under RCW 28A.225.030 regardless of whether the petition was filed before July 27, 1997.

[1997 c 68 § 3.]

RCW 28A.225.035 Petition to juvenile court--Contents--Court action--Referral to community truancy board--Transfer of jurisdiction upon relocation.

(1) A petition for a civil action under RCW 28A.225.030 or 28A.225.015 shall consist of a written notification to the court alleging that:

(a) The child has unexcused absences during the current school year;

(b) Actions taken by the school district have not been successful in substantially reducing the child's absences from school; and

(c) Court intervention and supervision are necessary to assist the school district or parent to reduce the child's absences from school.

(2) The petition shall set forth the name, date of birth, school, address, gender, race, and ethnicity of the child and the names and addresses of the child's parents.

(3) The petition shall set forth facts that support the allegations in this section and shall generally request relief available under this chapter and provide information about what the court might order under RCW 28A.225.090.

(4) When a petition is filed under RCW 28A.225.030 or 28A.225.015, the juvenile court shall schedule a hearing at which the court shall consider the petition, or if the court determines that a referral to an available community truancy board would substantially reduce the child's unexcused absences, the court may refer the case to a community truancy board under the jurisdiction of the juvenile court.

(5) If a referral is made to a community truancy board, the truancy board must meet with the child, a parent, and the school district representative and enter into an agreement with the petitioner and respondent regarding expectations and any actions necessary to address the child's truancy within thirty days of the referral. If the petition is based on RCW 28A.225.015, the child shall not be required to attend and the agreement under this subsection shall be between the truancy board, the school district, and the child's parent. The agreement shall be presented to the juvenile court for its approval.

(6) The court shall approve the agreement by order or schedule a hearing. The court may, if the school district and community truancy board agree, permit the truancy board to provide continued supervision over the student, or parent if the petition is based on RCW 28A.225.015, and report on compliance with the order.

(7) If the truancy board fails to reach an agreement, the truancy board shall return the case to the juvenile court for a hearing.

(8) Notwithstanding the provisions in subsection (4) of this section, a hearing shall not be required if other actions by the court would substantially reduce the child's unexcused absences. When a juvenile court hearing is held, the court shall:

(a) Separately notify the child, the parent of the child, and the school district of the hearing;

(b) Notify the parent and the child of their rights to present evidence at the hearing; and

(c) Notify the parent and the child of the options and rights available under chapter 13.32A RCW.

(9) The court may require the attendance of the child if eight years old or older, the parents, and the school district at any hearing on a petition filed under RCW 28A.225.030.

(10) A school district is responsible for determining who shall represent the school district at hearings on a petition filed under RCW 28A.225.030 or 28A.225.015.

(11) The court may permit the first hearing to be held without requiring that either party be represented by legal counsel, and to be held without a guardian ad litem for the child under RCW 4.08.050. At the request of the school district, the court shall permit a school district representative who is not an attorney to represent the school district at any future hearings.

(12) If the allegations in the petition are established by a preponderance of the evidence, the court shall grant the petition and enter an order assuming jurisdiction to intervene for the period of time determined by the court, after considering the facts alleged in the petition and the circumstances of the juvenile, to most likely cause the juvenile to return to and remain in school while the juvenile is subject to this chapter. In no case may the order expire before the end of the school year in which it is entered.

(13) If the court assumes jurisdiction, the school district shall regularly report to the court any additional unexcused absences by the child.

(14) Community truancy boards and the courts shall coordinate, to the extent possible, proceedings and actions pertaining to children who are subject to truancy petitions and at-risk youth petitions in RCW 13.32A.191 or child in need of services petitions in RCW 13.32A.140.

(15) If after a juvenile court assumes jurisdiction in one county the child relocates to another county, the juvenile court in the receiving county shall, upon the request of a school

district or parent, assume jurisdiction of the petition filed in the previous county.

[2001 c 162 § 1; 1999 c 319 § 3; 1997 c 68 § 1. Prior: 1996 c 134 § 4; 1996 c 133 § 31; 1995 c 312 § 69.]

NOTES:

Findings--Short title--Intent--Construction--1996 c 133: See notes following RCW 13.32A.197.

Short title--1995 c 312: See note following RCW 13.32A.010.

RCW 28A.225.060 Custody and disposition of child absent from school without excuse.

Any school district official, sheriff, deputy sheriff, marshal, police officer, or any other officer authorized to make arrests, may take into custody without a warrant a child who is required under the provisions of RCW 28A.225.010 through 28A.225.140 to attend school and is absent from school without an approved excuse, and shall deliver the child to: (1) The custody of a person in parental relation to the child; (2) the school from which the child is absent; or (3) a program designated by the school district.

[1995 c 312 § 73; 1990 c 33 s 223; 1979 ex.s. c 201 s 5; 1977 ex.s. c 291 s 52; 1969 ex.s. c 223 s 28A.27.070. Prior: 1909 c 97 p 366 s 5; RRS s 5076; prior: 1907 c 231 s 5; 1905 c 162 s 5. Formerly RCW 28A.27.070, 28.27.070.]

Notes:

Short title--1995 c 312: See note following RCW 13.32A.010.

Effective dates--Severability--1977 ex.s. c 291: See notes following RCW 13.04.005.

RCW 28A.225.080 Employment permits.

Except as otherwise provided in this code, no child under the age of fifteen years shall be employed for any purpose by any person, company or corporation, in this state during the hours which the public schools of the district in which such child resides are in session, unless the said child shall present a certificate from a school superintendent as provided for in RCW 28A.225.010, excusing the said child from attendance in the public schools and setting forth the reason for such excuse, the residence and age of the child, and the time for which such excuse is given. Every owner, superintendent, or overseer of any establishment, company or corporation shall keep such certificate on file so long as such child is employed by him or her. The form of said certificate shall be furnished by the superintendent of public instruction. Proof that any child under fifteen years of age is employed during any part of the period in which public schools of the district are in session, shall be deemed prima facie evidence of a violation of this section.

[1990 c 33 § 225; 1969 ex.s. c 223 § 28A.27.090. Prior: 1909 c 97 p 365 § 2; RRS § 5073; prior: 1907 c 231 § 2; 1905 c 162 § 2; 1903 c 48 § 2. Formerly RCW 28A.27.090, 28.27.090.]

RCW 28A.225.090 Court orders--Penalties--Parents' defense. *(Effective until July 1, 2002.)*

(1) A court may order a child subject to a petition under RCW 28A.225.035 to do one or more of the following:

(a) Attend the child's current school, and set forth minimum attendance requirements, including suspensions;

(b) If there is space available and the program can provide educational services appropriate for the child, order the child to attend another public school, an alternative education program, center, a skill center, dropout prevention program, or another public educational program;

(c) Attend a private nonsectarian school or program including an education center. Before ordering a child to attend an approved or certified private nonsectarian school or program, the court shall: (i) Consider the public and private programs available; (ii) find that placement is in the best interest of the child; and (iii) find that the private school or program is willing to accept the child and will not charge any fees in addition to those established by contract with the student's school district. If the court orders the child to enroll in a private school or program, the child's school district shall contract with the school or program to provide educational services for the child. The school district shall not be required to contract for a weekly rate that exceeds the state general apportionment dollars calculated on a weekly basis generated by the child and received by the district. A school district shall not be required to enter into a contract that is longer than the remainder of the school year. A school district shall not be required to enter into or continue a contract if the child is no longer enrolled in the district;

(d) Be referred to a community truancy board, if available; or

(e) Submit to testing for the use of controlled substances or alcohol based on a determination that such testing is appropriate to the circumstances and behavior of the child and will facilitate the child's compliance with the mandatory attendance law and, if any test ordered under this subsection indicates the use of controlled substances or alcohol, order the minor to abstain from the unlawful consumption of controlled substances or alcohol and adhere to the recommendations of the drug assessment at no expense to the school.

(2) If the child fails to comply with the court order, the court may order the child to be placed in confinement for contempt, either in a juvenile detention facility operated by or under a contract with a county or in a secure facility that is a separate, secure section of a juvenile detention facility, or may impose alternatives to confinement such as community service. Failure by a child to comply with an order issued under this subsection shall not be subject to detention for a period greater than that permitted pursuant to a civil contempt proceeding against a child under chapter 13.32A RCW. In no case may a child in contempt be confined in a secure facility that is freestanding outside a juvenile detention facility.

(3) Any parent violating any of the provisions of either RCW 28A.225.010, 28A.225.015, or 28A.225.080 shall be fined not more than twenty-five dollars for each day of unexcused absence from school. It shall be a defense for a parent charged with violating RCW 28A.225.010 to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the child's school did not perform its duties as required in RCW 28A.225.020. The court may order the parent to provide community service instead of imposing a fine. Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating RCW 28A.225.010 shall participate with the school and the child in a supervised plan for the child's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

(4) If a child continues to be truant after entering into a court-approved order with the truancy board under RCW 28A.225.035, the juvenile court shall find the child in contempt, and the court may order the child to be subject to detention, as provided in RCW 7.21.030(2)(e), or may impose alternatives to detention such as meaningful community service. Failure by a child to comply with an order issued under this subsection may not subject a child to detention for a period greater than that permitted under a civil contempt proceeding against a child under chapter 13.32A RCW.

(5) Subsections (1), (2), and (4) of this section shall not apply to a six or seven year-old child required to attend public school under RCW 28A.225.015.

[2000 c 162 § 6; 2000 c 61 § 1; 1999 c 319 § 4; 1998 c 296 § 39; 1997 c 68 § 2. Prior: 1996 c 134 § 6; 1996 c 133 § 32; 1995 c 312 § 74; 1992 c 205 § 204; 1990 c 33 § 226; 1987 c 202 § 189; 1986 c 132 § 5; 1979 ex.s. c 201 § 6; 1969 ex.s. c 223 § 28A.27.100; prior: 1909 c 97 p 365 § 3; RRS § 5074; prior: 1907 c 231 § 3; 1905 c 162 § 3. Formerly RCW 28A.27.100, 28.27.100.]

Notes:

Reviser's note: This section was amended by 2000 c 61 § 1 and by 2000 c 162 § 6, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Intent--1998 c 296 §§ 36-39: See note following RCW 7.21.030.

Findings--Intent--Part headings not law--Short title--1998 c 296: See notes following RCW 74.13.025.

Findings--Short title--Intent--Construction--1996 c 133: See notes following RCW 13.32A.197.

Short title--1995 c 312: See note following RCW 13.32A.010.

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

Intent--1987 c 202: See note following RCW 2.04.190.

RCW 28A.225.090 Court orders--Penalties--Parents' defense. *(Effective July 1, 2002.)*

(1) A court may order a child subject to a petition under RCW 28A.225.035 to do one or more of the following:

(a) Attend the child's current school, and set forth minimum attendance requirements, including suspensions;

(b) If there is space available and the program can provide educational services appropriate for the child, order the child to attend another public school, an alternative education program, center, a skill center, dropout prevention program, or another public educational program;

(c) Attend a private nonsectarian school or program including an education center. Before ordering a child to attend an approved or certified private nonsectarian school or program, the court shall: (i) Consider the public and private programs available; (ii) find that placement is in the best interest of the child; and (iii) find that the private school or program is willing to accept the child and will not charge any fees in addition to those established by contract with the student's school district. If the court orders the child to enroll in a private school or program, the child's school district shall contract with the school or program to provide educational services for the child. The school district shall not be required to contract for a weekly rate that exceeds the state general apportionment dollars calculated on a weekly basis

generated by the child and received by the district. A school district shall not be required to enter into a contract that is longer than the remainder of the school year. A school district shall not be required to enter into or continue a contract if the child is no longer enrolled in the district;

(d) Be referred to a community truancy board, if available; or

(e) Submit to testing for the use of controlled substances or alcohol based on a determination that such testing is appropriate to the circumstances and behavior of the child and will facilitate the child's compliance with the mandatory attendance law and, if any test ordered under this subsection indicates the use of controlled substances or alcohol, order the minor to abstain from the unlawful consumption of controlled substances or alcohol and adhere to the recommendations of the drug assessment at no expense to the school.

(2) If the child fails to comply with the court order, the court may order the child to be subject to detention, as provided in RCW 7.21.030(2)(e), or may impose alternatives to detention such as community service. Failure by a child to comply with an order issued under this subsection shall not be subject to detention for a period greater than that permitted pursuant to a civil contempt proceeding against a child under chapter 13.32A RCW.

(3) Any parent violating any of the provisions of either RCW 28A.225.010, 28A.225.015, or 28A.225.080 shall be fined not more than twenty-five dollars for each day of unexcused absence from school. It shall be a defense for a parent charged with violating RCW 28A.225.010 to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the child's school did not perform its duties as required in RCW 28A.225.020. The court may order the parent to provide community service instead of imposing a fine. Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating RCW 28A.225.010 shall participate with the school and the child in a supervised plan for the child's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

(4) If a child continues to be truant after entering into a court-approved order with the truancy board under RCW 28A.225.035, the juvenile court shall find the child in contempt, and the court may order the child to be subject to detention, as provided in RCW 7.21.030(2)(e), or may impose alternatives to detention such as meaningful community service. Failure by a child to comply with an order issued under this subsection may not subject a child to detention for a period greater than that permitted under a civil contempt proceeding against a child under chapter 13.32A RCW.

(5) Subsections (1), (2), and (4) of this section shall not apply to a six or seven year-old child required to attend public school under RCW 28A.225.015.

[2000 c 162 § 15; 2000 c 162 § 6; 2000 c 61 § 1; 1999 c 319 § 4; 1998 c 296 § 39; 1997 c 68 § 2. Prior: 1996 c 134 § 6; 1996 c 133 § 32; 1995 c 312 § 74; 1992 c 205 § 204; 1990 c 33 § 226; 1987 c 202 § 189; 1986 c 132 § 5; 1979 ex.s. c 201 § 6; 1969 ex.s. c 223 § 28A.27.100; prior: 1909 c 97 p 365 § 3; RRS § 5074; prior: 1907 c 231 § 3; 1905 c 162 § 3. Formerly RCW 28A.27.100, 28.27.100.]

Notes:

Reviser's note: This section was amended by 2000 c 61 § 1 and by 2000 c 162 § 15, each without

reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date--2000 c 162 §§ 11-17: See note following RCW 13.32A.060.

Findings--Intent--1998 c 296 §§ 36-39: See note following RCW 7.21.030.

Findings--Intent--Part headings not law--Short title--1998 c 296: See notes following RCW 74.13.025.

Findings--Short title--Intent--Construction--1996 c 133: See notes following RCW 13.32A.197.

Short title--1995 c 312: See note following RCW 13.32A.010.

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

Intent--1987 c 202: See note following RCW 2.04.190.

RCW 28A.225.095 Authority of court commissioners and family law commissioners to hear cases under this chapter.

In any judicial district having a court commissioner, the court commissioner shall have the power, authority, and jurisdiction, concurrent with a juvenile court judge, to hear all cases under RCW 28A.225.030, 28A.225.090, and 28A.225.035 and to enter judgment and make orders with the same power, force, and effect as any judge of the juvenile court, subject to motion or demand by any party within ten days from the entry of the order or judgment by the court commissioner as provided in RCW 2.24.050. In any judicial district having a family law commissioner appointed pursuant to chapter 26.12 RCW, the family law commissioner shall have the power, authority, and jurisdiction, concurrent with a juvenile court judge, to hear cases under RCW 28A.225.030, 28A.225.090, and 28A.225.035 and to enter judgment and make orders with the same power, force, and effect as any judge of the juvenile court, subject to motion or demand by any party within ten days from the entry of the order or judgment by the court commissioner as provided in RCW 2.24.050.

[1995 c 312 § 71.]

Notes:

Effective dates--1995 c 312 §§ 71 and 82: "(1) Section 71 of this act shall take effect September 1, 1995. (2) Section 82 of this act shall take effect September 1, 1996." [1995 c 312 § 85.]

Short title--1995 c 312: See note following RCW 13.32A.010.

RCW 28A.225.110 Fines applied to support of schools.

Notwithstanding the provisions of RCW 10.82.070, fifty percent of all fines except as otherwise provided in RCW 28A.225.010 through 28A.225.140 shall be applied to the support of the public schools in the school district where such offense was committed: PROVIDED, That all fees, fines, forfeitures, and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW, and fifty percent shall be paid to the county treasurer who shall deposit such amount to the credit of the courts in the county for the exclusive purpose of enforcing the provisions of RCW 28A.225.010 through 28A.225.140.

[1995 c 312 § 75; 1990 c 33 § 228; 1987 c 202 § 191; 1969 ex.s. c 199 § 54; 1969 ex.s. c 223 § 28A.27.104. Prior: 1909 c 97 p 368 § 11; RRS § 5082; prior: 1907 c 231 § 12; 1905 c 162 § 11. Formerly RCW 28A.27.104, 28.27.104, 28.27.100, part.]

Notes:

Short title--1995 c 312: See note following RCW 13.32A.010.
Intent--1987 c 202: See note following RCW 2.04.190.

RCW 28A.225.115 Educational services--Funding for children referred to community truancy board.

The superintendent of public instruction, subject to available funding, shall allocate funds to provide educational services for children who have been referred to a community truancy board or to the courts under RCW 28A.225.030. The funds shall be used on behalf of such children for enrollment in skill centers, education centers, alternative programs, and in other public or private educational programs. Decisions regarding the expenditure of the funds shall be made by the community truancy board or the courts, whichever is applicable. The amount of the assistance for each child shall be determined in accordance with the omnibus appropriations act. These funds shall be in excess of any other funds provided through RCW 28A.150.260 as basic education and other state, federal, or local sources.

[1996 c 134 § 11.]

RCW 28A.225.140 Enforcing officers not personally liable for costs.

No officer performing any duty under any of the provisions of RCW 28A.225.010 through 28A.225.140, or under the provisions of any rules that may be passed in pursuance hereof, shall in any wise become liable for any costs that may accrue in the performance of any duty prescribed by RCW 28A.225.010 through 28A.225.140.

[1990 c 33 § 231; 1969 ex.s. c 223 § 28A.27.130. Prior: 1909 c 97 p 368 § 12; RRS § 5083; prior: 1907 c 231 § 13; 1905 c 162 § 12. Formerly RCW 28A.27.130, 28.27.130.]

RCW 28A.225.151 Reports.

(1) As required under subsection (2) of this section, each school shall document the actions taken under RCW 28A.225.030 and report this information to the school district superintendent who shall compile the data for all the schools in the district and prepare an annual school district report for each school year and submit the report to the superintendent of public instruction. The reports shall be made upon forms furnished by the superintendent of public instruction and shall be transmitted as determined by the superintendent of public instruction.

(2) The reports under subsection (1) of this section shall include:

(a) The number of enrolled students and the number of unexcused absences;

(b) Documentation of the steps taken by the school district under each subsection of RCW 28A.225.020 at the request of the superintendent of public instruction. Each year, by May 1st, the superintendent of public instruction shall select ten school districts to submit the report at the end of the following school year. The ten districts shall represent different areas of the state and be of varied sizes. In addition, the superintendent of public instruction shall require any

district that fails to keep appropriate records to submit a full report to the superintendent of public instruction under this subsection. All school districts shall document steps taken under RCW 28A.225.020 in each student's record, and make those records available upon request consistent with the laws governing student records;

(c) The number of enrolled students with ten or more unexcused absences in a school year or five or more unexcused absences in a month during a school year;

(d) A description of any programs or schools developed to serve students who have had five or more unexcused absences in a month or ten in a year including information about the number of students in the program or school and the number of unexcused absences of students during and after participation in the program. The school district shall also describe any placements in an approved private nonsectarian school or program or certified program under a court order under RCW 28A.225.090; and

(e) The number of petitions filed by a school district with the juvenile court.

(3) A report required under this section shall not disclose the name or other identification of a child or parent.

(4) The superintendent of public instruction shall collect these reports from all school districts and prepare an annual report for each school year to be submitted to the legislature no later than December 15th of each year.

[1996 c 134 § 5; 1995 c 312 § 72.]

Notes:

Short title--1995 c 312: See note following RCW 13.32A.010.

RCW 28A.225.160 Qualification for admission to district's schools--Fees for preadmission screening.

Except as otherwise provided by law, it is the general policy of the state that the common schools shall be open to the admission of all persons who are five years of age and less than twenty-one years residing in that school district. Except as otherwise provided by law or rules adopted by the state board of education, districts may establish uniform entry qualifications, including but not limited to birth date requirements, for admission to kindergarten and first grade programs of the common schools. Such rules may provide for exceptions based upon the ability, or the need, or both, of an individual student. For the purpose of complying with any rule adopted by the state board of education which authorizes a preadmission screening process as a prerequisite to granting exceptions to the uniform entry qualifications, a school district may collect fees to cover expenses incurred in the administration of any preadmission screening process: PROVIDED, That in so establishing such fee or fees, the district shall adopt regulations for waiving and reducing such fees in the cases of those persons whose families, by reason of their low income, would have difficulty in paying the entire amount of such fees.

[1999 c 348 § 5; 1986 c 166 § 1; 1979 ex.s. c 250 § 4; 1977 ex.s. c 359 § 14; 1969 ex.s. c 223 § 28A.58.190. Prior: 1909 c 97 p 261 § 1, part; RRS § 4680, part; prior: 1897 c 118 § 64, part; 1890 p 371 § 44, part. Formerly RCW 28A.58.190, 28.58.190 part, 28.01.060.]

Notes:

Intent--1999 c 348: See note following RCW 28A.205.010.

Effective date--Severability--1979 ex.s. c 250: See notes following RCW 28A.150.220.

Effective date--Severability--1977 ex.s. c 359: See notes following RCW 28A.150.200.

Basic Education Act, RCW 28A.225.160 as part of: RCW 28A.150.200.

RCW 28A.225.170 Children on United States reservations, admission to schools--United States authorities to cooperate.

Any child who is of school age and otherwise eligible residing within the boundaries of any military, naval, lighthouse, or other United States reservation, national park or national forest or residing upon rented or leased undeeded lands within any Indian reservation within the state of Washington, shall be admitted to the public school, or schools, of any contiguous district without payment of tuition: PROVIDED, That the United States authorities in charge of such reservation or park shall cooperate fully with state, county, and school district authorities in the enforcement of the laws of this state relating to the compulsory attendance of children of school age, and all laws relating to and regulating school attendance.

[1969 ex.s. c 223 § 28A.58.210. Prior: 1945 c 141 § 10; 1933 c 28 § 10; 1925 ex.s. c 93 § 1; Rem. Supp. 1945 § 4680-1. Formerly RCW 28A.58.210, 28.58.210, 28.27.140.]

RCW 28A.225.200 Education of pupils in another district--Limitation as to state apportionment--Exemption.

(1) A local district may be authorized by the educational service district superintendent to transport and educate its pupils in other districts for one year, either by payment of a compensation agreed upon by such school districts, or under other terms mutually satisfactory to the districts concerned when this will afford better educational facilities for the pupils and when a saving may be effected in the cost of education: PROVIDED, That notwithstanding any other provision of law, the amount to be paid by the state to the resident school district for apportionment purposes and otherwise payable pursuant to RCW 28A.150.100, 28A.150.250 through 28A.150.290, 28A.150.350 through 28A.150.410, 28A.160.150 through 28A.160.200, *28A.160.220, 28A.300.170, and 28A.500.010 shall not be greater than the regular apportionment for each high school student of the receiving district. Such authorization may be extended for an additional year at the discretion of the educational service district superintendent.

(2) Subsection (1) of this section shall not apply to districts participating in a cooperative project established under RCW 28A.340.030 which exceeds two years in duration.

[1990 c 33 § 234; 1988 c 268 § 6; 1979 ex.s. c 140 § 1; 1975 1st ex.s. c 275 § 111; 1969 ex.s. c 176 § 141; 1969 ex.s. c 223 § 28A.58.225. Prior: 1965 ex.s. c 154 § 10. Formerly RCW 28A.58.225, 28.24.110.]

Notes:

***Reviser's note:** RCW 28A.160.220 was recodified as RCW 28A.300.035 pursuant to 1994 c 113 § 2.

Findings--Severability--1988 c 268: See notes following RCW 28A.340.010.

Severability--1979 ex.s. c 140: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or

circumstances is not affected." [1979 ex.s. c 140 § 4.]

Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.225.210 Admission of district pupils tuition free.

Every school district shall admit on a tuition free basis all persons of school age who reside within this state, and do not reside within another school district carrying the grades for which they are eligible to enroll: PROVIDED, That nothing in this section shall be construed as affecting RCW 28A.225.220 or 28A.225.250.

[1990 c 33 § 235; 1983 c 3 § 37; 1969 c 130 § 9; 1969 ex.s. c 223 § 28A.58.230. Prior: 1917 c 21 § 9; RRS § 4718. Formerly RCW 28A.58.230, 28.58.230.]

Notes:

Designation of high school district nonhigh district students shall attend--Effect when attendance otherwise: RCW 28A.540.110.

Education of children with disabilities: RCW 28A.155.050.

RCW 28A.225.215 Enrollment of children without legal residences.

(1) A school district shall not require proof of residency or any other information regarding an address for any child who is eligible by reason of age for the services of the school district if the child does not have a legal residence.

(2) A school district shall enroll a child without a legal residence under subsection (1) of this section at the request of the child or parent or guardian of the child.

[1989 c 118 § 1. Formerly RCW 28A.58.235.]

RCW 28A.225.220 Adults, children from other districts, agreements for attending school--Tuition.

(1) Any board of directors may make agreements with adults choosing to attend school, and may charge the adults reasonable tuition.

(2) A district is strongly encouraged to honor the request of a parent or guardian for his or her child to attend a school in another district or the request of a parent or guardian for his or her child to transfer as a student receiving home-based instruction.

(3) A district shall release a student to a nonresident district that agrees to accept the student if:

(a) A financial, educational, safety, or health condition affecting the student would likely be reasonably improved as a result of the transfer; or

(b) Attendance at the school in the nonresident district is more accessible to the parent's place of work or to the location of child care; or

(c) There is a special hardship or detrimental condition.

(4) A district may deny the request of a resident student to transfer to a nonresident district if the release of the student would adversely affect the district's existing desegregation plan.

(5) For the purpose of helping a district assess the quality of its education program, a resident school district may request an optional exit interview or questionnaire with the parents or guardians of a child transferring to another district. No parent or guardian may be forced to attend such an interview or complete the questionnaire.

(6) Beginning with the 1993-94 school year, school districts may not charge transfer fees or tuition for nonresident students enrolled under subsection (3) of this section and RCW 28A.225.225. Reimbursement of a high school district for cost of educating high school pupils of a nonhigh school district shall not be deemed a transfer fee as affecting the apportionment of current state school funds.

[1995 c 335 § 602; 1995 c 52 § 2; 1993 c 336 § 1008; 1990 1st ex.s. c 9 § 201; 1969 c 130 § 10; 1969 ex.s. c 223 § 28A.58.240. Prior: 1963 c 47 § 2; prior: 1921 c 44 § 1, part; 1899 c 142 § 8, part; RRS § 4780, part. Formerly RCW 28A.58.240, 28.58.240.]

Notes:

Reviser's note: This section was amended by 1995 c 52 § 2 and by 1995 c 335 § 602, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

Findings--Intent--Part headings not law--1993 c 336: See notes following RCW 28A.150.210.

Findings--1993 c 336: See note following RCW 28A.150.210.

Finding--1990 1st ex.s. c 9: "The legislature finds that academic achievement of Washington students can and should be improved. The legislature further finds that student success depends, in large part, on increased parental involvement in their children's education.

In order to take another step toward improving education in Washington, it is the purpose of this act to enhance the ability of parents to exercise choice in where they prefer their children attend school; inform parents of their options under local policies and state law for the intradistrict and interdistrict enrollment of their children; and provide additional program opportunities for secondary students." [1990 1st ex.s. c 9 § 101.]

Severability--1990 1st ex.s. c 9: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 1st ex.s. c 9 § 502.]

Education of children with disabilities: RCW 28A.155.040, 28A.155.050.

RCW 28A.225.225 Applications from nonresident students or students receiving home-based instruction to attend district school--Acceptance and rejection standards--Notification.

(1) All districts accepting applications from nonresident students or from students receiving home-based instruction for admission to the district's schools shall consider equally all applications received. Each school district shall adopt a policy establishing rational, fair, and equitable standards for acceptance and rejection of applications by June 30, 1990. The policy may include rejection of a nonresident student if:

(a) Acceptance of a nonresident student would result in the district experiencing a financial hardship;

(b) The student's disciplinary records indicate a history of convictions for offenses or crimes, violent or disruptive behavior, or gang membership; or

(c) The student has been expelled or suspended from a public school for more than ten consecutive days. Any policy allowing for readmission of expelled or suspended students under this subsection (1)(c) must apply uniformly to both resident and nonresident applicants.

For purposes of subsection (1)(b) of this section, "gang" means a group which: (i) Consists of three or more persons; (ii) has identifiable leadership; and (iii) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

(2) The district shall provide to applicants written notification of the approval or denial of the application in a timely manner. If the application is rejected, the notification shall include the reason or reasons for denial and the right to appeal under RCW 28A.225.230(3).

[1999 c 198 § 2; 1997 c 265 § 3; 1995 c 52 § 3; 1994 c 293 § 1; 1990 1st ex.s. c 9 § 203.]

Notes:

Severability--1997 c 265: See note following RCW 13.40.160.

Captions, headings not law--1990 1st ex.s. c 9: "Part headings and section headings do not constitute any part of the law." [1990 1st ex.s. c 9 § 501.]

Finding--Severability--1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

RCW 28A.225.230 Appeal from certain decisions to deny student's request to attend nonresident district--Procedure.

(1) The decision of a school district within which a student under the age of twenty-one years resides or of a school district within which such a student under the age of twenty-one years was last enrolled and is considered to be a resident for attendance purposes by operation of law, to deny such student's request for release to a nonresident school district pursuant to RCW 28A.225.220 may be appealed to the superintendent of public instruction or his or her designee: PROVIDED, That the school district of proposed transfer is willing to accept the student.

(2) The superintendent of public instruction or his or her designee shall hear the appeal and examine the evidence. The superintendent of public instruction may order the resident district to release such a student who is under the age of twenty-one years if the requirements of RCW 28A.225.220 have been met. The decision of the superintendent of public instruction may be appealed to superior court pursuant to chapter 34.05 RCW, the administrative procedure act, as now or hereafter amended.

(3) The decision of a school district to deny the request for accepting the transfer of a nonresident student under RCW 28A.225.225 may be appealed to the superintendent of public instruction or his or her designee. The superintendent or his or her designee shall hear the appeal and examine the evidence. The superintendent of public instruction may order the district to accept the nonresident student if the district did not comply with the standards and procedures adopted under RCW 28A.225.225. The decision of the superintendent of public instruction may be appealed to the superior court under chapter 34.05 RCW.

[1990 1st ex.s. c 9 § 204; 1990 c 33 § 236; 1977 c 50 § 1; 1975 1st ex.s. c 66 § 1. Formerly RCW 28A.58.242.]

Notes:

Finding--Severability--1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

Severability--1975 1st ex.s. c 66: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 66 § 4.]

Designation of high school district nonhigh district students shall attend--Effect when attendance otherwise: RCW 28A.540.110.

RCW 28A.225.240 Apportionment credit.

If a student under the age of twenty-one years is allowed to enroll in any common school outside the school district within which the student resides or a school district of which the student is considered to be a resident for attendance purposes by operation of law, the student's attendance shall be credited to the nonresident school district of enrollment for state apportionment and all other purposes.

[1975 1st ex.s. c 66 § 2. Formerly RCW 28A.58.243.]

Notes:

Severability--1975 1st ex.s. c 66: See note following RCW 28A.225.230.

RCW 28A.225.250 Cooperative programs among school districts--Rules.

(1) The state superintendent of public instruction is directed and authorized to develop and adopt rules governing cooperative programs between and among school districts and educational service districts that the superintendent deems necessary to assure:

(a) Correct calculation of state apportionment payments;

(b) Proper budgeting and accounting for interdistrict cooperative program revenues and expenditures;

(c) Reporting of student, personnel, and fiscal data to meet state needs; and

(d) Protection of the right of residents of Washington under twenty-one years of age to a tuition-free program of basic education.

(2) Unless specifically authorized in law, interdistrict cooperative programs shall not be designed to systematically increase state allocation above amounts required if services were provided by the resident school district.

[1995 c 335 § 603; 1969 c 130 § 11. Formerly RCW 28A.58.243.]

Notes:

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

Education of children with disabilities: RCW 28A.155.040, 28A.155.050.

RCW 28A.225.260 Reciprocity exchanges with other states.

If the laws of another state permit its school districts to extend similar privileges to pupils resident in this state, the board of directors of any school district contiguous to a school district in such other state may make agreements with the officers of the school district of that state for the attendance of any pupils resident therein upon the payment of tuition.

If a district accepts out-of-state pupils whose resident district is contiguous to a Washington school district, such district shall charge and collect the cost for educating such pupils and shall not include such out-of-state pupils in the computation of the district's share of state and/or county funds.

The board of directors of any school district which is contiguous to a school district in another state may make agreements for and pay tuition for any children of their district desiring to attend school in the contiguous district of the other state. The tuition to be paid for the attendance of resident pupils in an out-of-state school as provided in this section shall be no greater than the cost of educating such elementary or secondary pupils, as the case may be, in the out-of-state educating district.

[1969 ex.s. c 223 § 28A.58.250. Prior: 1963 c 47 § 3; prior: 1921 c 44 § 1, part; 1899 c 142 § 8, part; RRS § 4780, part. Formerly RCW 28A.58.250, 28.58.250.]

Notes:
Education of children with disabilities: RCW 28A.155.040.

RCW 28A.225.270 Intradistrict enrollment options policies.

Each school district in the state shall adopt and implement a policy allowing intradistrict enrollment options no later than June 30, 1990. Each district shall establish its own policy establishing standards on how the intradistrict enrollment options will be implemented.

[1990 1st ex.s. c 9 § 205.]

Notes:

Captions, headings not law--1990 1st ex.s. c 9: See note following RCW 28A.225.225.
Finding--Severability--1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

RCW 28A.225.280 Transfer students' eligibility for extracurricular activities.

Eligibility of transfer students under RCW 28A.225.220 and 28A.225.225 for participation in extracurricular activities shall be subject to rules adopted by the Washington interscholastic activities association as authorized by the state board of education.

[1990 1st ex.s. c 9 § 206.]

Notes:

Captions, headings not law--1990 1st ex.s. c 9: See note following RCW 28A.225.225.
Finding--Severability--1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

RCW 28A.225.290 Enrollment options information booklet.

(1) The superintendent of public instruction shall prepare and annually distribute an information booklet outlining parents' and guardians' enrollment options for their children.

(2) Before the 1991-92 school year, the booklet shall be distributed to all school districts by the office of the superintendent of public instruction. School districts shall have a copy of the

information booklet available for public inspection at each school in the district, at the district office, and in public libraries.

(3) The booklet shall include:

(a) Information about enrollment options and program opportunities, including but not limited to programs in RCW 28A.225.220, 28A.185.040, 28A.225.200 through 28A.225.215, 28A.225.230 through 28A.225.250, *28A.175.090, 28A.340.010 through 28A.340.070 (small high school cooperative projects), and 28A.335.160.

(b) Information about the running start - community college or vocational-technical institute choice program under RCW 28A.600.300 through **28A.600.395; and

(c) Information about the seventh and eighth grade choice program under RCW 28A.230.090.

[1990 1st ex.s. c 9 § 207.]

Notes:

Reviser's note: *(1) RCW 28A.175.090 expired December 31, 1994.
**(2) RCW 28A.600.395 was repealed by 1994 c 205 § 12.
Captions, headings not law--1990 1st ex.s. c 9: See note following RCW 28A.225.225.
Finding--Severability--1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

RCW 28A.225.300 Enrollment options information to parents.

Each school district board of directors annually shall inform parents of the district's intradistrict and interdistrict enrollment options and parental involvement opportunities. Information on intradistrict enrollment options and interdistrict acceptance policies shall be provided to nonresidents on request.

[1990 1st ex.s. c 9 § 208.]

Notes:

Captions, headings not law--1990 1st ex.s. c 9: See note following RCW 28A.225.225.
Finding--Severability--1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

RCW 28A.225.310 Attendance in school district of choice--Impact on existing cooperative arrangements.

Any school district board of directors may make arrangements with the board of directors of other districts for children to attend the school district of choice. Nothing under RCW 28A.225.220 and 28A.225.225 is intended to adversely affect agreements between school districts in effect on April 11, 1990.

[1990 1st ex.s. c 9 § 209.]

Notes:

Captions, headings not law--1990 1st ex.s. c 9: See note following RCW 28A.225.225.
Finding--Severability--1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

RCW 28A.225.330 Enrolling students from other districts--Requests for information and permanent records--Withheld transcripts, effect--Immunity from liability--Notification to teachers and security personnel--Rules.

(1) When enrolling a student who has attended school in another school district, the school enrolling the student may request the parent and the student to briefly indicate in writing whether or not the student has:

(a) Any history of placement in special educational programs;

(b) Any past, current, or pending disciplinary action;

(c) Any history of violent behavior, or behavior listed in RCW 13.04.155;

(d) Any unpaid fines or fees imposed by other schools; and

(e) Any health conditions affecting the student's educational needs.

(2) The school enrolling the student shall request the school the student previously attended to send the student's permanent record including records of disciplinary action, history of violent behavior or behavior listed in RCW 13.04.155, attendance, immunization records, and academic performance. If the student has not paid a fine or fee under RCW 28A.635.060, or tuition, fees, or fines at approved private schools the school may withhold the student's official transcript, but shall transmit information about the student's academic performance, special placement, immunization records, records of disciplinary action, and history of violent behavior or behavior listed in RCW 13.04.155. If the official transcript is not sent due to unpaid tuition, fees, or fines, the enrolling school shall notify both the student and parent or guardian that the official transcript will not be sent until the obligation is met, and failure to have an official transcript may result in exclusion from extracurricular activities or failure to graduate.

(3) If information is requested under subsection (2) of this section, the information shall be transmitted within two school days after receiving the request and the records shall be sent as soon as possible. Any school district or district employee who releases the information in compliance with this section is immune from civil liability for damages unless it is shown that the school district employee acted with gross negligence or in bad faith. The state board of education shall provide by rule for the discipline under chapter 28A.410 RCW of a school principal or other chief administrator of a public school building who fails to make a good faith effort to assure compliance with this subsection.

(4) Any school district or district employee who releases the information in compliance with federal and state law is immune from civil liability for damages unless it is shown that the school district or district employee acted with gross negligence or in bad faith.

(5) When a school receives information under this section or RCW 13.40.215 that a student has a history of disciplinary actions, criminal or violent behavior, or other behavior that indicates the student could be a threat to the safety of educational staff or other students, the school shall provide this information to the student's teachers and security personnel.

[1999 c 198 § 3; 1997 c 266 § 4. Prior: 1995 c 324 § 2; 1995 c 311 § 25; 1994 c 304 § 2.]

Notes:

Findings--Intent--Severability--1997 c 266: See notes following RCW 28A.600.455.

Effective date--1994 c 304: See note following RCW 28A.635.060.

Chapter 28A.230 RCW
COMPULSORY COURSE WORK AND ACTIVITIES

Sections

28A.230.010 Course content requirements--Duties of school district boards of directors.
28A.230.020 Common school curriculum--Fundamentals in conduct.
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28A.230.040 Physical education in grades one through eight.
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28A.230.195 Test or assessment scores--Adjustments to instructional practices--Notification to parents.
28A.230.230 Annual assessment of ninth grade students--Inventory for high school and beyond for use by eighth grade students.
28A.230.250 Coordination of procedures and content of assessments.
28A.230.260 Annual report to the legislature.

Notes:
AIDS prevention education: Chapter 70.24 RCW.

RCW 28A.230.010 Course content requirements--Duties of school district boards of directors.

School district boards of directors shall identify and offer courses with content that meet or exceed: (1) The basic education skills identified in RCW 28A.150.210; (2) the graduation requirements under RCW 28A.230.090; and (3) the courses required to meet the minimum college entrance requirements under RCW 28A.230.130. Such courses may be applied or

theoretical, academic or vocational.

[1990 c 33 § 237; 1984 c 278 § 2. Formerly RCW 28A.05.005.]

Notes:

Severability--1984 c 278: See note following RCW 28A.185.010.

RCW 28A.230.020 Common school curriculum--Fundamentals in conduct.

All common schools shall give instruction in reading, penmanship, orthography, written and mental arithmetic, geography, the history of the United States, English grammar, physiology and hygiene with special reference to the effects of alcohol and drug abuse on the human system, science with special reference to the environment, and such other studies as may be prescribed by rule or regulation of the state board of education. All teachers shall stress the importance of the cultivation of manners, the fundamental principles of honesty, honor, industry and economy, the minimum requisites for good health including the beneficial effect of physical exercise and methods to prevent exposure to and transmission of sexually transmitted diseases, and the worth of kindness to all living creatures and the land. The prevention of child abuse may be offered as part of the curriculum in the common schools.

[1991 c 116 § 6; 1988 c 206 § 403; 1987 c 232 § 1; 1986 c 149 § 4; 1969 c 71 § 3; 1969 ex.s. c 223 § 28A.05.010. Prior: 1909 p 262 § 2; RRS § 4681; prior: 1897 c 118 § 65; 1895 c 5 § 1; 1890 p 372 § 45; 1886 p 19 § 52. Formerly RCW 28A.05.010, 28.05.010, and 28.05.020.]

Notes:

Effective date--1988 c 206 §§ 402, 403: See note following RCW 28A.230.070.

Severability--1988 c 206: See RCW 70.24.900.

Child abuse and neglect--Development of primary prevention program: RCW 28A.300.160.

Districts to develop programs and establish programs regarding child abuse and neglect prevention: RCW 28A.230.080.

RCW 28A.230.030 Students taught in English language--Exception.

All students in the common schools of the state of Washington shall be taught in the English language: PROVIDED, That nothing in this section shall preclude the teaching of students in a language other than English when such instruction will aid the educational advancement of the student.

[1969 c 71 § 4. Formerly RCW 28A.05.015.]

RCW 28A.230.040 Physical education in grades one through eight.

Every pupil attending grades one through eight of the public schools shall receive instruction in physical education as prescribed by rule or regulation of the state board of education: PROVIDED, That individual pupils or students may be excused on account of physical disability, religious belief or participation in directed athletics.

[1984 c 52 § 1; 1969 ex.s. c 223 § 28A.05.030. Prior: 1919 c 89 § 1; RRS § 4682. Formerly RCW 28A.05.030, 28.05.030.]

RCW 28A.230.050 Physical education in high schools.

All high schools of the state shall emphasize the work of physical education, and carry into effect all physical education requirements established by rule or regulation of the state board of education: PROVIDED, That individual students may be excused from participating in physical education otherwise required under this section on account of physical disability, employment or religious belief, or because of participation in directed athletics or military science and tactics or for other good cause.

[1985 c 384 § 3; 1984 c 52 § 2; 1969 ex.s. c 223 § 28A.05.040. Prior: 1963 c 235 § 1, part; prior: (i) 1923 c 78 § 1, part; 1919 c 89 § 2, part; RRS § 4683, part. (ii) 1919 c 89 § 5, part; RRS § 4686, part. Formerly RCW 28A.05.040, 28.05.040, part.]

RCW 28A.230.060 Waiver of course of study in Washington's history and government.

Students in the twelfth grade who have not completed a course of study in Washington's history and state government because of previous residence outside the state may have the requirement in RCW 28A.230.090 waived by their principal.

[1991 c 116 § 7; 1969 ex.s. c 57 § 2; 1969 ex.s. c 223 § 28A.05.050. Prior: 1967 c 64 § 1, part; 1963 c 31 § 1, part; 1961 c 47 § 2, part; 1941 c 203 § 1, part; Rem. Supp. 1941 § 4898-3, part. Formerly RCW 28A.05.050, 28.05.050.]

RCW 28A.230.070 AIDS education in public schools--Limitations--Program adoption--Model curricula--Student's exclusion from participation.

(1) The life-threatening dangers of acquired immunodeficiency syndrome (AIDS) and its prevention shall be taught in the public schools of this state. AIDS prevention education shall be limited to the discussion of the life-threatening dangers of the disease, its spread, and prevention. Students shall receive such education at least once each school year beginning no later than the fifth grade.

(2) Each district board of directors shall adopt an AIDS prevention education program which is developed in consultation with teachers, administrators, parents, and other community members including, but not limited to, persons from medical, public health, and mental health organizations and agencies so long as the curricula and materials developed for use in the AIDS education program either (a) are the model curricula and resources under subsection (3) of this section, or (b) are developed by the school district and approved for medical accuracy by the office on AIDS established in RCW 70.24.250. If a district elects to use curricula developed by the school district, the district shall submit to the office on AIDS a copy of its curricula and an affidavit of medical accuracy stating that the material in the district-developed curricula has been compared to the model curricula for medical accuracy and that in the opinion of the district the district-developed materials are medically accurate. Upon submission of the affidavit and

curricula, the district may use these materials until the approval procedure to be conducted by the office of AIDS has been completed.

(3) Model curricula and other resources available from the superintendent of public instruction may be reviewed by the school district board of directors, in addition to materials designed locally, in developing the district's AIDS education program. The model curricula shall be reviewed for medical accuracy by the office on AIDS established in RCW 70.24.250 within the department of social and health services.

(4) Each school district shall, at least one month before teaching AIDS prevention education in any classroom, conduct at least one presentation during weekend and evening hours for the parents and guardians of students concerning the curricula and materials that will be used for such education. The parents and guardians shall be notified by the school district of the presentation and that the curricula and materials are available for inspection. No student may be required to participate in AIDS prevention education if the student's parent or guardian, having attended one of the district presentations, objects in writing to the participation.

(5) The office of the superintendent of public instruction with the assistance of the office on AIDS shall update AIDS education curriculum material as newly discovered medical facts make it necessary.

(6) The curriculum for AIDS prevention education shall be designed to teach students which behaviors place a person dangerously at risk of infection with the human immunodeficiency virus (HIV) and methods to avoid such risk including, at least:

(a) The dangers of drug abuse, especially that involving the use of hypodermic needles; and

(b) The dangers of sexual intercourse, with or without condoms.

(7) The program of AIDS prevention education shall stress the life-threatening dangers of contracting AIDS and shall stress that abstinence from sexual activity is the only certain means for the prevention of the spread or contraction of the AIDS virus through sexual contact. It shall also teach that condoms and other artificial means of birth control are not a certain means of preventing the spread of the AIDS virus and reliance on condoms puts a person at risk for exposure to the disease.

[1994 c 245 § 7; 1988 c 206 § 402. Formerly RCW 28A.05.055.]

Notes:

Effective date--1988 c 206 §§ 402 and 403: "Sections 402 and 403 of this act shall take effect July 1, 1988." [1988 c 206 § 404.]

Severability--1988 c 206: See RCW 70.24.900.

RCW 28A.230.080 Prevention of child abuse and neglect--Written policy--Participation in and establishment of programs.

(1) Every school district board of directors shall develop a written policy regarding the district's role and responsibility relating to the prevention of child abuse and neglect.

(2) Every school district shall, within the resources available to it: (a) Participate in the primary prevention program established under RCW 28A.300.160; (b) develop and implement

its own child abuse and neglect education and prevention program; or (c) continue with an existing local child abuse and neglect education and prevention program.

[1990 c 33 § 238; 1987 c 489 § 6. Formerly RCW 28A.58.255.]

Notes:

Intent--1987 c 489: See note following RCW 28A.300.150.

RCW 28A.230.090 High school graduation requirements or equivalencies--Reevaluation and report by state board of education--Credit for courses taken before attending high school--Postsecondary credit equivalencies.

(1) The state board of education shall establish high school graduation requirements or equivalencies for students. Any course in Washington state history and government used to fulfill high school graduation requirements is encouraged to include information on the culture, history, and government of the American Indian peoples who were the first inhabitants of the state.

(2) In recognition of the statutory authority of the state board of education to establish and enforce minimum high school graduation requirements, the state board shall periodically reevaluate the graduation requirements and shall report such findings to the legislature in a timely manner as determined by the state board.

(3) Pursuant to any requirement for instruction in languages other than English established by the state board of education or a local school district, or both, for purposes of high school graduation, students who receive instruction in American sign language or one or more American Indian languages shall be considered to have satisfied the state or local school district graduation requirement for instruction in one or more languages other than English.

(4) If requested by the student and his or her family, a student who has completed high school courses before attending high school shall be given high school credit which shall be applied to fulfilling high school graduation requirements if:

(a) The course was taken with high school students, if the academic level of the course exceeds the requirements for seventh and eighth grade classes, and the student has successfully passed by completing the same course requirements and examinations as the high school students enrolled in the class; or

(b) The academic level of the course exceeds the requirements for seventh and eighth grade classes and the course would qualify for high school credit, because the course is similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors.

(5) Students who have taken and successfully completed high school courses under the circumstances in subsection (4) of this section shall not be required to take an additional competency examination or perform any other additional assignment to receive credit. Subsection (4) of this section shall also apply to students enrolled in high school on April 11, 1990, who took the courses before attending high school.

(6) At the college or university level, five quarter or three semester hours equals one high

school credit.

[1997 c 222 § 2; 1993 c 371 § 3. Prior: 1992 c 141 § 402; 1992 c 60 § 1; 1990 1st ex.s. c 9 § 301; 1988 c 172 § 1; 1985 c 384 § 2; 1984 c 278 § 6. Formerly RCW 28A.05.060.]

Notes:

Intent--1997 c 222: "In 1994, the legislature directed the higher education board and the state board of education to convene a task force to examine and provide recommendations on establishing credit equivalencies. In November 1994, the task force recommended unanimously that the state board of education maintain the definition of five quarter or three semester college credits as equivalent to one high school credit. Therefore, the legislature intends to adopt the recommendations of the task force." [1997 c 222 § 1.]

Findings--Part headings--Severability--1992 c 141: See notes following RCW 28A.410.040.

Finding--Severability--1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

Severability--1984 c 278: See note following RCW 28A.320.220.

RCW 28A.230.100 Rules implementing RCW 28A.230.090 to be adopted--Temporary exemptions--Special alterations--Competency testing.

The state board of education shall adopt rules pursuant to chapter 34.05 RCW, to implement the course requirements set forth in RCW 28A.230.090. The rules shall include, as the state board deems necessary, granting equivalencies for and temporary exemptions from the course requirements in RCW 28A.230.090 and special alterations of the course requirements in RCW 28A.230.090. In developing such rules the state board shall recognize the relevance of vocational and applied courses and allow such courses to fulfill in whole or in part the courses required for graduation in RCW 28A.230.090. The rules may include provisions for competency testing in lieu of such courses required for graduation in RCW 28A.230.090 or demonstration of specific skill proficiency or understanding of concepts through work or experience.

[1991 c 116 § 8; 1990 c 33 § 239; 1985 c 384 § 1. Formerly RCW 28A.05.062.]

RCW 28A.230.120 High school diplomas--Issuance--Option to receive final transcripts--Notice.

(1) School districts shall issue diplomas to students signifying graduation from high school upon the students' satisfactory completion of all local and state graduation requirements. Districts shall grant students the option of receiving a final transcript in addition to the regular diploma.

(2) School districts or schools of attendance shall establish policies and procedures to notify senior students of the transcript option and shall direct students to indicate their decisions in a timely manner. School districts shall make appropriate provisions to assure that students who choose to receive a copy of their final transcript shall receive such transcript after graduation.

[1984 c 178 § 2. Formerly RCW 28A.58.108.]

Notes:

High school transcripts: RCW 28A.305.220.

RCW 28A.230.130 Program to help students meet minimum entrance requirements at baccalaureate-granting institutions--Exceptions.

(1) All public high schools of the state shall provide a program, directly or in cooperation with a community college or another school district, for students whose educational plans include application for entrance to a baccalaureate-granting institution after being granted a high school diploma. The program shall help these students to meet at least the minimum entrance requirements under RCW 28B.10.050.

(2) The state board of education, upon request from local school districts, may grant temporary exemptions from the requirements to provide the program described in subsection (1) of this section for reasons relating to school district size and the availability of staff authorized to teach subjects which must be provided.

[1991 c 116 § 9; 1988 c 172 § 2; 1984 c 278 § 16. Formerly RCW 28A.05.070.]

Notes:

Effective date--1984 c 278: "Sections 16, 18, and 19 of this act shall take effect July 1, 1986." [1984 c 278 § 23.]

Severability--1984 c 278: See note following RCW 28A.185.010.

RCW 28A.230.140 United States flag--Procurement, display, exercises--National anthem.

The board of directors of every school district shall cause a United States flag being in good condition to be displayed during school hours upon or near every public school plant, except during inclement weather. They shall cause appropriate flag exercises to be held in each classroom at the beginning of the school day, and in every school at the opening of all school assemblies, at which exercises those pupils so desiring shall recite the following salute to the flag: "I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all". Students not reciting the pledge shall maintain a respectful silence. The salute to the flag or the national anthem shall be rendered immediately preceding interschool events when feasible.

[1981 c 130 § 1; 1969 ex.s. c 223 § 28A.02.030. Prior: (i) 1961 c 238 § 1; 1955 c 8 § 1; 1919 c 90 § 4; 1915 c 71 § 1; 1909 c 97 p 286 § 3; 1897 c 118 § 180; RRS § 4777. Formerly RCW 28.02.030. (ii) 1955 c 8 § 2; 1919 c 90 § 5; RRS § 4778. Formerly RCW 28A.02.030, 28.87.180.]

Notes:

Display of national and state flags: RCW 1.20.015.

RCW 28A.230.150 Temperance and Good Citizenship Day--Aids in programming.

On January 16th of each year or the preceding Friday when January 16th falls on a nonschool day, there shall be observed within each public school "Temperance and Good Citizenship Day". Annually the state superintendent of public instruction shall duly prepare and publish for circulation among the teachers of the state a program for use on such day embodying

topics pertinent thereto and may from year to year designate particular laws for special observance.

[1969 ex.s. c 223 § 28A.02.090. Prior: (i) 1923 c 76 § 1; RRS § 4901-1. (ii) 1923 c 76 § 2; RRS § 4901-2. Formerly RCW 28A.02.090, 28.02.090, and 28.02.095.]

RCW 28A.230.160 Educational activities in observance of Veterans' Day.

During the school week preceding the eleventh day of November of each year, there shall be presented in each common school as defined in RCW 28A.150.020 educational activities suitable to the observance of Veterans' Day.

The responsibility for the preparation and presentation of the activities approximating at least sixty minutes total throughout the week shall be with the principal or head teacher of each school building and such program shall embrace topics tending to instill a loyalty and devotion to the institutions and laws of this state and nation.

The superintendent of public instruction and each educational service district superintendent, by advice and suggestion, shall aid in the preparation of these activities if such aid be solicited.

[1990 c 33 § 241; 1985 c 60 § 1; 1977 ex.s. c 120 § 2; 1975 1st ex.s. c 275 § 45; 1970 ex.s. c 15 § 12. Prior: 1969 ex.s. c 283 § 24; 1969 ex.s. c 176 § 101; 1969 ex.s. c 223 § 28A.02.070; prior: 1955 c 20 § 3; prior: (i) 1939 c 21 § 1; 1921 c 56 § 1; RRS § 4899. (ii) 1921 c 56 § 2; RRS § 4900. (iii) 1921 c 56 § 3; RRS § 4901. Formerly RCW 28A.02.070, 28.02.070.]

Notes:

Severability--1977 ex.s. c 120: See note following RCW 4.28.080.

Severability--1970 ex.s. c 15: "If any provision of this 1970 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 15 § 32.]

Effective date--1970 ex.s. c 15 § 12: "Notwithstanding any other provision of this 1970 amendatory act, the provisions of section 12 hereof shall not take effect until January 1, 1971 and only if at such time or thereafter chapter 223, Laws of 1969 ex. sess. is effective." [1970 ex.s. c 15 § 13.]

Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.230.170 Study of constitutions compulsory--Rules to implement.

The study of the Constitution of the United States and the Constitution of the state of Washington shall be a condition prerequisite to graduation from the public and private high schools of this state. The state board of education acting upon the advice of the superintendent of public instruction shall provide by rule or regulation for the implementation of this section.

[1985 c 341 § 1; 1969 ex.s. c 223 § 28A.02.080. Prior: (i) 1925 ex.s. c 134 § 1; RRS § 4898-1. (ii) 1925 ex.s. c 134 § 2; RRS § 4898-2. Formerly RCW 28A.02.080, 28.02.080, and 28.02.081.]

RCW 28A.230.180 Educational and career opportunities in the military, student access to information on, when.

If the board of directors of a school district provides access to the campus and the student information directory to persons or groups which make students aware of occupational or educational options, the board shall provide access on the same basis to official recruiting representatives of the military forces of the state and the United States for the purpose of informing students of educational and career opportunities available in the military.

[1980 c 96 § 1. Formerly RCW 28A.58.535.]

RCW 28A.230.190 Third grade achievement test.

(1) School districts shall assess students for second grade reading accuracy and fluency skills starting in the 1998-99 school year as provided in RCW 28A.300.320.

(2) The superintendent of public instruction shall prepare and conduct, with the assistance of school districts, a norm-referenced standardized achievement test to be given annually to all pupils in grade three. The test shall assess students' basic skills in reading and mathematics. Results of such tests and relevant student, school, and district characteristics shall be compiled annually by the superintendent of public instruction, who shall make those results available annually to the public, to the legislature, to all local school districts, and subsequently to parents of those children tested. The results shall allow parents to ascertain the achievement levels of their children as compared with the other students within the district, the state, and the nation.

[1999 c 373 § 201; 1998 c 319 § 202; 1997 c 262 § 5; 1990 c 101 § 6; 1985 c 403 § 1; 1984 c 278 § 8; 1975-'76 2nd ex.s. c 98 § 1. Formerly RCW 28A.03.360.]

Notes:

Part headings not law--1999 c 373: See note following RCW 28A.300.310.

Part headings not law--1998 c 319: See note following RCW 28A.655.050.

Intent--1997 c 262: See note following RCW 28A.300.310.

Contingency--Effective date--1985 c 403: "If specific funding for the purposes of this act, referencing this act by bill number, is not provided by the legislature by July 1, 1987, the amendment to RCW 28A.03.360 by section 1 of this act shall be null and void. This act shall be of no effect until such specific funding is provided. If such funding is so provided, this act shall take effect when the legislation providing the funding takes effect." [1985 c 403 § 2.]

Reviser's note: (1) 1985 ex.s. c 6 § 501 provides specific funding for the purposes of this act.

(2) 1985 ex.s. c 6 took effect June 27, 1985.

Severability--1984 c 278: See note following RCW 28A.185.010.

Implementation--Funding required--1984 c 278: "Implementation of sections 5, 11, and 21 of this act and the amendment to RCW 28A.03.360 by section 8 of this act are each subject to funds being appropriated or available for such purpose or purposes." [1984 c 278 § 22.]

Effective date--1975-'76 2nd ex.s. c 98: "This 1976 amendatory act shall take effect on July 1, 1976." [1975-'76 2nd ex.s. c 98 § 3.]

RCW 28A.230.193 Sixth grade achievement test.

The superintendent of public instruction shall prepare and conduct, with the assistance of school districts, a norm-referenced standardized achievement test to be given annually to all pupils in grade six. The test shall assess students' basic skills in reading/language arts and

mathematics. Results of such tests and relevant student, school, and district characteristics shall be compiled by the superintendent of public instruction, who shall make those results available annually to the public, to the legislature, to all local school districts, and subsequently to parents of those children tested. The results shall allow parents to ascertain the achievement levels of their children as compared with the other students within the district, the state, and the nation.

[1999 c 373 § 301.]

Notes:

Part headings not law--1999 c 373: See note following RCW 28A.300.310.

RCW 28A.230.195 Test or assessment scores--Adjustments to instructional practices--Notification to parents.

(1) If students' scores on the test or assessments under RCW 28A.230.190, 28A.230.230, and *28A.630.885 indicate that students need help in identified areas, the school district shall evaluate its instructional practices and make appropriate adjustments.

(2) Each school district shall notify the parents of each student of their child's performance on the test and assessments conducted under this chapter.

[1999 c 373 § 603; 1992 c 141 § 401.]

Notes:

***Reviser's note:** RCW 28A.630.885 was recodified as RCW 28A.655.060 pursuant to 1999 c 388 § 607.

Part headings not law--1999 c 373: See note following RCW 28A.300.310.

Findings--Part headings--Severability--1992 c 141: See notes following RCW 28A.410.040.

RCW 28A.230.230 Annual assessment of ninth grade students--Inventory for high school and beyond for use by eighth grade students.

(1) The superintendent of public instruction shall prepare and conduct, with the assistance of school districts, an annual assessment of all students in the ninth grade. The purposes of the assessment are to assist students, parents, and teachers in the planning and selection of appropriate high school courses for students and to provide information about students' current academic proficiencies both in the basic skills of reading/language arts and mathematics, and in the reasoning and thinking skills essential for successful entry into those courses required for high school graduation. The assessment shall also include the collection of information about students' interests and plans for high school and beyond and shall include the collection of other related student and school information. The superintendent of public instruction shall make the results of the assessment and relevant student, school, and district characteristics available annually to the public, to the legislature, and to all school districts, which shall in turn make them available to students, parents, and teachers in a timely fashion.

(2) Upon request, the superintendent of public instruction shall make available to requesting school districts the inventory used to collect information about students' interests and plans for high school and beyond for use by students in the eighth grade. To the extent funds are appropriated, the superintendent shall provide the inventory, tabulation services, and reporting at no cost or at reduced cost to school districts.

[1999 c 373 § 401; 1990 c 101 § 2.]

Notes:

Part headings not law--1999 c 373: See note following RCW 28A.300.310.

RCW 28A.230.250 Coordination of procedures and content of assessments.

The superintendent of public instruction shall coordinate both the procedures and the content of the tests and assessments required by the state to maximize the value of the information provided to students as they progress and to teachers and parents about students' talents, interests, and academic needs or deficiencies so that appropriate programs can be provided to enhance the likelihood of students' success both in school and beyond.

[1999 c 373 § 602; 1990 c 101 § 4.]

Notes:

Part headings not law--1999 c 373: See note following RCW 28A.300.310.

RCW 28A.230.260 Annual report to the legislature.

The superintendent of public instruction shall report annually to the legislature on the results of the achievement levels of students in grades eight and eleven.

[1990 c 101 § 5.]

Chapter 28A.235 RCW
FOOD SERVICES

Sections

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Notes:

Food donation and distribution--Liability: Chapter 69.80 RCW.

RCW 28A.235.010 Superintendent of public instruction authorized to receive and disburse federal funds.

The superintendent of public instruction is hereby authorized to receive and disburse federal funds made available by acts of congress for the assistance of private nonprofit organizations in providing food services to children and adults according to the provisions of 20 U.S.C. Sec. 1751 et seq., the national school lunch act as amended, and 20 U.S.C. Sec. 1771, et seq., the child nutrition act of 1966, as amended.

[1987 c 193 § 1. Formerly RCW 28A.29.010.]

RCW 28A.235.020 Payment of costs--Federal food services revolving fund--Disbursements.

All reasonably ascertainable costs of performing the duties assumed and performed under RCW 28A.235.010 through 28A.235.030 and 28A.235.140 by either the superintendent of public instruction or another state or local governmental entity in support of the superintendent of public instruction's duties under RCW 28A.235.010 through 28A.235.030 and 28A.235.140 shall be paid exclusively with federal funds and, if any, private gifts and grants. The federal food services revolving fund is hereby established in the custody of the state treasurer. The office of the superintendent of public instruction shall deposit in the fund federal funds received under RCW 28A.235.010, recoveries of such funds, and gifts or grants made to the revolving fund. Disbursements from the fund shall be on authorization of the superintendent of public instruction or the superintendent's designee. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. The superintendent of public instruction is authorized to expend from the federal food services revolving fund such funds as are necessary to implement RCW 28A.235.010 through 28A.235.030 and 28A.235.140.

[1990 c 33 § 242; 1987 c 193 § 2. Formerly RCW 28A.29.020.]

RCW 28A.235.030 Rules.

The superintendent shall have the power to promulgate such rules in accordance with chapter 34.05 RCW as are necessary to implement this chapter.

[1987 c 193 § 3. Formerly RCW 28A.29.030.]

RCW 28A.235.040 Acquisition authorized.

Notwithstanding any other provision of law or chapter 39.32 RCW, the state superintendent of public instruction is hereby authorized to purchase, or otherwise acquire from the government of the United States or any property or commodity disposal agency thereof,

surplus or donated food commodities for the use by any school district for their hot lunch program.

[1969 ex.s. c 223 § 28A.30.010. Prior: 1967 ex.s. c 92 § 1. Formerly RCW 28A.30.010, 28.30.010.]

RCW 28A.235.050 Contracts for--Other law applicable to.

The state superintendent of public instruction is hereby authorized to enter into any contract with the United States of America, or any agency thereof, for the purchase of any surplus or donated food commodities, without regard to the provisions of any other law requiring the advertising, giving notice, inviting or receiving bids, or which may require the delivery of purchases before payment.

[1969 ex.s. c 223 § 28A.30.020. Prior: 1967 ex.s. c 92 § 7. Formerly RCW 28A.30.020, 28.30.020.]

RCW 28A.235.060 Advancement of costs from revolving fund moneys--Reimbursement by school district to include transaction expense.

In purchasing or otherwise acquiring surplus or donated commodities on the requisition of a school district the superintendent may advance the purchase price and other cost of acquisition thereof from the surplus and donated food commodities revolving fund and the superintendent shall in due course bill the proper school district for the amount paid by him or her for the commodities plus a reasonable amount to cover the expenses incurred by the superintendent's office in connection with the transaction. All payments received for surplus or donated commodities from school districts shall be deposited by the superintendent in the surplus and donated food commodities revolving fund.

[1990 c 33 § 243; 1969 ex.s. c 223 § 28A.30.030. Prior: 1967 ex.s. c 92 § 4. Formerly RCW 28A.30.030, 28.30.030.]

RCW 28A.235.070 Revolving fund created.

There is created in the office of the state superintendent of public instruction a revolving fund to be designated the surplus and donated food commodities revolving fund.

[1985 c 341 § 10; 1979 ex.s. c 20 § 1; 1969 ex.s. c 223 § 28A.30.040. Prior: 1967 ex.s. c 92 § 2. Formerly RCW 28A.30.040, 28.30.040.]

RCW 28A.235.080 Revolving fund--Administration of fund--Use--School district requisition as prerequisite.

The surplus and donated food commodities revolving fund shall be administered by the state superintendent of public instruction and be used solely for the purchase or other acquisition, including transportation, storage and other cost, of surplus or donable food commodities from the federal government. The superintendent may purchase or otherwise acquire such commodities only after requisition by a school district requesting such commodities.

[1969 ex.s. c 223 § 28A.30.050. Prior: 1967 ex.s. c 92 § 3. Formerly RCW 28A.30.050, 28.30.050.]

RCW 28A.235.090 Revolving fund--Depositories for fund, bond or security for--Manner of payments from fund.

The surplus and donated food commodities revolving fund shall be deposited by the superintendent in such banks as he or she may select, but any such depository shall furnish a surety bond executed by a surety company or companies authorized to do business in the state of Washington, or collateral eligible as security for deposit of state funds, in at least the full amount of the deposit in each depository bank. Moneys shall be paid from the surplus and donated food commodities revolving fund by voucher and check in such form and in such manner as shall be prescribed by the superintendent.

[1990 c 33 § 244; 1969 ex.s. c 223 § 28A.30.060. Prior: 1967 ex.s. c 92 § 5. Formerly RCW 28A.30.060, 28.30.060.]

RCW 28A.235.100 Rules.

The superintendent of public instruction shall have power to adopt rules as may be necessary to effectuate the purposes of this chapter.

[1993 c 333 § 5; 1990 c 33 § 245; 1969 ex.s. c 223 § 28A.30.070. Prior: 1967 ex.s. c 92 § 6. Formerly RCW 28A.30.070, 28.30.070.]

RCW 28A.235.110 Suspension of laws, rules, inconsistent herewith.

Any provision of law, or any resolution, rule or regulation which is inconsistent with the provisions of RCW 28A.235.040 through 28A.235.110 is suspended to the extent such provision is inconsistent herewith.

[1990 c 33 § 246; 1969 ex.s. c 223 § 28A.30.080. Prior: 1967 ex.s. c 92 § 8. Formerly RCW 28A.30.080, 28.30.080.]

RCW 28A.235.120 Lunchrooms--Establishment and operation--Personnel--Agreements.

The directors of any school district may establish, equip and operate lunchrooms in school buildings for pupils, certificated and classified employees, and for school or employee functions: PROVIDED, That the expenditures for food supplies shall not exceed the estimated revenues from the sale of lunches, federal lunch aid, Indian education fund lunch aid, or other anticipated revenue, including donations, to be received for that purpose: PROVIDED FURTHER, That the directors of any school district may provide for the use of kitchens and lunchrooms or other facilities in school buildings to furnish meals to elderly persons at cost as provided in RCW 28A.623.020: PROVIDED, FURTHER, That the directors of any school district may provide for the use of kitchens and lunchrooms or other facilities in school buildings to furnish meals at cost as provided in RCW 28A.623.030 to children who are participating in

educational or training or care programs or activities conducted by private, nonprofit organizations and entities and to students who are attending private elementary and secondary schools. Operation for the purposes of this section shall include the employment and discharge for sufficient cause of personnel necessary for preparation of food or supervision of students during lunch periods and fixing their compensation, payable from the district general fund, or entering into agreement with a private agency for the establishment, management and/or operation of a food service program or any part thereof.

[1997 c 13 § 4; 1990 c 33 § 247; 1979 ex.s. c 140 § 3; 1979 c 58 § 1; 1973 c 107 § 2; 1969 ex.s. c 223 § 28A.58.136. Prior: (i) 1947 c 31 § 1; 1943 c 51 § 1; 1939 c 160 § 1; Rem. Supp. 1947 § 4706-1. Formerly RCW 28A.58.136, 28.58.260. (ii) 1943 c 51 § 2; Rem. Supp. 1943 § 4706-2. Formerly RCW 28.58.270.]

Notes:

Severability--1979 ex.s. c 140: See note following RCW 28A.225.200.

Severability--1979 c 58: See note following RCW 28A.623.030.

Nonprofit meal program for elderly--Purpose: RCW 28A.623.010.

RCW 28A.235.130 Milk for children at school expense.

The board of directors of any school district may cause to be furnished free of charge, in a suitable receptacle on each and every school day to such children in attendance desiring or in need of the same, not less than one-half pint of milk. The cost of supplying such milk shall be paid for in the same manner as other items of expense incurred in the conduct and operation of said school, except that available federal or state funds may be used therefor.

[1969 ex.s. c 223 § 28A.31.020. Prior: 1935 c 15 § 1; 1923 c 152 § 1; 1921 c 190 § 1; RRS § 4806. Formerly RCW 28A.31.020, 28.31.020.]

Notes:

Food services--Use of federal funds: Chapter 28A.235 RCW.

RCW 28A.235.140 School breakfast programs.

(1) For the purposes of this section:

(a) "Free or reduced-price lunches" means lunches served by a school district that qualify for federal reimbursement as free or reduced-price lunches under the national school lunch program.

(b) "School breakfast program" means a program meeting federal requirements defined in 42 U.S.C. Sec. 1773.

(c) "Severe-need school" means a school that qualifies for a severe-need school reimbursement rate from federal funds for school breakfasts served to children from low-income families.

(2) School districts shall be required to develop and implement plans for a school breakfast program in severe-need schools, pursuant to the schedule in this section. For the second year prior to the implementation of the district's school breakfast program, and for each subsequent school year, each school district shall submit data enabling the superintendent of

public instruction to determine which schools within the district will qualify as severe-need schools. In developing its plan, each school district shall consult with an advisory committee including school staff and community members appointed by the board of directors of the district.

(3) Using district-wide data on school lunch participation during the 1988-89 school year, the superintendent of public instruction shall adopt a schedule for implementation of school breakfast programs in severe-need schools as follows:

(a) School districts where at least forty percent of lunches served to students are free or reduced-price lunches shall submit a plan for implementation of a school breakfast program in severe-need schools to the superintendent of public instruction no later than July 1, 1990. Each such district shall implement a school breakfast program in all severe-need schools no later than the second day of school in the 1990-91 school year and in each school year thereafter.

(b) School districts where at least twenty-five but less than forty percent of lunches served to students are free or reduced-price lunches shall submit a plan for implementation of a school breakfast program in severe-need schools to the superintendent of public instruction no later than July 1, 1991. Each such district shall implement a school breakfast program in all severe-need schools no later than the second day of school in the 1991-92 school year and in each school year thereafter.

(c) School districts where less than twenty-five percent of lunches served to students are free or reduced-price lunches shall submit a plan for implementation of a school breakfast program in severe-need schools to the superintendent of public instruction no later than July 1, 1992. Each such district shall implement a school breakfast program in all severe-need schools no later than the second day of school in the 1992-93 school year and in each school year thereafter.

(d) School districts that did not offer a school lunch program in the 1988-89 school year are encouraged to implement such a program and to provide a school breakfast program in all severe-need schools when eligible.

(4) The requirements in this section shall lapse if the federal reimbursement rate for breakfasts served in severe-need schools is eliminated.

(5) Students who do not meet family-income criteria for free breakfasts shall be eligible to participate in the school breakfast programs established under this section, and school districts may charge for the breakfasts served to these students. Requirements that school districts have school breakfast programs under this section shall not create or imply any state funding obligation for these costs. The legislature does not intend to include these programs within the state's obligation for basic education funding under Article IX of the Constitution.

[1993 c 333 § 1; 1989 c 239 § 2. Formerly RCW 28A.29.040.]

Notes:

Study--1989 c 239: "The superintendent of public instruction shall conduct a study of the costs and feasibility of expanding the school breakfast program to include schools where more than twenty-five but less than forty percent of lunches served are free or reduced-price lunches. The study shall consider the total cost of the program, including but not limited to food costs, staff salaries and benefits, and additional pupil transportation costs.

The superintendent of public instruction shall submit to the legislature prior to January 15, 1992, a report on the results of this study, including recommendations on whether to expand the school breakfast program to include these schools." [1989 c 239 § 3.]

RCW 28A.235.145 School breakfast and lunch programs--Use of state funds.

State funds received by school districts under this chapter for school breakfast and lunch programs shall be used to support the operating costs of the program, including labor, unless specific appropriations for nonoperating costs are provided.

[1993 c 333 § 2.]

RCW 28A.235.150 School breakfast and lunch programs--Grants to increase participation--Increased state support.

(1) To the extent funds are appropriated, the superintendent of public instruction may award grants to school districts to increase participation in school breakfast and lunch programs, to improve program quality, and to improve the equipment and facilities used in the programs. School districts shall demonstrate that they have applied for applicable federal funds before applying for funds under this subsection.

(2) To the extent funds are appropriated, the superintendent of public instruction shall increase the state support for school breakfasts and lunches.

[1993 c 333 § 3.]

RCW 28A.235.155 Federal summer food service program--Administration of funds--Grants.

(1) The superintendent of public instruction shall administer funds for the federal summer food service program.

(2) The superintendent of public instruction may award grants, to the extent funds are appropriated, to eligible organizations to help start new summer food service programs for children or to help expand summer food services for children.

[1993 c 333 § 4.]

Chapter 28A.300 RCW
SUPERINTENDENT OF PUBLIC INSTRUCTION

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RCW 28A.300.010 Election--Term of office.

A superintendent of public instruction shall be elected by the qualified electors of the state, on the first Tuesday after the first Monday in November of the year in which state officers are elected, and shall hold his or her office for the term of four years, and until his or her successor is elected and qualified.

[1990 c 33 § 250; 1969 ex.s. c 223 § 28A.03.010. Prior: 1909 c 97 p 231 § 1; RRS § 4521; prior: 1897 c 118 § 20; 1891 c 127 § 1; 1890 p 348 § 3; Code 1881 § 3154; 1873 p 419 § 1; 1861 p 55 § 1. Formerly RCW 28A.03.010, 28.03.010, 43.11.010.]

RCW 28A.300.020 Assistant superintendents, deputy superintendent, assistants--Terms for exempt personnel.

The superintendent of public instruction may appoint assistant superintendents of public instruction, a deputy superintendent of public instruction, and may employ such other assistants and clerical help as are necessary to carry out the duties of the superintendent and the state board of education. However, the superintendent shall employ without undue delay the executive director of the state board of education and other state board of education office assistants and clerical help, appointed by the state board under RCW 28A.305.110, whose positions are allotted and funded in accordance with moneys appropriated exclusively for the operation of the state board of education. The rate of compensation and termination of any such executive director, state board office assistants, and clerical help shall be subject to the prior consent of the state board of education. The assistant superintendents, deputy superintendent, and such other officers and employees as are exempted from the provisions of chapter 41.06 RCW, shall serve at the pleasure of the superintendent or at the pleasure of the superintendent and the state board of education as provided in this section. Expenditures by the superintendent of public instruction for direct and indirect support of the state board of education are valid operational expenditures by and in behalf of the office of the superintendent of public instruction.

[1996 c 25 § 2; 1969 ex.s. c 223 § 28A.03.020. Prior: 1967 c 158 § 3; 1909 c 97 p 234 § 4; RRS § 4524; prior: 1905 c 56 § 1; 1903 c 104 § 10; 1897 c 118 § 23; 1890 p 351 § 5. Formerly RCW 28A.03.020, 28.03.020, 43.11.020.]

RCW 28A.300.030 Assistance of educational service district boards and superintendents--Scope.

The superintendent of public instruction, by rule or regulation, may require the assistance of educational service district boards and/or superintendents in the performance of any duty, authority, or power imposed upon or granted to the superintendent of public instruction by law or by the Constitution of the state of Washington, upon such terms and conditions as the superintendent of public instruction shall establish. Such authority to assist the superintendent of public instruction shall be limited to the service function of information collection and dissemination and the attestment to the accuracy and completeness of submitted information.

[1975 1st ex.s. c 275 § 46; 1971 ex.s. c 282 § 29. Formerly RCW 28A.03.028.]

Notes:

Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.

RCW 28A.300.035 Assistance of certificated or classified employee--Reimbursement for substitute.

If the superintendent of public instruction or the state board of education, in carrying out their powers and duties under Title 28A RCW, request the service of any certificated or classified employee of a school district upon any committee formed for the purpose of furthering education within the state, or within any school district therein, and such service would result in a need for a school district to employ a substitute for such certificated or classified employee during such service, payment for such a substitute may be made by the superintendent of public instruction from funds appropriated by the legislature for the current use of the common schools and such payments shall be construed as amounts needed for state support to the common schools under RCW 28A.150.380. If such substitute is paid by the superintendent of public instruction, no deduction shall be made from the salary of the certificated or classified employee. In no event shall a school district deduct from the salary of a certificated or classified employee serving on such committee more than the amount paid the substitute employed by the district.

[1994 c 113 § 1; 1990 c 33 § 147; 1973 1st ex.s. c 3 § 1. Formerly RCW 28A.160.220, 28A.41.180.]

RCW 28A.300.040 Powers and duties.

In addition to any other powers and duties as provided by law, the powers and duties of the superintendent of public instruction shall be:

(1) To have supervision over all matters pertaining to the public schools of the state;

(2) To report to the governor and the legislature such information and data as may be required for the management and improvement of the schools;

(3) To prepare and have printed such forms, registers, courses of study, rules for the government of the common schools, and such other material and books as may be necessary for the discharge of the duties of teachers and officials charged with the administration of the laws relating to the common schools, and to distribute the same to educational service district superintendents;

(4) To travel, without neglecting his or her other official duties as superintendent of

public instruction, for the purpose of attending educational meetings or conventions, of visiting schools, of consulting educational service district superintendents or other school officials;

(5) To prepare and from time to time to revise a manual of the Washington state common school code, copies of which shall be provided in such numbers as determined by the superintendent of public instruction at no cost to those public agencies within the common school system and which shall be sold at approximate actual cost of publication and distribution per volume to all other public and nonpublic agencies or individuals, said manual to contain Titles 28A and 28C RCW, rules related to the common schools, and such other matter as the state superintendent or the state board of education shall determine. Proceeds of the sale of such code shall be transmitted to the public printer who shall credit the state superintendent's account within the state printing plant revolving fund by a like amount;

(6) To act as ex officio member and the chief executive officer of the state board of education;

(7) To file all papers, reports and public documents transmitted to the superintendent by the school officials of the several counties or districts of the state, each year separately. Copies of all papers filed in the superintendent's office, and the superintendent's official acts, may, or upon request, shall be certified by the superintendent and attested by the superintendent's official seal, and when so certified shall be evidence of the papers or acts so certified to;

(8) To require annually, on or before the 15th day of August, of the president, manager, or principal of every educational institution in this state, a report as required by the superintendent of public instruction; and it is the duty of every president, manager or principal, to complete and return such forms within such time as the superintendent of public instruction shall direct;

(9) To keep in the superintendent's office a record of all teachers receiving certificates to teach in the common schools of this state;

(10) To issue certificates as provided by law;

(11) To keep in the superintendent's office at the capital of the state, all books and papers pertaining to the business of the superintendent's office, and to keep and preserve in the superintendent's office a complete record of statistics, as well as a record of the meetings of the state board of education;

(12) With the assistance of the office of the attorney general, to decide all points of law which may be submitted to the superintendent in writing by any educational service district superintendent, or that may be submitted to the superintendent by any other person, upon appeal from the decision of any educational service district superintendent; and the superintendent shall publish his or her rulings and decisions from time to time for the information of school officials and teachers; and the superintendent's decision shall be final unless set aside by a court of competent jurisdiction;

(13) To administer oaths and affirmations in the discharge of the superintendent's official duties;

(14) To deliver to his or her successor, at the expiration of the superintendent's term of office, all records, books, maps, documents and papers of whatever kind belonging to the superintendent's office or which may have been received by the superintendent's for the use of

the superintendent's office;

(15) To administer family services and programs to promote the state's policy as provided in RCW 74.14A.025;

(16) To perform such other duties as may be required by law.

[1999 c 348 § 6; 1992 c 198 § 6; 1991 c 116 § 2; 1990 c 33 § 251; 1982 c 160 § 2; 1981 c 249 § 1; 1977 c 75 § 17; 1975 1st ex.s. c 275 § 47; 1971 ex.s. c 100 § 1; 1969 ex.s. c 176 § 102; 1969 ex.s. c 223 § 28A.03.030. Prior: 1967 c 158 § 4; 1909 c 97 p 231 § 3; RRS § 4523; prior: 1907 c 240 § 1; 1903 c 104 § 9; 1901 c 177 § 5; 1901 c 41 § 1; 1899 c 142 § 4; 1897 c 118 § 22; 1891 c 127 §§ 1, 2; 1890 pp 348-351 §§ 3, 4; Code 1881 §§ 3155-3160; 1873 p 419 §§ 2-6; 1861 p 55 §§ 2, 3, 4. Formerly RCW 28A.03.030, 28.03.030, 43.11.030.]

Notes:

Intent--1999 c 348: See note following RCW 28A.205.010.

Severability--Effective date--1992 c 198: See RCW 70.190.910 and 70.190.920.

Severability--1982 c 160: See note following RCW 28A.305.100.

Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

Studies--1969 ex.s. c 283: "The superintendent of public instruction is directed to develop, prepare and make available information as follows:

(1) A budgetary study of the fiscal impact which would result from payment to substitute teachers, who are on a continuing basis of twelve or more days within any calendar month, at a rate of pay commensurate with their training and experience and at a per diem salary in proportion to the salary for which that teacher would be eligible as a full time teacher;

(2) A study showing the percentage of high school graduates who go on to an institution of higher education, including community colleges, the distribution of such students, and the percentage thereof which continue in higher education through the various grades or years thereof; and

(3) A study of the fiscal impact of establishing one hundred and eighty days as the base salary period for all contracts with certificated employees." [1969 ex.s. c 283 § 8.]

Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28A.300.0451 Reimbursement for substitute if employee serves state board or superintendent.

See RCW 28A.300.035.

RCW 28A.300.050 Assistance to state board for activities involving professional educator excellence.

The superintendent of public instruction shall provide technical assistance to the state board of education in the conduct of the activities described in *sections 202 through 232 of this act.

[1990 c 33 § 252; 1987 c 525 § 227. Formerly RCW 28A.03.375.]

Notes:

***Reviser's note:** In addition to vetoed and temporary uncodified sections, "sections 202 through 232 of this act" [1987 c 525] includes the enactment of RCW 28A.04.122, 28A.70.010, 28A.04.167, 28A.70.400 through 28A.70.408, 28A.70.040, 28A.04.170, 28A.04.172, 28A.70.042, 28A.04.174, 28A.04.176, 28A.70.900, 28A.04.178, and 28A.03.375.

Intent--Short title--1987 c 525 §§ 202-233: See notes following RCW 28A.410.040.

Severability--1987 c 525: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 525 § 305.]

RCW 28A.300.060 Studies and adoption of classifications for school district budgets--Publication.

The superintendent of public instruction and the state auditor jointly, and in cooperation with the senate and house committees on education, shall conduct appropriate studies and adopt classifications or revised classifications under RCW 28A.505.100, defining what expenditures shall be charged to each budget class including administration. The studies and classifications shall be published in the form of a manual or revised manual, suitable for use by the governing bodies of school districts, by the superintendent of public instruction, and by the legislature.

[1991 c 116 § 3; 1990 c 33 § 253; 1975-'76 2nd ex.s. c 118 § 23; 1975 1st ex.s. c 5 § 1. Formerly RCW 28A.03.350.]

Notes:

Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

RCW 28A.300.065 Classification and numbering system of school districts.

(1) The superintendent of public instruction is responsible for the classification and numbering system of school districts.

(2) Any school district in the state that has a student enrollment in its public schools of two thousand pupils or more, as shown by evidence acceptable to the educational service district superintendent and the superintendent of public instruction, is a school district of the first class. Any other school district is a school district of the second class.

(3) Whenever the educational service district superintendent finds that the classification of a school district should be changed, and upon the approval of the superintendent of public instruction, the educational service district superintendent shall make an order in conformity with his or her findings and alter the records of his or her office accordingly. Thereafter, the board of directors of the district shall organize in the manner provided by law for the organization of the board of a district of the class to which the district then belongs.

(4) Notwithstanding any other provision of chapter 43, Laws of 1975, the educational service district superintendent, with the concurrence of the superintendent of public instruction, may delay approval of a change in classification of any school district for a period not exceeding three years when, in fact, the student enrollment of the district within any such time period does not exceed ten percent, either in a decrease or increase thereof.

[1999 c 315 § 202.]

Notes:

Part headings and captions not law--1999 c 315: See RCW 28A.315.901.

RCW 28A.300.070 Receipt of federal funds for school purposes--Superintendent of

public instruction to administer.

The state of Washington and/or any school district is hereby authorized to receive federal funds made or hereafter made available by acts of congress for the assistance of school districts in providing physical facilities and/or maintenance and operation of schools, or for any other educational purpose, according to provisions of such acts, and the state superintendent of public instruction shall represent the state in the receipt and administration of such funds.

[1969 ex.s. c 223 § 28A.02.100. Prior: 1943 c 220 § 4; Rem. Supp. 1943 § 5109-4. Formerly RCW 28A.02.100, 28.02.100.]

RCW 28A.300.080 Vocational agriculture education--Intent.

The legislature recognizes that agriculture is the most basic and singularly important industry in the state, that agriculture is of central importance to the welfare and economic stability of the state, and that the maintenance of this vital industry requires a continued source of trained and qualified individuals who qualify for employment in agriculture and agribusiness. The legislature declares that it is within the best interests of the people and state of Washington that a comprehensive vocational education program in agriculture be maintained in the state's secondary school system.

[1983 1st ex.s. c 34 § 1. Formerly RCW 28A.03.415.]

RCW 28A.300.090 Vocational agriculture education--Service area established--Duties.

(1) A vocational agriculture education service area within the office of the superintendent of public instruction shall be established. Adequate staffing of individuals trained or experienced in the field of vocational agriculture shall be provided for the vocational agriculture education service area for coordination of the state program and to provide assistance to local school districts for the coordination of the activities of student agricultural organizations and associations.

(2) The vocational agriculture education service area shall:

(a) Assess needs in vocational agriculture education, assist local school districts in establishing vocational agriculture programs, review local school district applications for approval of vocational agriculture programs, evaluate existing programs, plan research and studies for the improvement of curriculum materials for specialty areas of vocational agriculture. Standards and criteria developed under this subsection shall satisfy the mandates of federally-assisted vocational education;

(b) Develop in-service programs for teachers and administrators of vocational agriculture, review application for vocational agriculture teacher certification, and assist in teacher recruitment and placement in vocational agriculture programs;

(c) Serve as a liaison with the Future Farmers of America, representatives of business, industry, and appropriate public agencies, and institutions of higher education in order to disseminate information, promote improvement of vocational agriculture programs, and assist in the development of adult and continuing education programs in vocational agriculture; and

(d) Establish an advisory task force committee of agriculturists, who represent the diverse areas of the agricultural industry in Washington, which shall make annual recommendations including, but not limited to, the development of curriculum, staffing, strategies for the purpose of establishing a source of trained and qualified individuals in agriculture, and strategies for articulating the state program in vocational agriculture education, including youth leadership throughout the state school system.

[1983 1st ex.s. c 34 § 2. Formerly RCW 28A.03.417.]

RCW 28A.300.100 Vocational agriculture education--Superintendent to adopt rules.

The superintendent of public instruction, pursuant to chapter 34.05 RCW, shall adopt such rules as are necessary to carry out the provisions of RCW 28A.300.090.

[1990 c 33 § 254; 1983 1st ex.s. c 34 § 3. Formerly RCW 28A.03.419.]

RCW 28A.300.115 Holocaust instruction--Preparation and availability of instructional materials.

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

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

[1992 c 24 § 1.]

RCW 28A.300.118 College credit program information--Notification to schools and parents.

(1) Beginning with the 2000-01 school year, the superintendent of public instruction shall notify senior high schools and any other public school that includes ninth grade of the names and contact information of public and private entities offering programs leading to college credit, including information about online advanced placement classes, if the superintendent has knowledge of such entities and if the cost of reporting these entities is minimal.

(2) Beginning with the 2000-01 school year, each senior high school and any other public school that includes ninth grade shall publish annually and deliver to each parent with children enrolled in ninth through twelfth grades, information concerning the entrance requirements and the availability of programs in the local area that lead to college credit, including classes such as advanced placement, running start, tech-prep, skill centers, college in the high school, and international baccalaureate programs. The information may be included with other information

the school regularly mails to parents. In addition, each senior high school and any other public school that includes ninth grade shall enclose information of the names and contact information of other public or private entities offering such programs, including online advanced placement programs, to its ninth through twelfth grade students if the school has knowledge of such entities.

[2000 c 126 § 1.]

Notes:

Reviser's note: 2000 c 126 directed that this section be added to chapter 28A.320 RCW. This section has been codified in chapter 28A.300 RCW, which relates more directly to duties of the superintendent of public instruction.

RCW 28A.300.120 Administrative hearing--Contract to conduct authorized--Final decision.

Whenever a statute or rule provides for a formal administrative hearing before the superintendent of public instruction under chapter 34.05 RCW, the superintendent of public instruction may contract with the office of administrative hearings to conduct the hearing under chapter 34.12 RCW and may delegate to a designee of the superintendent of public instruction the authority to render the final decision.

[1985 c 225 § 1. Formerly RCW 28A.03.500.]

RCW 28A.300.130 Center for the improvement of student learning--Educational improvement and research--Clearinghouse for academic achievement and accountability commission and for information regarding educational improvement and parental involvement programs.

(1) Expanding activity in educational research, educational restructuring, and educational improvement initiatives has produced and continues to produce much valuable information. The legislature finds that such information should be shared with the citizens and educational community of the state as widely as possible. To facilitate access to information and materials on educational improvement and research, the superintendent of public instruction, to the extent funds are appropriated, shall establish the center for the improvement of student learning. The primary purpose of the center is to provide assistance and advice to parents, school board members, educators, and the public regarding strategies for assisting students in learning the essential academic learning requirements pursuant to *RCW 28A.630.885. The center shall work in conjunction with the academic achievement and accountability commission, educational service districts, institutions of higher education, and education, parent, community, and business organizations.

(2) The center, in conjunction with other staff in the office of the superintendent of public instruction, shall:

(a) Serve as a clearinghouse for the completed work and activities of the academic achievement and accountability commission;

(b) Serve as a clearinghouse for information regarding successful educational improvement and parental involvement programs in schools and districts, and information about efforts within institutions of higher education in the state to support educational improvement initiatives in Washington schools and districts;

(c) Provide best practices research and advice that can be used to help schools develop and implement: Programs and practices to improve instruction of the essential academic learning requirements under **section 701 of this act; systems to analyze student assessment data, with an emphasis on systems that will combine the use of state and local data to monitor the academic progress of each and every student in the school district; comprehensive, school-wide improvement plans; school-based shared decision-making models; programs to promote lifelong learning and community involvement in education; school-to-work transition programs; programs to meet the needs of highly capable students; programs and practices to meet the diverse needs of students based on gender, racial, ethnic, economic, and special needs status; research, information, and technology systems; and other programs and practices that will assist educators in helping students learn the essential academic learning requirements;

(d) Develop and distribute, in conjunction with the academic achievement and accountability commission, parental involvement materials, including instructional guides developed to inform parents of the essential academic learning requirements. The instructional guides also shall contain actions parents may take to assist their children in meeting the requirements, and should focus on reaching parents who have not previously been involved with their children's education;

(e) Identify obstacles to greater parent and community involvement in school shared decision-making processes and recommend strategies for helping parents and community members to participate effectively in school shared decision-making processes, including understanding and respecting the roles of school building administrators and staff;

(f) Develop and maintain an internet web site to increase the availability of information, research, and other materials;

(g) Take other actions to increase public awareness of the importance of parental and community involvement in education;

(h) Work with appropriate organizations to inform teachers, district and school administrators, and school directors about the waivers available and the broadened school board powers under RCW 28A.320.015;

(i) Provide training and consultation services, including conducting regional summer institutes;

(j) Address methods for improving the success rates of certain ethnic and racial student groups; and

(k) Perform other functions consistent with the purpose of the center as prescribed in subsection (1) of this section.

(3) The superintendent of public instruction, after consultation with the academic achievement and accountability commission, shall select and employ a director for the center.

(4) The superintendent may enter into contracts with individuals or organizations including but not limited to: School districts; educational service districts; educational

organizations; teachers; higher education faculty; institutions of higher education; state agencies; business or community-based organizations; and other individuals and organizations to accomplish the duties and responsibilities of the center. In carrying out the duties and responsibilities of the center, the superintendent, whenever possible, shall use practitioners to assist agency staff as well as assist educators and others in schools and districts.

[1999 c 388 § 401; 1996 c 273 § 5; 1993 c 336 § 501; 1986 c 180 § 1. Formerly RCW 28A.03.510.]

Notes:

Reviser's note: *(1) RCW 28A.630.885 was recodified as RCW 28A.655.060 pursuant to 1999 c 388 § 607.

**(2) "Section 701 of this act" refers to a section in a version of Senate Bill No. 5418 that was not enacted into law.

Transfer of powers, duties, and functions--Part headings and captions not law--Severability--1999 c 388: See RCW 28A.655.900 through 28A.655.902.

Effective date--1996 c 273: See note following RCW 28A.300.290.

Findings--Intent--Part headings not law--1993 c 336: See notes following RCW 28A.150.210.

Findings--1993 c 336: See note following RCW 28A.150.210.

Definitions: RCW 28A.655.010.

RCW 28A.300.135 Center for the improvement of student learning account.

(1) The center for the improvement of student learning account is hereby established in the custody of the state treasurer. The superintendent of public instruction shall deposit in the account all moneys received from gifts, grants, or endowments for the center for the improvement of student learning. Moneys in the account may be spent only for activities of the center. Disbursements from the account shall be on authorization of the superintendent of public instruction or the superintendent's designee. The account is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements.

(2) The superintendent of public instruction may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the center for the improvement of student learning and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

[1993 c 336 § 502.]

Notes:

Findings--Intent--Part headings not law--1993 c 336: See notes following RCW 28A.150.210.

Findings--1993 c 336: See note following RCW 28A.150.210.

RCW 28A.300.150 Information on child abuse and neglect prevention curriculum--Superintendent's duties.

The superintendent of public instruction shall collect and disseminate to school districts information on child abuse and neglect prevention curriculum. The superintendent of public instruction and the departments of social and health services and community, trade, and

economic development shall share relevant information.

[1994 c 245 § 8; 1987 c 489 § 2. Formerly RCW 28A.03.512.]

Notes:

Intent--1987 c 489: "It is the intent of the legislature to make child abuse and neglect primary prevention education and training available to children, including preschool age children, parents, school employees, and licensed day care providers." [1987 c 489 § 1.]

RCW 28A.300.160 Development of coordinated primary prevention program for child abuse and neglect--Office as lead agency.

(1) The office of the superintendent of public instruction shall be the lead agency and shall assist the department of social and health services, the department of community, trade, and economic development, and school districts in establishing a coordinated primary prevention program for child abuse and neglect.

(2) In developing the program, consideration shall be given to the following:

(a) Parent, teacher, and children's workshops whose information and training is:

(i) Provided in a clear, age-appropriate, nonthreatening manner, delineating the problem and the range of possible solutions;

(ii) Culturally and linguistically appropriate to the population served;

(iii) Appropriate to the geographic area served; and

(iv) Designed to help counteract common stereotypes about child abuse victims and offenders;

(b) Training for school age children's parents and school staff, which includes:

(i) Physical and behavioral indicators of abuse;

(ii) Crisis counseling techniques;

(iii) Community resources;

(iv) Rights and responsibilities regarding reporting;

(v) School district procedures to facilitate reporting and apprise supervisors and administrators of reports; and

(vi) Caring for a child's needs after a report is made;

(c) Training for licensed day care providers and parents that includes:

(i) Positive child guidance techniques;

(ii) Physical and behavioral indicators of abuse;

(iii) Recognizing and providing safe, quality day care;

(iv) Community resources;

(v) Rights and responsibilities regarding reporting; and

(vi) Caring for the abused or neglected child;

(d) Training for children that includes:

(i) The right of every child to live free of abuse;

(ii) How to disclose incidents of abuse and neglect;

(iii) The availability of support resources and how to obtain help;

(iv) Child safety training and age-appropriate self-defense techniques; and

(v) A period for crisis counseling and reporting immediately following the completion of each children's workshop in a school setting which maximizes the child's privacy and sense of safety.

(3) The primary prevention program established under this section shall be a voluntary program and shall not be part of the basic program of education.

(4) Parents shall be given notice of the primary prevention program and may refuse to have their children participate in the program.

[1995 c 399 § 21; 1987 c 489 § 3. Formerly RCW 28A.03.514.]

Notes:

Intent--1987 c 489: See note following RCW 28A.300.150.

RCW 28A.300.164 Energy information program.

The office of the superintendent of public instruction shall develop an energy information program for use in local school districts. The program shall utilize existing curriculum which may include curriculum as developed by districts or the state relating to the requirement under RCW 28A.230.020 that schools provide instruction in science with special reference to the environment, and shall include but not be limited to the following elements:

(1) The fundamental role energy plays in the national and regional economy;

(2) Descriptions and explanations of the various sources of energy which are used both regionally and nationally;

(3) Descriptions and explanations of the ways to use various energy sources more efficiently; and

(4) Advantages and disadvantages to the various sources of present and future supplies of energy.

Under this section the office of superintendent of public instruction shall emphasize providing teacher training, promoting the use of local energy experts in the classroom, and dissemination of energy education curriculum.

[1990 c 301 § 2.]

Notes:

Findings--1990 c 301: "The legislature finds that the state is facing an impending energy supply crisis. The legislature further finds that keeping the importance of energy in the minds of state residents is essential as a means to help avert a future energy supply crisis and that citizens need to be aware of the importance and trade-offs associated with energy efficiency, the implications of wasteful uses of energy, and the need for long-term stable supplies of energy. One efficient and effective method of informing the state's citizens on energy issues is to begin in the school system, where information may guide energy use decisions for decades into the future." [1990 c 301 § 1.]

RCW 28A.300.170 State general fund--Estimates for state support to public schools, from.

At such time as the governor shall determine under the provisions of chapter 43.88 RCW, the superintendent of public instruction shall submit such detailed estimates and other

information to the governor and in such form as the governor shall determine of the total estimated amount required for appropriation from the state general fund for state support to public schools during the ensuing biennium.

[1980 c 6 § 2; 1969 ex.s. c 223 § 28A.41.040. Prior: 1945 c 141 § 11; Rem. Supp. 1945 § 4940-9. Formerly RCW 28A.41.040, 28.41.040.]

Notes:

Severability--1980 c 6: See note following RCW 28A.515.320.

RCW 28A.300.175 Recovery of payments to recipients of state money--Basis--Resolution of audit findings--Rules.

The superintendent of public instruction shall withhold or recover state payments to school districts, educational service districts, and other recipients of state money based on findings of the Washington state auditor. When an audit questions enrollment, staffing, or other data reported to the state and used in state apportionment calculations, the superintendent of public instruction may require submission of revised data, or as an alternative may adjust data based on estimates, and shall revise apportionment calculations and payments accordingly. The superintendent of public instruction shall adopt rules setting forth policies and procedures for the resolution of monetary and nonmonetary audit findings involving state money.

[1997 c 167 § 1.]

RCW 28A.300.190 Coordination of video telecommunications programming in schools.

The office of the superintendent of public instruction shall provide state-wide coordination of video telecommunications programming for the common schools.

[1990 c 208 § 8.]

RCW 28A.300.220 Cooperation with work force training and education coordinating board.

The superintendent shall cooperate with the work force training and education coordinating board in the conduct of the board's responsibilities under RCW 28C.18.060 and shall provide information and data in a format that is accessible to the board.

[1991 c 238 § 78.]

Notes:

Effective dates--Severability--1991 c 238: See RCW 28B.50.917 and 28B.50.918.

RCW 28A.300.230 Findings--Integration of vocational and academic education.

The legislature finds that the needs of the work force and the economy necessitate enhanced vocational education opportunities in secondary education including curriculum which integrates vocational and academic education. In order for the state's work force to be

competitive in the world market, employees need competencies in both vocational/technical skills and in core essential competencies such as English, math, science/technology, geography, history, and critical thinking. Curriculum which integrates vocational and academic education reflects that many students learn best through applied learning, and that students should be offered flexible education opportunities which prepare them for both the world of work and for higher education.

[1991 c 238 § 140.]

Notes:

Effective dates--Severability--1991 c 238: See RCW 28B.50.917 and 28B.50.918.

RCW 28A.300.235 Development of model curriculum integrating vocational and academic education.

The superintendent of public instruction shall with the advice of the work force training and education coordinating board develop model curriculum integrating vocational and academic education at the secondary level. The curriculum shall integrate vocational education for gainful employment with education in the academic subjects of English, math, science/technology, geography, and history, and with education in critical thinking. Upon completion, the model curriculum shall be provided for consideration and use by school districts.

[1991 c 238 § 141.]

Notes:

Effective dates--Severability--1991 c 238: See RCW 28B.50.917 and 28B.50.918.

RCW 28A.300.240 International student exchange.

(1) The superintendent of public instruction shall annually make available to school districts and approved private schools, from data supplied by the secretary of state, the names of international student exchange visitor placement organizations registered under chapter 19.166 RCW to place students in public schools in the state and a summary of the information the organizations have filed with the secretary of state under chapter 19.166 RCW.

(2) The superintendent shall provide general information and assistance to school districts regarding international student exchange visitors, including, to the extent feasible with available resources, information on the type of visa required for enrollment, how to promote positive educational experiences for visiting exchange students, and how to integrate exchange students into the school environment to benefit the education of both the exchange students and students in the state.

[1991 c 128 § 11.]

Notes:

Severability--Effective date--1991 c 128: See RCW 19.166.900 and 19.166.901.

RCW 28A.300.250 Participation in federal nutrition programs--Superintendent's duties.

The superintendent of public instruction shall aggressively solicit eligible schools, child and adult day care centers, and other organizations to participate in the nutrition programs authorized by the United States department of agriculture.

[1991 c 366 § 402.]

Notes:

Finding--1991 c 366: "Hunger and malnutrition threaten the future of a whole generation of children in Washington. Children who are hungry or malnourished are unable to function optimally in the classroom and are thus at risk of lower achievement in school. The resultant diminished future capacity of and opportunities for these children will affect this state's economic and social future. Thus, the legislature finds that the state has an interest in helping families provide nutritious meals to children.

The legislature also finds that the state has an interest in helping hungry and malnourished adults obtain necessary nourishment. Adequate nourishment is necessary for physical health, and physical health is the foundation of self-sufficiency. Adequate nourishment is especially critical in the case of pregnant and lactating women, both to ensure that all mothers and babies are as healthy as possible and to minimize the costs associated with the care of low-birthweight babies." [1991 c 366 § 1.]

Finding--1991 c 366: "The legislature finds that the school breakfast and lunch programs, the summer feeding program, and the child and adult day care feeding programs authorized by the United States department of agriculture are effective in addressing unmet nutritional needs. However, some communities in the state do not participate in these programs. The result is hunger, malnutrition, and inadequate nutrition education for otherwise eligible persons living in nonparticipating communities." [1991 c 366 § 401.]

Parts and headings not law--1991 c 366: "Parts and headings as used in this act constitute no part of the law." [1991 c 366 § 502.]

Severability--1991 c 366: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 366 § 503.]

Effective date--1991 c 366: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991." [1991 c 366 § 504.]

RCW 28A.300.270 Violence prevention training.

The superintendent of public instruction shall, to the extent funding is available, contract with school districts, educational service districts, and approved in-service providers to conduct training sessions for school certificated and classified employees in conflict resolution and other violence prevention topics. The training shall be developmentally and culturally appropriate for the school populations being served and be research based. The training shall not be based solely on providing materials, but also shall include techniques on imparting these skills to students. The training sessions shall be developed in coordination with school districts, the superintendent of public instruction, parents, law enforcement agencies, human services providers, and other interested parties. The training shall be offered to school districts and school staff requesting the training, and shall be made available at locations throughout the state.

[1994 sp.s. c 7 § 602.]

Notes:

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

RCW 28A.300.275 Alternative school start-up grants--School safety grants--Report to legislative committees.

The sum of four million dollars, or as much thereof as may be necessary, is appropriated from the general fund to the superintendent of public instruction for the biennium ending June 30, 2001, for:

(1) Alternative school start-up grants which are in addition to the grants funded in the two million dollars alternative school start-up appropriation contained in section 501(2)(l), chapter 309, Laws of 1999, and these grants shall be awarded in the same manner and for the same purposes;

(2) School safety programs for prevention and intervention. School districts may apply for and administer these grants independently or jointly with other school districts or educational service districts. The funds may be expended for proven-effective programs to improve safety in schools, including: Security assessments of school facilities; violence prevention and reporting training for staff as appropriate to the particular duties and responsibilities of the specific staff, including administrators; nonviolence and leadership training for staff and students; and school safety plans. The educational service districts and school districts may contract for any services under this subsection.

(3) The superintendent of public instruction shall report to the education committees of the house of representatives and senate on the number and types of programs administered through these grants by February 15, 2001, and February 15th of every two years thereafter.

[1999 sp.s. c 12 § 1.]

NOTES:

Effective date--1999 sp.s. c 12: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1999." [1999 sp.s. c 12 § 5.]

RCW 28A.300.280 Conflict resolution program.

The superintendent of public instruction and the office of the attorney general, in cooperation with the Washington state bar association, shall develop a volunteer-based conflict resolution and mediation program for use in community groups such as neighborhood organizations and the public schools. The program shall use lawyers to train students who in turn become trainers and mediators for their peers in conflict resolution.

[1994 sp.s. c 7 § 611.]

Notes:

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

RCW 28A.300.290 Effective reading programs--Identification.

(1) The center for the improvement of student learning, or its designee, shall develop and implement a process for identifying programs that have been proven to be effective based upon valid research in teaching elementary students to read. Additional programs shall be reviewed

after the initial identification of effective programs.

(2) In identifying effective reading programs, the center for the improvement of student learning, or its designee, shall consult primary education teachers, state-wide reading organizations, institutions of higher education, the commission on student learning, parents, legislators, and other appropriate individuals and organizations.

(3) In identifying effective reading programs, the following criteria shall be used:

(a) Whether the program will help the student meet the state-level and classroom-based assessments for reading;

(b) Whether the program has achieved documented results for students on valid and reliable assessments;

(c) Whether the results of the program have been replicated at different locations over a period of time;

(d) Whether the requirements and specifications for implementing the program are clear so that potential users can clearly determine the requirements of the program and how to implement it;

(e) Whether, when considering the cost of implementing the program, the program is cost-effective relative to other similar types of programs;

(f) Whether the program addresses differing student populations; and

(g) Other appropriate criteria and considerations.

(4) The initial identification of effective reading programs shall be completed and a list of the identified programs prepared by December 31, 1996.

[1996 c 273 § 1.]

Notes:

Effective date--1996 c 273: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 29, 1996]." [1996 c 273 § 6.]

RCW 28A.300.295 Identified programs--Grants for in-service training and instructional materials.

The superintendent of public instruction shall establish a grant program to provide incentives for teachers, schools, and school districts to use the identified programs on the approved list in grades kindergarten through four. Schools, school districts, and educational service districts may apply for grants. Funds for the grants shall be used for in-service training and instructional materials. Grants shall be awarded and funds distributed not later than June 30, 1997, for programs in the 1996-97 and 1997-98 school years. Priority shall be given to grant applications involving schools and school districts with the lowest mean percentile scores on the state-wide third grade test required under RCW 28A.230.190 among grant applicants.

[1999 c 78 § 2; 1996 c 273 § 2.]

Notes:

Effective date--1996 c 273: See note following RCW 28A.300.290.

RCW 28A.300.300 Effective reading programs--Information--Development and implementation of strategies.

(1) After effective programs have been identified in accordance with RCW 28A.300.290, the center for the improvement of student learning, or its designee, shall provide information and take other appropriate steps to inform elementary school teachers, principals, curriculum directors, superintendents, school board members, college and university reading instruction faculty, and others of its findings.

(2) The center, in cooperation with state-wide organizations interested in improving literacy, also shall develop and implement strategies to improve reading instruction in the state, with a special emphasis on the instruction of reading in the primary grades using the effective reading programs that have been identified in accordance with RCW 28A.300.290. The strategies may include, but should not be limited to, expanding and improving reading instruction of elementary school teachers in teacher preparation programs, expanded in-service training in reading instruction, the training of paraprofessionals and volunteers in reading instruction, improving classroom-based assessment of reading, and increasing state-wide and regional technical assistance in reading instruction.

[1998 c 245 § 11; 1996 c 273 § 4.]

Notes:

Effective date--1996 c 273: See note following RCW 28A.300.290.

RCW 28A.300.310 Second grade reading assessment--Selection of reading passages--Costs.

(1) The superintendent of public instruction shall identify a collection of reading passages and assessment procedures that can be used to measure second grade oral reading accuracy and fluency skills. The purpose of the second grade reading assessment is to provide information to parents, teachers, and school administrators on the level of acquisition of oral reading accuracy and fluency skills of each student at the beginning of second grade. The assessment procedures and each of the reading passages in the collection must:

(a) Provide a reliable and valid measure of a student's oral reading accuracy and fluency skills;

(b) Be able to be individually administered;

(c) Have been approved by a panel of nationally recognized professionals in the area of beginning reading, whose work has been published in peer-reviewed education research journals, and professionals in the area of measurement and assessment; and

(d) Assess student skills in recognition of letter sounds, phonemic awareness, word recognition, and reading connected text. Text used for the test of fluency must be ordered in relation to difficulty.

(2) The superintendent of public instruction shall select reading passages for use by schools and school districts participating in pilot projects under RCW 28A.300.320 during the 1997-98 school year. The final collection must be selected by June 30, 1998. The superintendent of public instruction may add reading passages to the initial list if the passages are comparable in

format to the initial passages approved by the expert panel in subsection (1) of this section.

(3) The superintendent of public instruction shall develop a per-pupil cost for the assessments in the collection that details the costs for administering the assessments, booklets, scoring, and training required to reliably administer the test. To the extent funds are appropriated, the superintendent of public instruction shall pay for the cost of administering and scoring the assessments, booklets or other assessment material, and training required to administer the test.

[1999 c 373 § 101; 1997 c 262 § 2.]

Notes:

Part headings not law--1999 c 373: "Part headings used in this act are not any part of the law." [1999 c 373 § 601.]

Findings--1997 c 262: "The legislature acknowledges the definition of reading as "Reading is the process of constructing meaning from written text. It is the complex skill requiring the coordination of a number of interrelated sources of information." Marilyn Adams, *Becoming a Nation of Readers* 7. The legislature also acknowledges the role that reading accuracy and fluency plays in the comprehension of text. The legislature finds that one way to determine if a child's inability to read is problematic is to compare the child's reading fluency and accuracy skills with that of other children. To accomplish this objective, the legislature finds that assessments that test students' reading fluency and accuracy skills must be scientifically valid and reliable. The legislature further finds that early identification of students with potential reading difficulties can provide valuable information to parents, teachers, and school administrators. The legislature finds that assessment of second grade students' reading fluency and accuracy skills can assist teachers in planning and implementing a reading curriculum that addresses students' deficiencies in reading." [1997 c 262 § 1.]

RCW 28A.300.320 Second grade reading assessment--Pilot projects--Assessment selection--Assessment results.

(1) The superintendent of public instruction shall create a pilot project to identify which second grade reading assessments selected under RCW 28A.300.310 will be included in the final collection of assessments that must be available by June 30, 1998.

(2) Schools and school districts may voluntarily participate in the second grade reading test pilot projects in the 1997-98 school year. Schools and school districts voluntarily participating in the pilot project test are not required to have the results available by the fall parent-teacher conference.

(3)(a) Starting in the 1998-99 school year, school districts must select an assessment from the collection adopted by the superintendent of public instruction. Selection must be at the entire school district level.

(b) The second grade reading assessment selected by the school district must be administered annually in the fall beginning with the 1998-99 school year. Students who score substantially below grade level when assessed in the fall shall be assessed at least one more time during the second grade. Assessment performance deemed to be "substantially below grade level" is to be determined for each passage in the collection by the superintendent of public instruction.

(c) If a student, while taking the assessment, reaches a point at which the student's performance will be considered "substantially below grade level" regardless of the student's

performance on the remainder of the assessment, the assessment may be discontinued.

(d) Each school must have the assessment results available by the fall parent-teacher conference. Schools must notify parents about the second grade reading assessment during the conferences, inform the parents of their students' performance on the assessment, identify actions the school intends to take to improve the child's reading skills, and provide parents with strategies to help the parents improve their child's score.

[1999 c 373 § 102; 1998 c 319 § 201; 1997 c 262 § 3.]

Notes:

Part headings not law--1999 c 373: See note following RCW 28A.300.310.
Part headings not law--1998 c 319: See note following RCW 28A.655.050.
Intent--1997 c 262: See note following RCW 28A.300.310.

RCW 28A.300.330 Primary grade reading grant program.

(1) The superintendent of public instruction shall establish a primary grade reading grant program. The purpose of the grant program is to enhance teachers' skills in using teaching methods that have proven results gathered through quantitative research and to assist students in beginning reading.

(2) Schools and school districts may apply for primary grade reading grants. To qualify for a grant, the grant proposal shall provide that the grantee must:

(a) Document that the instructional model the grantee intends to implement, including teaching methods and instructional materials, is based on results validated by quantitative methods;

(b) Agree to work with the independent contractor identified under subsection (3) of this section to determine the effectiveness of the instructional model selected and the effectiveness of the staff development provided to implement the selected model; and

(c) Provide evidence of a significant number of students who are not achieving at grade level.

To the extent funds are appropriated, the superintendent of public instruction shall make initial grants available by September 1, 1997, for schools and school districts voluntarily participating in pilot projects under RCW 28A.300.320. Subject to available funding, additional applications may be submitted to the superintendent of public instruction by September 1, 1998, and by September 1st in subsequent years. Grants will be awarded for two years.

(3) The superintendent of public instruction shall contract with an independent contractor who has experience in program evaluation and quantitative methods to evaluate the impact of the grant activities on students' reading skills and the effectiveness of the staff development provided to teachers to implement the instructional model selected by the grantee. Five percent of the funds awarded for grants shall be set aside for the purpose of the grant evaluation conducted by the independent contractor.

(4) The superintendent of public instruction shall submit biennially to the legislature and the governor a report on the primary grade reading grant program. The first report must be submitted not later than December 1, 1999, and each succeeding report must be submitted not

later than December 1st of each odd-numbered year. Reports must include information on how the schools and school districts used the grant money, the instructional models used, how they were implemented, and the findings of the independent contractor.

(5) The superintendent of public instruction shall disseminate information to the school districts five years after the beginning of the grant program regarding the results of the effectiveness of the instructional models and implementation strategies.

(6) Funding under this section shall not become part of the state's basic program of education obligation as set forth under Article IX of the state Constitution.

[1997 c 262 § 4.]

Notes:

Intent--1997 c 262: See note following RCW 28A.300.310.

RCW 28A.300.340 Primary grade reading grant program--Timelines--Rules.

(1) The superintendent of public instruction may use up to one percent of the appropriated funds for administration of the primary grade reading grant program established in chapter 262, Laws of 1997.

(2) The superintendent of public instruction shall adopt timelines and rules as necessary under chapter 34.05 RCW to administer the primary reading grant program in RCW 28A.300.310.

(3) Funding under this section shall not become a part of the state's basic program of education obligation as set forth under Article IX of the state Constitution.

[1997 c 262 § 7.]

Notes:

Intent--1997 c 262: See note following RCW 28A.300.310.

RCW 28A.300.350 Excellence in mathematics training program.

(1) The excellence in mathematics training program is established to improve the mathematics performance of elementary, middle, and junior high school students. The purpose of the program is to improve students' proficiency in mathematics by enhancing teachers' skills in using teaching methods that have been proven to be effective based upon empirical research. The program shall be administered by the office of the superintendent of public instruction.

(2) The superintendent of public instruction, to the extent funds are appropriated, shall establish training programs in mathematics instruction and assessment for educators working with elementary, middle, and junior high school students. The programs shall be designed to prepare educators to select and implement appropriate instructional strategies and effective programs to improve mathematics instruction. Funds, to the extent funds are appropriated, shall be used to develop training programs and to provide the training to the educators both through institutes and in the classroom during the school year. In selecting educators to participate in the program, the superintendent shall give priority to educators from schools and school districts in

which a significant portion of the students performed below standard on one or more mathematics assessments.

[1999 c 347 § 2.]

Notes:

Findings--Intent--1999 c 347: "The legislature finds that the purpose of Washington's accountability system is to improve student learning and student achievement of the essential academic learning standards. The legislature finds that only thirty-one percent of students who took the 1998 fourth grade Washington assessment of student learning met the standard for proficiency in mathematics. The legislature also finds that only twenty percent of students who took the seventh grade trial assessment met the standard for proficiency in mathematics. The legislature intends to identify best practices in mathematics instruction for current and prospective mathematics teachers in the elementary and middle grades, and to provide training opportunities for teachers in using those instructional methods to help students in the classroom." [1999 c 347 § 1.]

RCW 28A.300.360 Grants for programs and services--Truant, at-risk, and expelled students.

The superintendent of public instruction shall provide, to the extent funds are appropriated, start-up grants for alternative programs and services that provide instruction and learning for truant, at-risk, and expelled students. Each grant application shall contain proposed performance indicators and an evaluation plan to measure the success of the program and its impact on improved student learning. Applications shall contain the applicant's plan for maintaining the program and services after the grant period.

[1999 c 319 § 7.]

RCW 28A.300.370 World War II oral history project.

(1) The World War II oral history project is established for the purpose of providing oral history presentations, documentation, and other materials to assist the office of the superintendent of public instruction and educators in the development of a curriculum for use in kindergarten through twelfth grade.

(2) To the extent funds are appropriated or donated, the project shall be administered by the office of the superintendent of public instruction. The office shall convene an advisory committee to assist in the design and implementation of the project. The committee shall be composed of members of the World War II memorial educational foundation, the department of veterans affairs, the secretary of state's office, and legislators involved with and interested in the development of the oral history project. The committee may select its own chair and may expand its membership to include the services of other individuals, agencies, or organizations on the basis of need. The office shall provide staffing and administrative support to the advisory committee.

(3) The project will preserve for the education of Washington's school children the memories and history of our state's citizens who served their state and country as members of the armed forces or through national or community contributions during World War II. The project is intended to preserve these memories and history through audiotapes, videotapes, films, stories,

printed transcripts, digitally, and through other appropriate methods.

(4) As part of the project, the office of the superintendent of public instruction shall identify the requirements regarding instructional guides to help educators use the preserved material in age and grade appropriate ways.

(5) In its administration of the project, the office may carry out its responsibilities through contracts with filming and taping specialists, mini-grants to schools, contracts with the World War II memorial educational foundation, and through other means recommended by the foundation.

(6) By December 1, 2000, and every second year thereafter in which the project has received funding, the office shall report on the results of the project to the governor and the house of representatives and senate committees on education. The December 2000 report shall include, but need not be limited to, identification of the project's implementation strategies and resource requirements, and any curriculum standards developed through the project.

[2000 c 112 § 2.]

Notes:

Findings--Intent--2000 c 112: "The legislature finds that more than two hundred fifty thousand of Washington's citizens served their country in the armed forces of the United States during World War II. The legislature also finds that almost six thousand of those citizens sacrificed their lives to secure our nation's and the world's peace and freedom. The legislature finds that the hardships and sacrifices endured by the families and communities of these service men and women were critical to the eventual success of our nation's defense. The legislature also finds the memories of these stalwart patriots must be preserved to remind future generations of the price the members of the greatest generation paid to preserve our democratic way of life. The legislature further finds that to have a clearer reflection of these sacrifices on behalf of freedom and democracy, it is necessary to include the memories of all women and men of our armed forces, their family members, and others involved in the war effort so that these memories mirror our nation's rich ethnic diversity. In addition, the legislature recognizes the existence and contributions of the World War II memorial educational foundation. Members of the foundation include World War II veterans, and advisors from the office of veterans affairs, the superintendent of public instruction, and the secretary of state. The legislature intends to honor the veterans who served in World War II and their supportive families by preserving their memories so Washington's school children will never forget the significant human costs of war and the efforts of their ancestors to preserve and protect our country and the world from tyranny. The legislature further intends that members of the World War II memorial educational foundation have a strong advisory role in the preservation of those memories and the creation of instructional materials on the war." [2000 c 112 § 1.]

RCW 28A.300.380 Career and technical student organizations--Support services.

(1) The superintendent of public instruction shall maintain support for state-wide coordination for career and technical student organizations by providing program staff support that is available to assist in meeting the needs of career and technical student organizations and their members and students. The superintendent shall provide at least one full-time equivalent program staff for purposes of implementing this section. The superintendent may provide additional support to the organizations through contracting with independent coordinators.

(2) Career and technical student organizations eligible for technical assistance and other support services under this section are organizations recognized as career and technical student organizations by:

(a) The United States department of education; or

(b) The superintendent of public instruction, if such recognition is recommended by the Washington association for career and technical education.

(3) Career and technical student organizations eligible for technical assistance and other support services under this section include, but are not limited to: The national FFA organization; family, career, and community leaders of America; skillsUSA; distributive education clubs of America; future business leaders of America; and the technology student association.

[2000 c 84 § 2.]

Notes:

Findings--2000 c 84: "(1) The legislature finds that career and technical student organizations:

(a) Prepare students for career experiences beyond high school;

(b) Help students develop personal, leadership, technical, and occupational skills;

(c) Are an integral component of vocational technical instruction programs; and

(d) Directly help students achieve state learning goals, especially goals three and four with respect to critical thinking, problem solving, and decision-making skills.

(2) The legislature finds that career and technical student organizations are best situated to fulfill their important purpose if they are in existence pursuant to statute and receive ongoing assistance and support from the office of superintendent of public instruction." [2000 c 84 § 1.]

RCW 28A.300.390 Washington civil liberties public education program--Findings.

The legislature finds that:

(1) In order to adequately prepare our youth for their meaningful participation in our democratic institutions and processes, there must be strong educational resources aimed at teaching students and the public about the fragile nature of our constitutional rights.

(2) The federal commission on wartime relocation and internment of civilians was established by congress in 1980 to review the facts and circumstances surrounding executive order 9066, issued on February 19, 1942, and the impact of the executive order on American citizens and permanent residents, and to recommend appropriate remedies.

The commission of [on] wartime relocation and internment of civilians issued a report of its findings in 1983 with the reports "Personal Justice Denied" and "Personal Justice Denied-Part II, Recommendations." The reports were based on information gathered through twenty days of hearings in cities across the country, particularly the west coast. Testimony was heard from more than seven hundred fifty witnesses, including evacuees, former government officials, public figures, interested citizens, historians, and other professionals who have studied the internment of Japanese-Americans during World War II.

(3) The lessons to be learned from the internment of Japanese-Americans during World War II are embodied in "Personal Justice Denied-Part II, Recommendations" which found that executive order 9066 was not justified by military necessity, and the decisions that followed from it were not founded upon military considerations. These decisions included the exclusion and detention of American citizens and resident aliens of Japanese descent. The broad historical causes that shaped these decisions were race prejudice, war hysteria, and a failure of political leadership. Widespread ignorance about Americans of Japanese descent contributed to a policy

conceived in haste and executed in an atmosphere of fear and anger at Japan. A grave personal injustice was done to the American citizens and resident aliens of Japanese ancestry who, without individual review or any probative evidence against them were excluded, removed, and detained by the United States during World War II.

(4) A grave injustice was done to both citizens and permanent residents of Japanese ancestry by the evacuation, relocation, and internment of civilians during World War II. These actions were carried out without adequate security reasons and without any documented acts of espionage or sabotage, and were motivated largely by racial prejudice, wartime hysteria, and a failure of political leadership. The excluded individuals of Japanese ancestry suffered enormous damages, both material and intangible, and there were incalculable losses in education and job training, all of which resulted in significant human suffering for which appropriate compensation has not been made. For these fundamental violations of the basic civil liberties and constitutional rights of these individuals of Japanese ancestry, the United States congress apologized on behalf of the nation in the federal civil liberties act of 1988.

[2000 c 210 § 1.]

RCW 28A.300.395 Washington civil liberties public education program--Intent.

The legislature intends to develop a grant program to fund public educational activities and development of educational materials to ensure that the events surrounding the exclusion, forced removal, and internment of civilians and permanent resident aliens of Japanese ancestry will be remembered, and so that the causes and circumstances of this and similar events may be illuminated and understood.

[2000 c 210 § 2.]

RCW 28A.300.400 Washington civil liberties public education program--Definition.

As used in RCW 28A.300.390 through 28A.300.415, "program" means the Washington civil liberties public education program, unless the context clearly requires otherwise.

[2000 c 210 § 3.]

RCW 28A.300.405 Washington civil liberties public education program--Created--Purpose.

Consistent with the legislative findings in RCW 28A.300.390, the legislature shall establish the Washington civil liberties public education program. The program provides grants for the purpose of establishing a legacy of remembrance as part of a continuing process of recovery from the World War II exclusion and detention of individuals of Japanese ancestry. The program is created to do one or both of the following:

(1) Educate the public regarding the history and the lessons of the World War II exclusion, removal, and detention of persons of Japanese ancestry through the development,

coordination, and distribution of new educational materials and the development of curriculum materials to complement and augment resources currently available on this subject matter; and

(2) Develop videos, plays, presentations, speaker bureaus, and exhibitions for presentation to elementary schools, secondary schools, community colleges, and to other interested parties.

[2000 c 210 § 4.]

RCW 28A.300.410 Washington civil liberties public education program--Grants--Acceptance of gifts, grants, or endowments.

(1) The superintendent of public instruction shall allocate grants under the program established in RCW 28A.300.390 through 28A.300.415 from private donations or within amounts appropriated for this specific purpose. The grants shall be awarded on a competitive basis.

(2) The superintendent of public instruction may contract with independent review panelists and establish an advisory panel to evaluate and make recommendations to the superintendent of public instruction based on grant applications.

(3) The superintendent of public instruction shall select grant recipients from applicants who meet all of the following criteria:

(a) The capability to administer and complete the proposed project within specified deadlines and within the specified budget;

(b) The experience, knowledge, and qualifications necessary to conduct quality educational activities regarding the exclusion and detention of Japanese-Americans during World War II;

(c) Projects that relate the Japanese-American exclusion and detention experience with civil rights included in the Declaration of Independence and the Constitution so that this event may be illuminated and understood in order to prevent similar violations of civil rights in the future;

(d) Projects that are designed to maximize the long-term educational impact of this chapter;

(e) Projects that build upon, contribute to, and expand upon the existing body of educational and research materials on the exclusion and detention of Japanese-Americans during World War II; and

(f) Projects that include the variety of experiences regarding the exclusion and detention of Japanese-Americans and its impact before, during, and after World War II including those Japanese-Americans who served in the military and those who were interned in department of justice camps.

(4) Applicants for grants under the program are encouraged to do each of the following:

(a) Involve former detainees, those excluded from the military area, and their descendants in the development and implementation of projects;

(b) Develop a strategy and plan for raising the level of awareness and understanding among the American public regarding the exclusion and detention of Japanese-Americans during

World War II so that the causes and circumstances of this and similar events may be illuminated and understood;

(c) Develop a strategy and plan for reaching the broad, multicultural population through project activities;

(d) Develop local and regional consortia of organizations and individuals engaged in similar educational, research, and development efforts;

(e) Coordinate and collaborate with organizations and individuals engaging in similar educational, research, and development endeavors to maximize the effect of grants;

(f) Utilize creative and innovative methods and approaches in the research, development, and implementation of their projects;

(g) Seek matching funds, in-kind contributions, or other sources of support to supplement their proposal;

(h) Use a variety of media, including new technology, and the arts to creatively and strategically appeal to a broad audience while enhancing and enriching community-based educational efforts;

(i) Include in the grant application, scholarly inquiry related to the variety of experiences and impact of the exclusion and detention of persons of Japanese ancestry during World War II; and

(j) Add relevant materials to or catalogue relevant materials in libraries and other repositories for the creation, publication, and distribution of bibliographies, curriculum guides, oral histories, and other resource directories and supporting the continued development of scholarly work on this subject by making a broad range of archival, library, and research materials more accessible to the American public.

(5) The superintendent of public instruction may adopt other criteria as it deems appropriate for its review of grant proposals. In reviewing projects for funding, scoring shall be based on an evaluation of all application materials including narratives, attachments, support letters, supplementary materials, and other materials that may be requested of applicants.

(6)(a) In the review process, the superintendent of public instruction shall assign the following order of priority to the criteria set forth in subsection (3) of this section:

(i) Subsection (3)(a) through (d) of this section, inclusive, shall be given highest priority; and

(ii) Subsection (3)(e) through [and] (f) of this section, inclusive, shall be given second priority.

(b) The superintendent of public instruction shall consider the overall breadth and variety of the field of applicants to determine the projects that would best fulfill its program and mission. Final grant awards may be for the full amount of the grant requests or for a portion of the grant request.

(7) The superintendent of public instruction shall determine the types of applicants eligible to apply for grants under this program.

(8) The office may accept gifts, grants, or endowments from public or private sources for the program and may spend any gifts, grants, or endowments or income from public or private sources according to their terms.

[2000 c 210 § 5.]

RCW 28A.300.412 Washington civil liberties public education program--Report.

On or before January 1, 2002, the superintendent of public instruction shall report to the governor and the appropriate fiscal and policy committees of each house of the legislature on the types of grants awarded and the accomplishments of the program established under RCW 28A.300.390 through 28A.300.410.

[2000 c 210 § 6.]

RCW 28A.300.415 Washington civil liberties public education program--Short title.

RCW 28A.300.390 through 28A.300.415 shall be known as the Washington civil liberties public education act.

[2000 c 210 § 7.]

Chapter 28A.305 RCW
STATE BOARD OF EDUCATION

Sections

28A.305.010 Composition of board.
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importance.
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Notes:
Assistance of certificated or classified employee--Reimbursement for substitute: RCW 28A.300.035.
Corporal punishment prohibited--Adoption of policy: RCW 28A.150.300.
Reimbursement for substitute if employee serves state board or superintendent: RCW 28A.300.035.

RCW 28A.305.010 Composition of board.

The state board of education shall be comprised of one member from each congressional district of the state, not including any congressional district at large, elected by the members of the boards of directors of school districts thereof, as hereinafter in this chapter provided, the superintendent of public instruction and one member elected at large, as provided in this chapter, by the members of the boards of directors of all private schools in the state meeting the requirements of RCW 28A.195.010. The member representing private schools shall not vote on matters affecting public schools. If there is a dispute about whether or not an issue directly affects public schools, the dispute shall be settled by a majority vote of the other members of the board.

[1992 c 56 § 1; 1990 c 33 § 257; 1988 c 255 § 1; 1980 c 179 § 1; 1969 ex.s. c 223 § 28A.04.010. Prior: 1955 c 218 § 1; 1947 c 258 § 1; 1925 ex.s. c 65 § 1; 1909 c 97 p 234 § 1; RRS § 4525; prior: 1907 c 240 § 2; 1901 c 177 § 6; 1897 c 118 § 24; 1890 p 352 § 6; Code 1881 § 3163. Formerly RCW 28A.04.010, 28.04.010, 43.63.010.]

Notes:

Severability--1988 c 255: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 255 § 4.]

Severability--1980 c 179: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 179 § 8.]

RCW 28A.305.020 Call and notice of elections.

Not later than the twenty-fifth day of August of each year, the superintendent of public instruction shall call for the following elections to be held: An election in each congressional district within which resides a member of the state board of education whose term of membership will end on the second Monday of January next following, and an election of the member of the state board of education representing private schools if the term of membership will end on the second Monday of January next following. The superintendent of public instruction shall give written notice thereof to each member of the board of directors of each common school district in such congressional district, and to the chair of the board of directors of each private school who shall distribute said notice to each member of the private school board. Such notice shall include the election calendar and rules and regulations established by

the superintendent of public instruction for the conduct of the election.

[1990 c 33 § 258; 1988 c 255 § 2; 1981 c 38 § 1; 1969 ex.s. c 223 § 28A.04.020. Prior: 1955 c 218 § 2; 1947 c 258 § 2; Rem. Supp. 1947 § 4525-1. Formerly RCW 28A.04.020, 28.04.020, 43.63.020.]

Notes:

Severability--1988 c 255: See note following RCW 28A.305.010.

Severability--1981 c 38: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 38 § 5.]

RCW 28A.305.030 Elections in new congressional districts--Call and conduct of--Member terms--Transitional measures to reduce number of members from each district.

(1) Whenever any new and additional congressional district is created, except a congressional district at large, the superintendent of public instruction shall call an election in such district at the time of making the call provided for in RCW 28A.305.020. Such election shall be conducted as other elections provided for in this chapter. At the first such election one member of the state board of education shall be elected for a term of four years.

(2) The terms of office of members of the state board of education who are elected from the various congressional districts shall not be affected by the creation of either new or new and additional districts. In such an event, each board member may continue to serve in office for the balance of the term for which he or she was elected or appointed: PROVIDED, That the board member continues to reside within the boundaries of the congressional district as they existed at the time of his or her election or appointment. Vacancies which occur in a board member position during the balance of any such term shall be filled pursuant to RCW 28A.305.090 by a successor who resides within the boundaries of the congressional district from which the member whose office was vacated was elected as they existed at the time of his or her election. At the election immediately preceding expiration of the term of office of each board member provided for in this subsection following the creation of either new or new and additional congressional districts, and thereafter, a successor shall be elected from the congressional district which corresponds in number with the congressional district from which the incumbent was appointed or elected.

(3) Notwithstanding any other provision of this section or chapter, in order to reduce the number of state board of education members elected from each congressional district from two members to one member the following transitional measures shall govern board member terms, elections, and voting:

(a) The terms of office for each of the sixteen state board of education members and positions representing the first through the eighth congressional districts shall terminate in a sequence commencing with the terms of the four members and positions representing the third and sixth congressional districts as of the second Monday of January 1993, followed by the terms of the six members and positions representing the first, fourth, and seventh congressional districts as of the second Monday of January 1994, and ending with the termination of the terms

of the six members and positions representing the second, fifth, and eighth congressional districts as of the second Monday of January 1995;

(b) An election shall be conducted under RCW 28A.305.040 through 28A.305.060 each year preceding the termination of one or more terms under (a) of this subsection for the purpose of electing one state board of education member from each correspondingly numbered congressional district for a term of four years;

(c) If for any reason a vacancy occurs in one of two positions representing a congressional district before the termination of the term for the position under (a) of this subsection, no replacement may be appointed or elected and the position shall be deemed eliminated; and

(d) During the transition period from the second Monday of January 1993, to the second Monday of January 1995, a vote on any matter before the state board of education by any one of two members representing the same congressional district shall be equal to one-half [of] a vote and a vote by any other member shall be equal to one full vote. Thereafter, the vote of each member shall be equal to one full vote.

[1992 c 56 § 3; 1990 c 33 § 259; 1982 1st ex.s. c 7 § 1; 1969 ex.s. c 223 § 28A.04.030. Prior: 1955 c 218 § 3. Formerly RCW 28A.04.030, 28.04.030, 43.63.021.]

Notes:

Severability--1982 1st ex.s. c 7: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 7 § 3.]

RCW 28A.305.040 Declarations of candidacy--Qualifications of candidates--Members restricted from service on local boards--Forfeiture of office.

(1) Candidates for membership on the state board of education shall file declarations of candidacy with the superintendent of public instruction on forms prepared by the superintendent. Declarations of candidacy may be filed by person or by mail not earlier than the first day of September, or later than the sixteenth day of September. The superintendent of public instruction may not accept any declaration of candidacy that is not on file in the superintendent's office or is not postmarked before the seventeenth day of September, or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of September. No person employed in any school, college, university, or other educational institution or any educational service district superintendent's office or in the office of superintendent of public instruction shall be eligible for membership on the state board of education and each member elected who is not representative of the private schools in this state and thus not running-at-large must be a resident of the congressional district from which he or she was elected. No member of a board of directors of a local school district or private school shall continue to serve in that capacity after having been elected to the state board.

(2) The prohibitions against membership upon the board of directors of a school district or school and against employment, as well as the residence requirement, established by this section, are conditions to the eligibility of state board members to serve as such which apply

throughout the terms for which they have been elected or appointed. Any state board member who hereafter fails to meet one or more of the conditions to eligibility shall be deemed to have immediately forfeited his or her membership upon the board for the balance of his or her term: PROVIDED, That such a forfeiture of office shall not affect the validity of board actions taken prior to the date of notification to the board during an open public meeting of the violation.

[1990 c 33 § 260; 1982 1st ex.s. c 7 § 2; 1980 c 179 § 4; 1975 1st ex.s. c 275 § 49; 1971 c 48 § 1; 1969 ex.s. c 223 § 28A.04.040. Prior: 1967 ex.s. c 67 § 6; 1955 c 218 § 5. Formerly RCW 28A.04.040, 28.04.040, 43.63.023.]

Notes:

Severability--1982 1st ex.s. c 7: See note following RCW 28A.305.030.

Severability--1980 c 179: See note following RCW 28A.305.010.

Severability--1971 c 48: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 c 48 § 55.]

RCW 28A.305.050 Qualifications of voters--Ballots--Voting instructions--Candidates' biographical data.

Each member of the board of directors of each school district in each congressional district shall be eligible to vote for the candidates who reside in his or her congressional district. Each chair of the board of directors of each eligible private school shall cast a vote for the candidate receiving a majority in an election to be held as follows: Each member of the board of directors of each eligible private school shall vote for candidates representing the private schools in an election of the board, the purpose of which is to determine the board's candidate for the member representing private schools on the state board. Not later than the first day of October the superintendent of public instruction shall mail to each member of each common school district board of directors and to each chair of the board of directors of each private school, the proper ballot and voting instructions for his or her congressional district together with biographical data concerning each candidate listed on such ballot, which data shall have been prepared by the candidate.

[1990 c 33 § 261; 1988 c 255 § 3; 1981 c 38 § 2; 1969 ex.s. c 223 § 28A.04.050. Prior: 1955 c 218 § 6. Formerly RCW 28A.04.050, 28.04.050, 43.63.025.]

Notes:

Severability--1988 c 255: See note following RCW 28A.305.010.

Severability--1981 c 38: See note following RCW 28A.305.020.

RCW 28A.305.060 Election procedure--Certificate.

Each member of the state board of education shall be elected by a majority of the electoral points accruing from all the votes cast at the election for all candidates for the position. All votes shall be cast by mail addressed to the superintendent of public instruction and no votes shall be accepted for counting if postmarked after the sixteenth day of October, or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of

October following the call of the election. The superintendent of public instruction and an election board comprised of three persons appointed by the state board of education shall count and tally the votes and the electoral points accruing therefrom not later than the twenty-fifth day of October. The votes shall be counted and tallied and electoral points determined in the following manner for the ballot cast by common school district board directors: Each vote cast by a school director shall be accorded as many electoral points as there are enrolled students in that director's school district as determined by the enrollment reports forwarded to the state superintendent of public instruction for apportionment purposes for the month of September of the year of election: PROVIDED, That school directors from a school district which has more than five directors shall have their electoral points based upon enrollment recomputed by multiplying such number by a fraction, the denominator of which shall be the number of directors in such district, and the numerator of which shall be five; the electoral points shall then be tallied for each candidate as the votes are counted; and it shall be the majority of electoral points which determines the winning candidate. The votes shall be counted and electoral points determined in the following manner for the ballots cast by chairs of the board of directors of each private school: Each vote cast by a private school board shall be accorded as many electoral points as the number of enrolled students in the respective school as determined by enrollment reports forwarded to the superintendent of public instruction for the month of September in the year previous to the year of election and it shall be the majority of electoral points which determines the winning candidate. If no candidate receives a majority of the electoral points cast, then, not later than the first day of November, the superintendent of public instruction shall call a second election to be conducted in the same manner and at which the candidates shall be the two candidates receiving the highest number of electoral points accruing from such votes cast. No vote cast at such second election shall be received for counting if postmarked after the sixteenth day of November, or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of November and the votes shall be counted as hereinabove provided on the twenty-fifth day of November. The candidate receiving a majority of electoral points accruing from the votes at any such second election shall be declared elected. In the event of a tie in such second election, the candidate elected shall be determined by a chance drawing of a nature established by the superintendent of public instruction. Within ten days following the count of votes in an election at which a member of the state board of education is elected, the superintendent of public instruction shall certify to the secretary of state the name or names of the persons elected to be members of the state board of education.

[1990 c 33 § 262; 1981 c 38 § 3; 1980 c 179 § 5; 1975 c 19 § 2; 1969 ex.s. c 283 § 25; 1969 ex.s. c 223 § 28A.04.060. Prior: 1967 c 158 § 1; 1955 c 218 § 4; 1947 c 258 § 3; Rem. Supp. 1947 § 4525-2. Formerly RCW 28A.04.060, 28.04.060, 43.63.030.]

Notes:

Severability--1981 c 38: See note following RCW 28A.305.020.
Severability--1980 c 179: See note following RCW 28A.305.010.
Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28A.305.070 Action to contest election--Grounds--Procedure.

Any common school district board member or any private school board member eligible to vote for a candidate for membership on the state board of education or any candidate for the position, within ten days after the state superintendent of public instruction's certification of election, may contest the election of the candidate for any of the following causes:

(1) For malconduct on the part of the state superintendent of public instruction or any member of the election board with respect to such election;

(2) Because the person whose right is being contested was not eligible for membership on the state board of education at the time the person was certified as elected;

(3) Because the person whose right is being contested gave a bribe or reward to a voter or to an inspector, judge or clerk of the election for the purpose of procuring the person's election, or offered to do so;

(4) On account of illegal votes.

An action contesting an election pursuant to this section shall be conducted in compliance with RCW 29.65.020 and 29.65.040 through 29.65.120, as now or hereafter amended.

[1980 c 179 § 6; 1975 c 19 § 1. Formerly RCW 28A.04.065.]

Notes:

Severability--1980 c 179: See note following RCW 28A.305.010.

RCW 28A.305.080 Terms of office.

The term of office of each member of the state board of education shall begin on the second Monday in January next following the election at which he or she was elected, and he or she shall hold office for the term for which he or she was elected and until his or her successor is elected and qualified. Except as otherwise provided in RCW 28A.305.030, each member of the state board of education shall be elected for a term of four years.

[1992 c 56 § 2; 1990 c 33 § 263; 1969 ex.s. c 223 § 28A.04.070. Prior: 1955 c 218 § 7; 1947 c 258 § 9; Rem. Supp. 1947 § 4525-8. Formerly RCW 28A.04.070, 28.04.070, 43.63.090.]

RCW 28A.305.090 Vacancies, filling.

Whenever there shall be a vacancy upon the state board of education, from any cause whatever, it shall be the duty of the remaining members of the board to fill such vacancy by appointment, and the person so appointed shall continue in office until his or her successor has been specially elected, as hereinafter in this section provided, and has qualified. Whenever a vacancy occurs, the superintendent of public instruction shall call, in the month of August next following the date of the occurrence of such vacancy, a special election to be held in the same manner as other elections provided for in this chapter, at which election a successor shall be elected to hold office for the unexpired term of the member whose office was vacated.

[1990 c 33 § 264; 1969 ex.s. c 223 § 28A.04.080. Prior: 1955 c 218 § 8; 1947 c 258 § 10; Rem. Supp. 1947 § 4525-9. Formerly RCW 28A.04.080, 28.04.080, 43.63.100.]

RCW 28A.305.100 Superintendent as ex officio member and chief executive officer of board.

The state board of education shall annually elect a president and vice president. The superintendent of public instruction shall be an ex officio member and the chief executive officer of the board. As such ex officio member the superintendent shall have the right to vote only when there is a question before the board upon which no majority opinion has been reached among the board members present and voting thereon and the superintendent's vote is essential for action thereon. The superintendent, as chief executive officer of the board, shall furnish all necessary record books and forms for its use, and shall represent the board in directing the work of school inspection.

[1982 c 160 § 1; 1969 ex.s. c 223 § 28A.04.090. Prior: 1967 c 158 § 2; 1909 c 97 p 235 § 2; RRS § 4526. Formerly RCW 28A.04.090, 28.04.090, 43.63.110.]

Notes:

Severability--1982 c 160: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 160 § 4.]

RCW 28A.305.110 Executive director--Secretary of board.

The state board of education may appoint an executive director who shall also serve as secretary of the board. The state board of education may also appoint other state board office assistants and clerical persons to perform duties in support of the activities of the state board and such other duties including duties involving supervision over matters pertaining to the public schools as the superintendent of public instruction may delegate to the state board. The secretary shall keep a correct record of board proceedings and, upon request, furnish to any person a copy of such proceedings. The executive director, his or her confidential secretary, and administrative assistants in the offices of the state board of education and superintendent of public instruction designated by the superintendent are exempt from civil service, together with other staff as now or hereafter designated as exempt in accordance with chapter 41.06 RCW.

[1996 c 25 § 1; 1990 c 33 § 265; 1982 c 160 § 3; 1969 ex.s. c 223 § 28A.04.100. Prior: 1909 c 97 p 235 § 3; RRS § 4527. Formerly RCW 28A.04.100, 28.04.100, 43.63.120.]

Notes:

Severability--1982 c 160: See note following RCW 28A.305.100.

Records of meetings kept by superintendent of public instruction: RCW 28A.300.040.

RCW 28A.305.120 Meetings--Compensation and travel expenses of members.

The state board of education shall hold an annual meeting and such other regular

meetings at such time and place within the state as the board shall determine and may hold such special meetings as may be deemed necessary for the transaction of public business, such special meetings to be called by the superintendent of public instruction, or by a majority of the board. The persons serving as members of the state board of education shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed by the superintendent of public instruction for travel expenses in accordance with RCW 43.03.050 and 43.03.060 incurred in the performance of their duties which expenses shall be paid by the state treasurer on warrants out of funds appropriated or otherwise available, upon the order of the superintendent.

[1984 c 287 § 60; 1975-'76 2nd ex.s. c 34 § 67; 1973 c 106 § 13; 1969 ex.s. c 223 § 28A.04.110. Prior: 1909 c 97 p 235 § 4; RRS § 4528. Formerly RCW 28A.04.110, 28.04.110, 43.63.130.]

Notes:

Legislative findings--Severability--Effective date--1984 c 287: See notes following RCW 43.03.220.

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Records of meetings kept by superintendent of public instruction: RCW 28A.300.040.

State treasurer to issue state warrants: RCW 43.88.160.

RCW 28A.305.130 Powers and duties generally.

In addition to any other powers and duties as provided by law, the state board of education shall:

(1) Approve or disapprove the program of courses leading to teacher, school administrator, and school specialized personnel certification offered by all institutions of higher education within the state which may be accredited and whose graduates may become entitled to receive such certification.

(2) Conduct every five years a review of the program approval standards, including the minimum standards for teachers, administrators, and educational staff associates, to reflect research findings and assure continued improvement of preparation programs for teachers, administrators, and educational staff associates.

(3) Investigate the character of the work required to be performed as a condition of entrance to and graduation from any institution of higher education in this state relative to such certification as provided for in subsection (1) above, and prepare a list of accredited institutions of higher education of this and other states whose graduates may be awarded such certificates.

(4)(a) The state board of education shall adopt rules to allow a teacher certification candidate to fulfill, in part, teacher preparation program requirements through work experience as a classified teacher's aide in a public school or private school meeting the requirements of RCW 28A.195.010. The rules shall include, but are not limited to, limitations based upon the recency of the teacher preparation candidate's teacher aide work experience, and limitations based on the amount of work experience that may apply toward teacher preparation program requirements under this chapter.

(b) The state board of education shall require that at the time of the individual's enrollment in a teacher preparation program, the supervising teacher and the building principal shall jointly provide to the teacher preparation program of the higher education institution at

which the teacher candidate is enrolled, a written assessment of the performance of the teacher candidate. The assessment shall contain such information as determined by the state board of education and shall include: Evidence that at least fifty percent of the candidate's work as a classified teacher's aide was involved in instructional activities with children under the supervision of a certificated teacher and that the candidate worked a minimum of six hundred thirty hours for one school year; the type of work performed by the candidate; and a recommendation of whether the candidate's work experience as a classified teacher's aide should be substituted for teacher preparation program requirements. In compliance with such rules as may be established by the state board of education under this section, the teacher preparation programs of the higher education institution where the candidate is enrolled shall make the final determination as to what teacher preparation program requirements may be fulfilled by teacher aide work experience.

(5) Supervise the issuance of such certificates as provided for in subsection (1) above and specify the types and kinds of certificates necessary for the several departments of the common schools by rule or regulation in accordance with RCW 28A.410.010.

(6) Accredit, subject to such accreditation standards and procedures as may be established by the state board of education, all schools that apply for accreditation, and approve, subject to the provisions of RCW 28A.195.010, private schools carrying out a program for any or all of the grades kindergarten through twelve: PROVIDED, That no private school may be approved that operates a kindergarten program only: PROVIDED FURTHER, That no public or private schools shall be placed upon the list of accredited schools so long as secret societies are knowingly allowed to exist among its students by school officials: PROVIDED FURTHER, That the state board may elect to require all or certain classifications of the public schools to conduct and participate in such preaccreditation examination and evaluation processes as may now or hereafter be established by the board.

(7) Make rules and regulations governing the establishment in any existing nonhigh school district of any secondary program or any new grades in grades nine through twelve. Before any such program or any new grades are established the district must obtain prior approval of the state board.

(8) Prepare such outline of study for the common schools as the board shall deem necessary, and prescribe such rules for the general government of the common schools, as shall seek to secure regularity of attendance, prevent truancy, secure efficiency, and promote the true interest of the common schools.

(9) Continuously reevaluate courses and adopt and enforce regulations within the common schools so as to meet the educational needs of students and articulate with the institutions of higher education and unify the work of the public school system.

(10) Carry out board powers and duties relating to the organization and reorganization of school districts under *RCW 28A.315.010 through 28A.315.680 and 28A.315.900.

(11) By rule or regulation promulgated upon the advice of the chief of the Washington state patrol, through the director of fire protection, provide for instruction of pupils in the public and private schools carrying out a K through 12 program, or any part thereof, so that in case of sudden emergency they shall be able to leave their particular school building in the shortest

possible time or take such other steps as the particular emergency demands, and without confusion or panic; such rules and regulations shall be published and distributed to certificated personnel throughout the state whose duties shall include a familiarization therewith as well as the means of implementation thereof at their particular school.

(12) Hear and decide appeals as otherwise provided by law.

The state board of education is given the authority to promulgate information and rules dealing with the prevention of child abuse for purposes of curriculum use in the common schools.

[1997 c 13 § 5; 1996 c 83 § 1; 1995 c 369 § 9; 1991 c 116 § 11; 1990 c 33 § 266. Prior: 1987 c 464 § 1; 1987 c 39 § 1; prior: 1986 c 266 § 86; 1986 c 149 § 3; 1984 c 40 § 2; 1979 ex.s. c 173 § 1; 1975-'76 2nd ex.s. c 92 § 1; 1975 1st ex.s. c 275 § 50; 1974 ex.s. c 92 § 1; 1971 ex.s. c 215 § 1; 1971 c 48 § 2; 1969 ex.s. c 223 § 28A.04.120; prior: 1963 c 32 § 1; 1961 c 47 § 1; prior: (i) 1933 c 80 § 1; 1915 c 161 § 1; 1909 c 97 p 236 § 5; 1907 c 240 § 3; 1903 c 104 § 12; 1897 c 118 § 27; 1895 c 150 § 1; 1890 p 352 § 8; Code 1881 § 3165; RRS § 4529. (ii) 1919 c 89 § 3; RRS § 4684. (iii) 1909 c 97 p 238 § 6; 1897 c 118 § 29; RRS § 4530. Formerly RCW 28A.04.120, 28.04.120, 28.58.280, 28.58.281, 28.58.282, 43.63.140.]

Notes:

***Reviser's note:** RCW 28A.315.010 through 28A.315.680 and 28A.315.900 were repealed or recodified by 1999 c 315.

Effective date--1995 c 369: See note following RCW 43.43.930.

Severability--1986 c 266: See note following RCW 38.52.005.

Severability--1984 c 40: See note following RCW 28A.195.050.

Severability--1975-'76 2nd ex.s. c 92: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 92 § 6.]

Child abuse and neglect--Development of primary prevention program: RCW 28A.300.160.

Districts to develop programs and establish programs regarding child abuse and neglect prevention: RCW 28A.225.200.

Professional certification not to be required of superintendents, deputy or assistant superintendents: RCW 28A.410.120.

Use of force on children--Policy--Actions presumed unreasonable: RCW 9A.16.100.

RCW 28A.305.140 Waiver from provisions of RCW 28A.150.200 through 28A.150.220 authorized.

The state board of education may grant waivers to school districts from the provisions of RCW 28A.150.200 through 28A.150.220 on the basis that such waiver or waivers are necessary to implement successfully a local plan to provide for all students in the district an effective education system that is designed to enhance the educational program for each student. The local plan may include alternative ways to provide effective educational programs for students who experience difficulty with the regular education program.

The state board shall adopt criteria to evaluate the need for the waiver or waivers.

[1990 c 33 § 267; (1992 c 141 § 302 expired September 1, 2000); 1985 c 349 § 6. Formerly RCW 28A.04.127.]

Notes:

Contingent expiration date--1992 c 141 § 302: "Section 302, chapter 141, Laws of 1992 shall expire September 1, 2000, unless by September 1, 2000, a law is enacted stating that a school accountability and academic assessment system is not in place." [1994 c 245 § 11; 1992 c 141 § 508.] That law was not enacted by September 1, 2000.

Severability--1985 c 349: See note following RCW 28A.150.260.

RCW 28A.305.145 Application process for waivers under RCW 28A.305.140.

School districts may use the application process in *RCW 28A.300.138 to apply for waivers under RCW 28A.305.140.

[1993 c 336 § 302.]

Notes:

***Reviser's note:** RCW 28A.300.138 was repealed by 1999 c 388 § 603.

Findings--Intent--Part headings not law--1993 c 336: See notes following RCW 28A.150.210.

Findings--1993 c 336: See note following RCW 28A.150.210.

RCW 28A.305.160 Rules incorporating due process guarantees of pupils--Informal due process procedures when suspension of students.

(1) The state board of education shall adopt and distribute to all school districts lawful and reasonable rules prescribing the substantive and procedural due process guarantees of pupils in the common schools. Such rules shall authorize a school district to use informal due process procedures in connection with the short-term suspension of students to the extent constitutionally permissible: PROVIDED, That the state board deems the interest of students to be adequately protected. When a student suspension or expulsion is appealed, the rules shall authorize a school district to impose the suspension or expulsion temporarily after an initial hearing for no more than ten consecutive school days or until the appeal is decided, whichever is earlier. Any days that the student is temporarily suspended or expelled before the appeal is decided shall be applied to the term of the student suspension or expulsion and shall not limit or extend the term of the student suspension or expulsion.

(2) Short-term suspension procedures may be used for suspensions of students up to and including, ten consecutive school days.

[1996 c 321 § 2; 1975-'76 2nd ex.s. c 97 § 1; 1971 ex.s. c 268 § 2. Formerly RCW 28A.04.132.]

RCW 28A.305.170 Rules and regulations accepting national guard high school career training.

In addition to any other powers and duties as provided by law, the state board of education shall adopt rules and regulations governing and authorizing the acceptance of national guard high school career training in lieu of either required high school credits or elective high school credits. Students enrolled in such national guard programs shall be considered enrolled in the common school last attended preceding enrollment in such national guard program.

[1975 1st ex.s. c 262 § 1. Formerly RCW 28A.04.133.]

RCW 28A.305.190 Eligibility to take general educational development test.

The state board of education shall adopt rules governing the eligibility of a child sixteen years of age and under nineteen years of age to take the general educational development test if the child provides a substantial and warranted reason for leaving the regular high school education program, or if the child was home-schooled.

[1993 c 218 § 1; 1991 c 116 § 5; 1973 c 51 § 2. Formerly RCW 28A.04.135.]

Notes:

Severability--1973 c 51: See note following RCW 28A.225.010.

Waiver of fees or residency requirements at community colleges for students completing a high school education: RCW 28B.15.520.

RCW 28A.305.200 Seal.

The state board of education shall adopt a seal which shall be kept in the office of the superintendent of public instruction.

[1969 ex.s. c 223 § 28A.04.140. Prior: 1909 c 97 p 238 § 7; RRS § 4531. Formerly RCW 28A.04.140, 28.04.140, 28.01.040, part, 43.63.160.]

RCW 28A.305.210 Assistance of educational service district boards and superintendents--Scope.

The state board of education, by rule or regulation, may require the assistance of educational service district boards and/or superintendents in the performance of any duty, authority, or power imposed upon or granted to the state board of education by law, upon such terms and conditions as the state board of education shall establish. Such authority to assist the state board of education shall be limited to the service function of information collection and dissemination and the attestment to the accuracy and completeness of submitted information.

[1975 1st ex.s. c 275 § 51; 1971 ex.s. c 282 § 30. Formerly RCW 28A.04.145.]

Notes:

Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.

RCW 28A.305.220 Development of standardized high school transcripts--School districts to inform students of importance.

(1) The state board of education shall develop for use by all public school districts a standardized high school transcript. The state board of education shall establish clear definitions for the terms "credits" and "hours" so that school programs operating on the quarter, semester, or trimester system can be compared.

(2) Transcripts are important documents to students who will apply for admission to postsecondary institutions of higher education. Transcripts are also important to students who

will seek employment upon or prior to graduation from high school. It is recognized that student transcripts may be the only record available to employers in their decision-making processes regarding prospective employees. The superintendent of public instruction shall require school districts to inform annually all high school students that prospective employers may request to see transcripts and that the prospective employee's decision to release transcripts can be an important part of the process of applying for employment.

[1984 c 178 § 1. Formerly RCW 28A.04.155.]

Notes:
High school diplomas--Receiving final transcript optional: RCW 28A.230.120.

RCW 28A.305.280 Forum for education issues.

In exercising the state board of education's authority to establish high school credit equivalencies for credits earned at institutions of higher education, the state board of education has highlighted the need for an ongoing forum that encourages the various education entities to provide each other with advice and counsel as rules and policies are adopted that have implications for students in all sectors of the state's education system. The legislature appreciates the willingness of the state board of education to consider any recommendations from the task force created in RCW 28A.305.285 and to delay until September 1995, implementation of its rule establishing course equivalencies. Ultimately the issue of credit equivalencies must be decided within the broad context of education reform and the desire of the legislature to provide options for students to move through the system without meeting bureaucratic barriers to individual educational success.

[1994 c 222 § 1.]

Notes:

Effective date--1994 c 222: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 1, 1994]." [1994 c 222 § 4.]

RCW 28A.305.285 Forum for education issues--Task force.

By May 1, 1994, or as soon as possible thereafter, the higher education coordinating board and the state board of education shall convene a task force creating a forum for ongoing discussion of curriculum issues that transect higher education and the common schools. In selecting members of the task force, the boards shall consult the office of the superintendent of public instruction, the commission on student learning, the state board for community and technical colleges, the work force training and education coordinating board, the Washington council on high school-college relations, representatives of the four-year institutions, representatives of the school directors, the school and district administrators, teachers, higher education faculty, students, counselors, vocational directors, parents, and other interested organizations. The process shall be designed to provide advice and counsel to the appropriate boards on topics that may include but are not limited to: (1) The changing nature of educational

instruction and crediting, and awarding appropriate credit for knowledge and competencies learned in a variety of ways in both institutions of higher education and high schools; (2) options for students to enroll in programs and institutions that will best meet the students' needs and educational goals; and (3) articulation agreements between institutions of higher education and high schools.

[1997 c 222 § 3; 1994 c 222 § 2.]

NOTES:

Intent--1997 c 222: See note following RCW 28A.230.090.

Effective date--1994 c 222: See note following RCW 28A.305.280.

Chapter 28A.310 RCW
EDUCATIONAL SERVICE DISTRICTS

Sections

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Notes:

Chapter not to apply to certain materials printed in educational service district: RCW 82.04.600.

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Regional educational technology support centers--Advisory councils: See RCW 28A.650.020.

Special education medical services: RCW 74.09.5253.

RCW 28A.310.010 Purpose.

It shall be the intent and purpose of this chapter to establish educational service districts as regional agencies which are intended to:

(1) Provide cooperative and informational services to local school districts;

(2) Assist the superintendent of public instruction and the state board of education in the performance of their respective statutory or constitutional duties; and

(3) Provide services to school districts and to the school for the deaf and the school for the blind to assure equal educational opportunities.

[1988 c 65 § 1; 1977 ex.s. c 283 § 1; 1975 1st ex.s. c 275 § 1; 1971 ex.s. c 282 § 1; 1969 ex.s. c 176 § 1. Formerly RCW 28A.21.010, 28.19.500.]

Notes:

Severability--1977 ex.s. c 283: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 283 § 26.]

Severability--1971 ex.s. c 282: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 282 § 45.]

Rights preserved--1969 ex.s. c 176: "The amendment or repeal of any section referred to herein shall not be construed as affecting any existing right acquired under the provisions of the statutes amended or repealed nor any rule, regulation or order adopted pursuant thereto nor as affecting any proceeding as instituted thereunder." [1969 ex.s. c 176 § 160.]

Severability--1969 ex.s. c 176: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 176 § 161.]

RCW 28A.310.020 Changes in number of, boundaries--Initiating, hearings, considerations--Superintendent's duties.

The state board of education upon its own initiative, or upon petition of any educational service district board, or upon petition of at least half of the district superintendents within an educational service district, or upon request of the superintendent of public instruction, may make changes in the number and boundaries of the educational service districts, including an equitable adjustment and transfer of any and all property, assets, and liabilities among the educational service districts whose boundaries and duties and responsibilities are increased and/or decreased by such changes, consistent with the purposes of RCW 28A.310.010: PROVIDED, That no reduction in the number of educational service districts will take effect after June 30, 1995, without a majority approval vote by the affected school directors voting in such election by mail ballot. Prior to making any such changes, the state board shall hold at least one public hearing on such proposed action and shall consider any recommendations on such proposed action.

The state board in making any change in boundaries shall give consideration to, but not be limited by, the following factors: Size, population, topography, and climate of the proposed district.

The superintendent of public instruction shall furnish personnel, material, supplies, and information necessary to enable educational service district boards and superintendents to consider the proposed changes.

[1994 sp.s. c 6 § 513; 1993 sp.s. c 24 § 522; 1990 c 33 § 270; 1977 ex.s. c 283 § 2; 1971 ex.s. c 282 § 2; 1969 ex.s. c 176 § 2. Formerly RCW 28A.21.020, 28.19.505.]

Notes:

Severability--1994 sp.s. c 6: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not

affected." [1994 sp.s. c 6 § 904.]

Effective date--1994 sp.s. c 6: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 6, 1994]." [1994 sp.s. c 6 § 905.]

Severability--Effective dates--1993 sp.s. c 24: See notes following RCW 28A.165.070.

Severability--1977 ex.s. c 283: See note following RCW 28A.310.010.

Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.

Severability--Rights preserved--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.310.030 ESD board--Members--Number, from board-member districts--Board-member district boundaries, determination of, changes in.

Except as otherwise provided in this chapter, in each educational service district there shall be an educational service district board consisting of seven members elected by the school directors of the educational service district, one from each of seven educational service district board-member districts. Board-member districts in districts reorganized under RCW 28A.310.020, or as provided for in RCW 28A.310.120 and under this section, shall be initially determined by the state board of education. If a reorganization pursuant to RCW 28A.310.020 places the residence of a board member into another or newly created educational service district, such member shall serve on the board of the educational service district of residence and at the next election called by the secretary to the state board of education pursuant to RCW 28A.310.080 a new seven member board shall be elected. If the redrawing of board-member district boundaries pursuant to this chapter shall cause the resident board-member district of two or more board members to coincide, such board members shall continue to serve on the board and at the next election called by the secretary to the state board of education a new board shall be elected. The board-member districts shall be arranged so far as practicable on a basis of equal population, with consideration being given existing board members of existing educational service district boards. Each educational service district board member shall be elected by the school directors of each school district within the educational service district. Beginning in 1971 and every ten years thereafter, educational service district boards shall review and, if necessary, shall change the boundaries of board-member districts so as to provide so far as practicable equal representation according to population of such board-member districts and to conform to school district boundary changes: PROVIDED, That all board-member district boundaries, to the extent necessary to conform with this chapter, shall be immediately redrawn for the purposes of the next election called by the secretary to the state board of education following any reorganization pursuant to this chapter. Such district board, if failing to make the necessary changes prior to June 1 of the appropriate year, shall refer for settlement questions on board-member district boundaries to the state board of education, which, after a public hearing, shall decide such questions.

[1990 c 33 § 271; 1977 ex.s. c 283 § 14; 1975 1st ex.s. c 275 § 3; 1974 ex.s. c 75 § 1; 1971 ex.s. c 282 § 3; 1969 ex.s. c 176 § 3. Formerly RCW 28A.21.030, 28.19.510.]

Notes:

Severability--1977 ex.s. c 283: See note following RCW 28A.310.010.

Severability--1974 ex.s. c 75: "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 75 § 24.]

Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.

Severability--Rights preserved--1969 ex.s. c 176: See notes following RCW 28A.310.010.

City, town, and district general elections--Exceptions--Special elections: RCW 29.13.020.

County auditor designated supervisor of certain elections: RCW 29.04.020.

Notice of election--Certification of measures--Validation of certain school bond elections: RCW 29.27.080.

RCW 28A.310.040 ESD board--Members--Terms.

The term of office for each board member shall be four years and until a successor is duly elected and qualified. For the first election or an election following reorganization, board-member district positions numbered one, three, five, and seven in each educational service district shall be for a term of four years and positions numbered two, four, and six shall be for a term of two years.

[1975 1st ex.s. c 275 § 5; 1974 ex.s. c 75 § 4. Formerly RCW 28A.21.0303.]

Notes:

Severability--1974 ex.s. c 75: See note following RCW 28A.310.030.

RCW 28A.310.050 ESD board--Members--Terms, when nine member board.

Any educational service district board may elect by resolution of the board to increase the board member size to nine board members. In such case positions number eight and nine shall be filled at the next election called by the secretary to the state board of education, position numbered eight to be for a term of two years, position numbered nine to be for a term of four years. Thereafter the terms for such positions shall be for four years.

[1977 ex.s. c 283 § 19; 1975 1st ex.s. c 275 § 6; 1974 ex.s. c 75 § 5. Formerly RCW 28A.21.0304.]

Notes:

Severability--1977 ex.s. c 283: See note following RCW 28A.310.010.

Severability--1974 ex.s. c 75: See note following RCW 28A.310.030.

RCW 28A.310.060 ESD board--Members--Terms, begin when--Vacancies, filling of.

The term of every educational service district board member shall begin on the second Monday in January next following the election at which he or she was elected: PROVIDED, That a person elected to less than a full term pursuant to this section shall take office as soon as the election returns have been certified and he or she has qualified. In the event of a vacancy in the board from any cause, such vacancy shall be filled by appointment of a person from the same board-member district by the educational service district board. In the event that there are more than three vacancies in a seven-member board or four vacancies in a nine-member board, the state board of education shall fill by appointment sufficient vacancies so that there shall be a quorum of the board serving. Each appointed board member shall serve until his or her successor

has been elected at the next election called by the secretary to the state board of education and has qualified.

[1977 ex.s. c 283 § 20; 1975 1st ex.s. c 275 § 7; 1974 ex.s. c 75 § 6. Formerly RCW 28A.21.0305.]

Notes:

Severability--1977 ex.s. c 283: See note following RCW 28A.310.010.
Severability--1974 ex.s. c 75: See note following RCW 28A.310.030.

RCW 28A.310.070 ESD board--Members--Restriction on other service.

No person shall serve as an employee of a school district or as a member of a board of directors of a common school district or as a member of the state board of education and as a member of an educational service district board at the same time.

[1975 1st ex.s. c 275 § 8; 1974 ex.s. c 75 § 7. Formerly RCW 28A.21.0306.]

Notes:

Severability--1974 ex.s. c 75: See note following RCW 28A.310.030.

RCW 28A.310.080 ESD board--Members--Elections, calling and notice of.

On or before the twenty-fifth day of August, 1978, and not later than the twenty-fifth day of August of every subsequent year, the secretary to the state board of education shall call an election to be held in each educational service district within which resides a member of the board of the educational service district whose term of office expires on the second Monday of January next following, and shall give written notice thereof to each member of the board of directors of each school district in such educational service district. Such notice shall include instructions, rules, and regulations established by the state board of education for the conduct of the election.

[1977 ex.s. c 283 § 15. Formerly RCW 28A.21.031.]

Notes:

Severability--1977 ex.s. c 283: See note following RCW 28A.310.010.

RCW 28A.310.090 ESD board--Members--Elections, filing of declarations of candidacy.

Candidates for membership on an educational service district board shall file declarations of candidacy with the secretary to the state board of education on forms prepared by the secretary. Declarations of candidacy may be filed by person or by mail not earlier than the first day of September, nor later than the sixteenth day of September. The secretary to the state board of education may not accept any declaration of candidacy that is not on file in his or her office or is not postmarked before the seventeenth day of September.

[1977 ex.s. c 283 § 16. Formerly RCW 28A.21.032.]

Notes:

Severability--1977 ex.s. c 283: See note following RCW 28A.310.010.

RCW 28A.310.100 ESD board--Members--Elections, procedure--Certification of results.

Each member of an educational service district board shall be elected by a majority of the votes cast at the election for all candidates for the position. All votes shall be cast by mail addressed to the secretary to the state board of education and no votes shall be accepted for counting if postmarked after the sixteenth day of October or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of October following the call of the election. The secretary to the state board of education and an election board comprised of three persons appointed by the state board of education shall count and tally the votes not later than the twenty-fifth day of October in the following manner: Each vote cast by a school director shall be accorded as one vote. If no candidate receives a majority of the votes cast, then, not later than the first day of November, the secretary to the state board of education shall call a second election to be conducted in the same manner and at which the candidates shall be the two candidates receiving the highest number of votes cast. No vote cast at such second election shall be received for counting if postmarked after the sixteenth day of November or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of November and the votes shall be counted as hereinabove provided on the twenty-fifth day of November. The candidate receiving a majority of votes at any such second election shall be declared elected. In the event of a tie in such second election, the candidate elected shall be determined by a chance drawing of a nature established by the secretary to the state board of education. Within ten days following the count of votes in an election at which a member of an educational service district board is elected, the secretary to the state board of education shall certify to the county auditor of the headquarters county of the educational service district the name or names of the persons elected to be members of the educational service district board.

[1980 c 179 § 7; 1977 ex.s. c 283 § 17. Formerly RCW 28A.21.033.]

Notes:

Severability--1980 c 179: See note following RCW 28A.305.010.
Severability--1977 ex.s. c 283: See note following RCW 28A.310.010.

RCW 28A.310.110 ESD board--Members--Elections, contest of.

Any common school district board member eligible to vote for a candidate for membership on an educational service district or any candidate for the position, within ten days after the secretary to the state board of education's certification of election, may contest the election of the candidate pursuant to RCW 28A.305.070.

[1990 c 33 § 272; 1977 ex.s. c 283 § 18. Formerly RCW 28A.21.034.]

Notes:

Severability--1977 ex.s. c 283: See note following RCW 28A.310.010.

RCW 28A.310.120 ESD board--Return to seven member board.

Any educational service district board which elects under RCW 28A.310.050 to increase the size of the educational service district board from seven to nine members, after at least four years, may elect by resolution of the board to return to a membership of seven educational service board members. In such case, at the next election a new board consisting of seven educational service board members shall be elected in accordance with the provisions of this chapter.

[1990 c 33 § 273; 1977 ex.s. c 283 § 21; 1975 1st ex.s. c 275 § 9; 1974 ex.s. c 75 § 8; 1971 ex.s. c 282 § 4. Formerly RCW 28A.21.035.]

Notes:

Severability--1977 ex.s. c 283: See note following RCW 28A.310.010.
Severability--1974 ex.s. c 75: See note following RCW 28A.310.030.
Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.

RCW 28A.310.130 ESD board--Vacation of board member position because of failure to attend meetings.

Absence of any educational service district board member from four consecutive regular meetings of the board, unless excused on account of sickness or otherwise authorized by resolution of the board, shall be sufficient cause for the members of the educational service district board to declare by resolution that such board member position is vacated.

[1975 1st ex.s. c 275 § 10; 1971 ex.s. c 282 § 5. Formerly RCW 28A.21.037.]

Notes:

Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.

RCW 28A.310.140 School district to be entirely within single educational service district.

Every school district must be included entirely within a single educational service district. If the boundaries of any school district within an educational service district are changed in any manner so as to extend the school district beyond the boundaries of that educational service district, the state board shall change the boundaries of the educational service districts so affected in a manner consistent with the purposes of RCW 28A.310.010 and this section.

[1990 c 33 § 274; 1975 1st ex.s. c 275 § 11; 1971 ex.s. c 282 § 6; 1969 ex.s. c 176 § 4. Formerly RCW 28A.21.040, 28.19.515.]

Notes:

Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.
Severability--Rights preserved--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.310.150 ESD board--Members, qualification, oath, bond--Organization--Quorum.

Every candidate for membership on a educational service district board shall be a registered voter and a resident of the board-member district for which such candidate files. On or before the date for taking office, every member shall make an oath or affirmation to support the Constitution of the United States and the state of Washington and to faithfully discharge the duties of the office according to the best of such member's ability. The members of the board shall not be required to give bond unless so directed by the state board of education. At the first meeting of newly elected members and after the qualification for office of the newly elected members, each educational service district board shall reorganize by electing a chair and a vice chair. A majority of all of the members of the board shall constitute a quorum.

[1990 c 33 § 275; 1977 ex.s. c 283 § 22; 1975 1st ex.s. c 275 § 12; 1971 ex.s. c 282 § 7; 1969 ex.s. c 176 § 5. Formerly RCW 28A.21.050, 28.19.520.]

Notes:

Severability--1977 ex.s. c 283: See note following RCW 28A.310.010.
Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.
Severability--Rights preserved--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.310.160 ESD board--Reimbursement of members for expenses.

The actual expenses of educational service board members in going to, returning from and attending meetings called or held pursuant to district business or while otherwise engaged in the performance of their duties under this chapter shall be paid; all such claims shall be approved by the educational service district board and paid from the budget of the educational service district.

[1977 ex.s. c 283 § 3; 1975-'76 2nd ex.s. c 34 § 68; 1975 1st ex.s. c 275 § 13; 1971 ex.s. c 282 § 8; 1969 ex.s. c 176 § 6. Formerly RCW 28A.21.060, 28.19.525.]

Notes:

Severability--1977 ex.s. c 283: See note following RCW 28A.310.010.
Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.
Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.
Severability--Rights preserved--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.310.170 ESD superintendent--Appointment, procedure--Term, salary, discharge--ESD superintendent review committee.

(1) Every educational service district board shall employ and set the salary of an educational service district superintendent who shall be employed by a written contract for a term to be fixed by the board, but not to exceed three years, and who may be discharged for sufficient cause.

(2) There is hereby established within each educational service district an educational service district superintendent review committee. Such review committee shall be composed of a subcommittee of the board, two school district superintendents from within the educational service district selected by the educational service district board, and a representative of the state

superintendent of public instruction selected by the state superintendent of public instruction.

(3) Prior to the employment by the educational service district board of a new educational service district superintendent, the review committee shall screen all applicants against the established qualifications for the position and recommend to the board a list of three or more candidates. The educational service district board shall either select the new superintendent from the list of three or more candidates, ask the review committee to add additional names to the list, or reject the entire list and ask the review committee to submit three or more additional candidates for consideration. The educational service district board shall repeat this process until a superintendent is selected.

[2001 c 182 § 1; 1985 c 341 § 7; 1977 ex.s. c 283 § 4. Formerly RCW 28A.21.071.]

NOTES:

Severability--1977 ex.s. c 283: See note following RCW 28A.310.010.

RCW 28A.310.180 ESD board--Compliance with rules and regulations--Depository and distribution center--Cooperative service programs, joint purchasing programs, and direct student service programs including pupil transportation.

In addition to other powers and duties as provided by law, every educational service district board shall:

(1) Comply with rules or regulations of the state board of education and the superintendent of public instruction.

(2) If the district board deems necessary, establish and operate for the schools within the boundaries of the educational service district a depository and distribution center for films, tapes, charts, maps, and other instructional material as recommended by the school district superintendents within the service area of the educational service district: PROVIDED, That the district may also provide the services of the depository and distribution center to private schools within the district so long as such private schools pay such fees that reflect actual costs for services and the use of instructional materials as may be established by the educational service district board.

(3) Establish cooperative service programs for school districts within the educational service district and joint purchasing programs for schools within the educational service district pursuant to RCW 28A.320.080(3): PROVIDED, That on matters relating to cooperative service programs the board and superintendent of the educational service district shall seek the prior advice of the superintendents of local school districts within the educational service district.

(4) Establish direct student service programs for school districts within the educational service district including pupil transportation. However, for the provision of state-funded pupil transportation for special education cooperatives programs for special education conducted under RCW 28A.155.010 through 28A.155.100, the educational service district, with the consent of the participating school districts, shall be entitled to receive directly state apportionment funds for that purpose: PROVIDED, That the board of directors and superintendent of a local school district request the educational service district to perform said service or services: PROVIDED FURTHER, That the educational service district board of directors and superintendents agree to

provide the requested services: PROVIDED, FURTHER, That the provisions of chapter 39.34 RCW are strictly adhered to: PROVIDED FURTHER, That the educational service district board of directors may contract with the school for the deaf and the school for the blind to provide transportation services.

[1990 c 33 § 276; 1988 c 65 § 2; 1987 c 508 § 3; 1982 c 46 § 1; 1979 ex.s. c 66 § 1; 1975 1st ex.s. c 275 § 16; 1971 ex.s. c 282 § 11. Formerly RCW 28A.21.086.]

Notes:

Severability--1979 ex.s. c 66: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 66 § 3.]

Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.

RCW 28A.310.190 ESD board--Teachers' institutes, directors' meetings--Cooperation with state supervisor--Certification of data.

In addition to other powers and duties as provided by law, every educational service district board shall:

(1) If the district board deems necessary, hold each year one or more teachers' institutes as provided for in RCW 28A.415.010 and one or more school directors' meetings.

(2) Cooperate with the state supervisor of special aid for children with disabilities as provided in RCW 28A.155.010 through 28A.155.100.

(3) Certify statistical data as basis for apportionment purposes to county and state officials as provided in chapter 28A.545 RCW.

(4) Perform such other duties as may be prescribed by law or rule of the state board of education and/or the superintendent of public instruction as provided in RCW 28A.300.030 and 28A.305.210.

[1995 c 77 § 20; 1990 c 33 § 277; 1983 c 56 § 2; 1981 c 103 § 2; 1975 1st ex.s. c 275 § 17; 1971 ex.s. c 282 § 12. Formerly RCW 28A.21.088.]

Notes:

Severability--1983 c 56: See note following RCW 28A.195.010.

Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.

RCW 28A.310.200 ESD board--District budgets--Meetings--Personnel approval--Employee bonds--School district boundary transcripts--Acquisition and disposal of property--Cooperative and informational services--Bylaws, rules--Contractual authority.

In addition to other powers and duties as provided by law, every educational service district board shall:

(1) Approve the budgets of the educational service district in accordance with the procedures provided for in this chapter.

(2) Meet regularly according to the schedule adopted at the organization meeting and in

special session upon the call of the chair or a majority of the board.

(3) Approve the selection of educational service district personnel and clerical staff as provided in RCW 28A.310.230.

(4) Fix the amount of and approve the bonds for those educational service district employees designated by the board as being in need of bonding.

(5) Keep in the educational service district office a full and correct transcript of the boundaries of each school district within the educational service district.

(6) Acquire by borrowing funds or by purchase, lease, devise, bequest, and gift and otherwise contract for real and personal property necessary for the operation of the educational service district and to the execution of the duties of the board and superintendent thereof and sell, lease, or otherwise dispose of that property not necessary for district purposes. No real property shall be acquired or alienated without the prior approval of the state board of education and the acquisition or alienation of all such property shall be subject to such provisions as the board may establish. When borrowing funds for the purpose of acquiring property, the educational service district board shall pledge as collateral the property to be acquired. Borrowing shall be evidenced by a note or other instrument between the district and the lender.

(7) Under RCW 28A.310.010, upon the written request of the board of directors of a local school district or districts served by the educational service district, the educational service district board of directors may provide cooperative and informational services not in conflict with other law that provide for the development and implementation of programs, activities, services, or practices that support the education of preschool through twelfth grade students in the public schools or that support the effective, efficient, or safe management and operation of the school district or districts served by the educational service district.

(8) Adopt such bylaws and rules and regulations for its own operation as it deems necessary or appropriate.

(9) Enter into contracts, including contracts with common and educational service districts and the school for the deaf and the school for the blind for the joint financing of cooperative service programs conducted pursuant to RCW 28A.310.180(3), and employ consultants and legal counsel relating to any of the duties, functions, and powers of the educational service districts.

[2001 c 143 § 1; 1993 c 298 § 1. Prior: 1990 c 159 § 1; 1990 c 33 § 278; 1988 c 65 § 3; 1983 c 56 § 3; 1975 1st ex.s. c 275 § 18; 1971 ex.s. c 282 § 13; 1971 c 53 § 1; 1969 ex.s. c 176 § 9. Formerly RCW 28A.21.090, 28.19.540.]

NOTES:

Severability--1983 c 56: See note following RCW 28A.195.010.

Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.

Severability--1971 c 53: See note following RCW 28A.323.060.

Severability--Rights preserved--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.310.210 ESD board--Payment of member expenses--Payment of dues into state-wide association of board members, restrictions.

In addition to other powers and duties prescribed by law every educational service

district board shall be authorized to:

(1) Pay the expenses of its members in accordance with law for attendance at state-wide meetings of educational service district board members.

(2) Pay dues from educational service district funds in an amount not to exceed one hundred dollars per board member per year for membership in a state-wide association of educational service district board members: PROVIDED, That dues to such an association shall not be paid unless the formation of such an association, including its constitution and bylaws, is approved by a resolution passed by at least two-thirds of the educational service district boards within the state: PROVIDED FURTHER, That such association if formed shall not employ any staff but shall contract either with the Washington state school directors' association or with the superintendent of public instruction for staff and informational services.

[1975 1st ex.s. c 275 § 19; 1971 ex.s. c 282 § 14. Formerly RCW 28A.21.092.]

Notes:

Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.

RCW 28A.310.220 ESD board--Delegation of powers and duties to superintendent.

Each educational service district board, by written order filed in the headquarters office, may delegate to the educational service district superintendent any of the powers and duties vested in or imposed upon the board by law or rule or regulation of the state board of education and/or the superintendent of public instruction. Such delegated powers and duties shall not be in conflict with rules or regulations of the superintendent of public instruction or the state board of education and may be exercised by the educational service district superintendent in the name of the board.

[1975 1st ex.s. c 275 § 20; 1974 ex.s. c 75 § 9; 1971 ex.s. c 282 § 15. Formerly RCW 28A.21.095.]

Notes:

Severability--1974 ex.s. c 75: See note following RCW 28A.310.030.

Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.

RCW 28A.310.230 Assistant superintendents and other personnel--Appointment, salaries, duties.

The educational service district superintendent may appoint with the consent of the educational service district board assistant superintendents and such other professional personnel and clerical help as may be necessary to perform the work of the office at such salaries as may be determined by the educational service district board and shall pay such salaries out of the budget of the district. In the absence of the educational service district superintendent a designated assistant superintendent shall perform the duties of the office. The educational service district superintendent shall have the authority to appoint on an acting basis an assistant superintendent to perform any of the duties of the office.

[1975 1st ex.s. c 275 § 21; 1974 ex.s. c 75 § 10; 1971 ex.s. c 282 § 16; 1969 ex.s. c 176 § 10. Formerly RCW

28A.21.100, 28.19.545.]

Notes:

Severability--1974 ex.s. c 75: See note following RCW 28A.310.030.

Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.

Severability--Rights preserved--1969 ex.s. c 176: See notes following RCW 28A.310.010.

Job sharing: RCW 28A.405.070.

RCW 28A.310.240 Employee leave policy required.

(1) Every educational service district board shall adopt written policies granting leaves to persons under contracts of employment with the district in positions requiring either certification or classified qualifications, including but not limited to leaves for attendance at official or private institutes and conferences and sabbatical leaves for employees in positions requiring certification qualification, and leaves for illness, injury, bereavement, and emergencies for both certificated and classified employees, with such compensation as the board prescribes. The board shall adopt written policies granting annual leave with compensation for illness, injury, and emergencies as follows:

(a) For persons under contract with the district for a full fiscal year, at least ten days;

(b) For persons under contract with the district as part-time employees, at least that portion of ten days as the total number of days contracted for bears to one hundred eighty days;

(c) For certificated and classified employees, annual leave with compensation for illness, injury, and emergencies shall be granted and accrue at a rate not to exceed twelve days per fiscal year. Provisions of any contract in force on July 23, 1989, which conflict with requirements of this subsection shall continue in effect until contract expiration; after expiration, any new contract executed between the parties shall be consistent with this subsection;

(d) Compensation for leave for illness or injury actually taken shall be the same as the compensation the person would have received had the person not taken the leave provided in this section;

(e) Leave provided in this section not taken shall accumulate from fiscal year to fiscal year up to a maximum of one hundred eighty days for the purposes of RCW 28A.310.490, and for leave purposes up to a maximum of the number of contract days agreed to in a given contract, but not greater than one fiscal year. Such accumulated time may be taken at any time during the fiscal year, or up to twelve days per year may be used for the purpose of payments for unused sick leave; and

(f) Accumulated leave under this section shall be transferred to educational service districts, school districts, and the office of the superintendent of public instruction, and from any such district or office to another such district or office. An intervening customary summer break in employment or the performance of employment duties shall not preclude such a transfer.

(2) Leave accumulated by a person in a district prior to leaving the district may, under rules of the board, be granted to the person when the person returns to the employment of the district.

(3) Leave for illness or injury accumulated before July 23, 1989, under the administrative

practices of an educational service district, and such leave transferred before July 23, 1989, to or from an educational service district, school district, or the office of the superintendent of public instruction under the administrative practices of the district or office, is declared valid and shall be added to such leave for illness or injury accumulated after July 23, 1989.

[1997 c 13 § 6; 1990 c 33 § 279; 1989 c 208 § 1. Formerly RCW 28A.21.102.]

RCW 28A.310.250 Certificated employees of district--Contracts of employment--Nonrenewal of contracts--Notice.

No certificated employee of an educational service district shall be employed as such except by written contract, which shall be in conformity with the laws of this state. Every such contract shall be made in duplicate, one copy of which shall be retained by the educational service district superintendent and the other shall be delivered to the employee.

Every educational service district superintendent or board determining that there is probable cause or causes that the employment contract of a certificated employee thereof is not to be renewed for the next ensuing term shall be notified in writing on or before May 15th preceding the commencement of such term of that determination or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 1st, which notification shall specify the cause or causes for nonrenewal of contract. Such notice shall be served upon that employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. The procedure and standards for the review of the decision of the hearing officer, superintendent or board and appeal therefrom shall be as prescribed for nonrenewal cases of teachers in RCW 28A.405.210, 28A.405.300 through 28A.405.380, and 28A.645.010. Appeals may be filed in the superior court of any county in the educational service district.

[1996 c 201 § 4; 1990 c 33 § 280; 1977 ex.s. c 283 § 7; 1975 1st ex.s. c 275 § 22; 1974 ex.s. c 75 § 11; 1971 c 48 § 6; 1969 ex.s. c 34 § 19. Formerly RCW 28A.21.105.]

Notes:

Severability--1977 ex.s. c 283: See note following RCW 28A.310.010.
Severability--1974 ex.s. c 75: See note following RCW 28A.310.030.
Severability--1971 c 48: See note following RCW 28A.305.040.

RCW 28A.310.260 Certificated employees of district--Adverse change in contract status--Notice--Probable cause--Review--Appeal.

Every educational service district superintendent or board determining that there is probable cause or causes for a certificated employee or superintendent, hereinafter referred to as employee, of that educational service district to be discharged or otherwise adversely affected in his or her contract status shall notify such employee in writing of its decision, which notice shall specify the cause or causes for such action. Such notice shall be served upon that employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of

his or her usual abode with some person of suitable age and discretion then resident therein. The procedure and standards for review of the decision of the superintendent or board and appeal therefrom shall be as prescribed in discharge cases of teachers in RCW 28A.405.210, 28A.405.300 through 28A.405.380, and 28A.645.010. The board and the educational service district superintendent, respectively, shall have the duties of the boards of directors and superintendents of school districts in RCW 28A.405.210, 28A.405.300 through 28A.405.380, and 28A.645.010. Appeals may be filed in the superior court of any county in the educational service district.

[1990 c 33 § 281; 1977 ex.s. c 283 § 8; 1975 1st ex.s. c 275 § 23; 1974 ex.s. c 75 § 12; 1971 c 48 § 7; 1969 ex.s. c 34 § 20. Formerly RCW 28A.21.106.]

Notes:

Severability--1977 ex.s. c 283: See note following RCW 28A.310.010.
Severability--1974 ex.s. c 75: See note following RCW 28A.310.030.
Severability--1971 c 48: See note following RCW 28A.305.040.

RCW 28A.310.270 ESD superintendent's powers and duties--Chief executive officer.

In addition to other powers and duties as provided by law, each educational service district superintendent shall:

(1) Serve as chief executive officer of the educational service district and secretary of the educational service district board.

(2) Visit the schools in the educational service district, counsel with directors and staff, and assist in every possible way to advance the educational interest in the educational service district.

[1975 1st ex.s. c 275 § 24; 1974 ex.s. c 75 § 13; 1972 ex.s. c 3 § 1; 1971 ex.s. c 282 § 17; 1969 ex.s. c 176 § 11. Formerly RCW 28A.21.110, 28.19.550.]

Notes:

Severability--1974 ex.s. c 75: See note following RCW 28A.310.030.
Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.
Severability--Rights preserved--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.310.280 ESD superintendent's powers and duties--Records and reports.

In addition to other powers and duties as provided by law, each educational service district superintendent shall:

(1) Perform such record keeping, including such annual reports as may be required, and liaison and informational services to local school districts and the superintendent of public instruction as required by rule or regulation of the superintendent of public instruction or state board of education: PROVIDED, That the superintendent of public instruction and the state board of education may require some or all of the school districts to report information directly when such reporting procedures are deemed desirable or feasible.

(2) Keep records of official acts of the educational service district board and

superintendents in accordance with *RCW 28A.21.120, as now or hereafter amended.

(3) Preserve carefully all reports of school officers and teachers and deliver to the successor of the office all records, books, documents, and papers belonging to the office either personally or through a personal representative, taking a receipt for the same, which shall be filed in the office of the county auditor in the county where the office is located.

[1975 1st ex.s. c 275 § 25; 1974 ex.s. c 75 § 14. Formerly RCW 28A.21.111.]

NOTES:

***Reviser's note:** RCW 28A.21.120 was recodified as RCW 28A.310.310 pursuant to 1990 c 33 § 4.

Severability--1974 ex.s. c 75: See note following RCW 28A.310.030.

RCW 28A.310.290 ESD superintendent's powers and duties--Oaths and affirmations.

In addition to other powers and duties as provided by law, each educational service district superintendent shall:

(1) Administer oaths and affirmations to school directors, teachers, and other persons on official matters connected with or relating to schools, when appropriate, but not make or collect any charge or fee for so doing.

(2) Require the oath of office of all school district officers be filed as provided in *RCW 28A.315.500 and furnish a directory of all such officers to the county auditor and to the county treasurer of the county in which the school district is located as soon as such information can be obtained after the election or appointment of such officers is determined and their oaths placed on file.

[1990 c 33 § 282; 1975 1st ex.s. c 275 § 26; 1974 ex.s. c 75 § 15. Formerly RCW 28A.21.112.]

Notes:

***Reviser's note:** RCW 28A.315.500 was recodified as RCW 28A.343.360 pursuant to 1999 c 315 § 804.

Severability--1974 ex.s. c 75: See note following RCW 28A.310.030.

RCW 28A.310.300 ESD superintendent's powers and duties--Generally.

In addition to other powers and duties as provided by law, each educational service district superintendent shall:

(1) Assist the school districts in preparation of their budgets as provided in chapter 28A.505 RCW.

(2) Enforce the provisions of the compulsory attendance law as provided in RCW 28A.225.010 through 28A.225.140, 28A.200.010, and 28A.200.020.

(3) Perform duties relating to capital fund aid by nonhigh districts as provided in chapter 28A.540 RCW.

(4) Carry out the duties and issue orders creating new school districts and transfers of territory as provided in chapter 28A.315 RCW.

(5) Perform the limited duties as provided in chapter 28A.193 RCW.

(6) Perform all other duties prescribed by law and the educational service district board.

[1998 c 244 § 13; 1990 c 33 § 283; 1975 1st ex.s. c 275 § 27; 1974 ex.s. c 75 § 16. Formerly RCW 28A.21.113.]

Notes:

Effective date--Severability--1998 c 244: See RCW 28A.193.900 and 28A.193.901.
Severability--1974 ex.s. c 75: See note following RCW 28A.310.030.

RCW 28A.310.310 Headquarters office--Records transferred, state board duties.

The educational service district board shall designate the headquarters office of the educational service district. Educational service districts shall provide for their own office space, heating, contents insurance, electricity, and custodial services, which may be obtained through contracting with any board of county commissioners. Official records of the educational service district board and superintendent, including each of the county superintendents abolished by chapter 176, Laws of 1969 ex. sess., shall be kept by the educational service district superintendent. Whenever the boundaries of any of the educational service districts are reorganized pursuant to RCW 28A.310.020, the state board of education shall supervise the transferral of such records so that each educational service district superintendent shall receive those records relating to school districts within the appropriate educational service district.

[1990 c 33 § 284; 1985 c 341 § 8; 1975 1st ex.s. c 275 § 28; 1974 ex.s. c 75 § 17; 1971 ex.s. c 282 § 18; 1969 ex.s. c 176 § 12. Formerly RCW 28A.21.120, 28.19.555.]

Notes:

Severability--1974 ex.s. c 75: See note following RCW 28A.310.030.
Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.
Severability--Rights preserved--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.310.320 ESD superintendents, employees--Travel expenses and subsistence--Advance payment.

For all actual and necessary travel in the performance of official duties and while in attendance upon meetings and conferences, each educational service district superintendent and employee shall be reimbursed for their travel expenses in the amounts provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. All claims shall be approved by the educational service district board and paid from the funds budgeted by the district. Each educational service district superintendent and employee may be advanced sufficient sums to cover their anticipated expenses in accordance with rules and regulations promulgated by the state auditor and which shall substantially conform to the procedures provided in RCW 43.03.150 through 43.03.210.

[1975-'76 2nd ex.s. c 34 § 69; 1975 1st ex.s. c 275 § 29; 1971 ex.s. c 282 § 19; 1969 ex.s. c 176 § 13. Formerly RCW 28A.21.130, 28.19.560.]

Notes:

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.
Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.
Severability--Rights preserved--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.310.330 Budgeting procedures for districts.

The superintendent of public instruction by rule and regulation shall adopt budgeting procedures for educational service districts modeled after the statutory procedures for school districts as provided in chapter 28A.505 RCW and in accordance with RCW 28A.310.340, 28A.310.350, and 28A.310.360.

[1990 c 33 § 285; 1977 ex.s. c 283 § 12; 1975 1st ex.s. c 275 § 30; 1971 ex.s. c 282 § 20. Formerly RCW 28A.21.135.]

Notes:

Severability--1977 ex.s. c 283: See note following RCW 28A.310.010.
Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.

RCW 28A.310.340 Identification of core services for budget purposes--Generally.

It is the intent of the legislature that a basic core of uniform services be provided by educational service districts and be identified in statute so that biennial budget requests for educational service districts may be based upon measurable goals and needs. Educational service districts as noted in RCW 28A.310.010, are intended primarily to:

(1) Provide cooperative and informational services to local districts and to perform functions for those districts when such functions are more effectively or economically administered from the regional level;

(2) Assist the state educational agencies, office of superintendent of public instruction and the state board of education in the legal performance of their duties; and

(3) Assist in providing pupils with equal educational opportunities.

The purpose of RCW 28A.310.350 and 28A.310.360 is to further identify those core services in order to prepare educational service district budgets for the 1979-81 biennium, and those bienniums beyond.

[1990 c 33 § 286; 1977 ex.s. c 283 § 9. Formerly RCW 28A.21.136.]

Notes:

Severability--1977 ex.s. c 283: See note following RCW 28A.310.010.

RCW 28A.310.350 Identification of core services for budget purposes--Specific services listed.

The basic core services and cost upon which educational service districts are budgeted shall include, but not be limited to, the following:

(1) Educational service district administration and facilities such as office space, maintenance and utilities;

(2) Cooperative administrative services such as assistance in carrying out procedures to abolish sex and race bias in school programs, fiscal services, grants management services, special education services and transportation services;

(3) Personnel services such as certification/registration services;

(4) Learning resource services such as audio visual aids;

(5) Cooperative curriculum services such as health promotion and health education services, in-service training, workshops and assessment; and

(6) Special needs of local education agencies.

[1977 ex.s. c 283 § 10. Formerly RCW 28A.21.137.]

Notes:

Severability--1977 ex.s. c 283: See note following RCW 28A.310.010.

RCW 28A.310.360 Identification of core services for budget purposes--Formula utilized for ESD's biennial budget request.

The superintendent of public instruction, pursuant to RCW 28A.310.330 shall prepare the biennial budget request for the operation of educational service districts based upon a formula using the following factors:

(1) The core service cost itemized in RCW 28A.310.350 which shall receive primary weighting for formula purposes;

(2) A weighting factor constituting a geographical factor which shall be used to weight the larger sized educational service districts for formula purposes; and

(3) A weighting factor which shall be based on the number and size of local school districts within each educational service district for formula purposes.

The sum of subsection (1) of this section, together with the weighting factors of subsections (2) and (3) of this section for each educational service district, shall reflect the variables among the educational service districts and when combined, a total budget for all educational service districts shall be the result.

[1990 c 33 § 287; 1977 ex.s. c 283 § 11. Formerly RCW 28A.21.138.]

Notes:

Severability--1977 ex.s. c 283: See note following RCW 28A.310.010.

RCW 28A.310.370 District budget--State funds, allocation of--District general expense fund--Created, deposits, expenditures.

The superintendent of public instruction shall examine and revise the biennial budget request of each educational service district and shall fix the amount to be requested in state funds for the educational service district system from the legislature. Once funds have been appropriated by the legislature, the superintendent of public instruction shall fix the annual budget of each educational service district and shall allocate quarterly the state's portion from funds appropriated for that purpose to the county treasurer of the headquarters county of the educational service district for deposit to the credit of the educational service district general expense fund.

In each educational service district, there shall be an educational service district general expense fund into which there shall be deposited such moneys as are allocated by the

superintendent of public instruction under provisions of this chapter and other funds of the educational service district, and such moneys shall be expended according to the method used by first or second class school districts, whichever is deemed most feasible by the educational service district board. No vouchers for warrants other than moneys being distributed to the school districts shall be approved for expenditures not budgeted by the educational service district board.

[1983 c 56 § 4; 1975 1st ex.s. c 275 § 31; 1971 ex.s. c 282 § 22; 1969 ex.s. c 176 § 14. Formerly RCW 28A.21.140, 28.19.565.]

Notes:

Severability--1983 c 56: See note following RCW 28A.195.010.
Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.
Severability--Rights preserved--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.310.390 District budget request--Procedure for approval.

The biennial budget request of each educational service district shall be approved by the respective educational service district board and then forwarded to the superintendent of public instruction for revision and approval as provided in RCW 28A.310.370.

[1990 c 33 § 288; 1975 1st ex.s. c 275 § 33; 1971 ex.s. c 282 § 21; 1969 ex.s. c 176 § 17. Formerly RCW 28A.21.170, 28.19.580.]

Notes:

Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.
Severability--Rights preserved--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.310.400 Legal services.

The superintendent of public instruction shall be responsible for the provision of legal services to all educational service districts: PROVIDED, That any educational service district board may contract with any county for the legal services of its prosecuting attorney.

[1975 1st ex.s. c 275 § 35; 1974 ex.s. c 75 § 23. Formerly RCW 28A.21.195.]

Notes:

Severability--1974 ex.s. c 75: See note following RCW 28A.310.030.

RCW 28A.310.410 Ex officio treasurer of district.

The county treasurer of the county in which the headquarters office of the educational service district is located shall serve as the ex officio treasurer of the district. The treasurer shall keep all funds and moneys of the district separate and apart from all other funds and moneys in the treasurer's custody and shall disburse such moneys only upon proper order of the educational service district board or superintendent.

[1990 c 33 § 289; 1975 1st ex.s. c 275 § 36; 1969 ex.s. c 176 § 21. Formerly RCW 28A.21.200, 28.19.595.]

Notes:

Severability--Rights preserved--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.310.420 County or intermediate district superintendent and board employees to terminate or transfer employment--Benefits retained.

As of July 1, 1969, employees of the various offices of county or intermediate district superintendent and county or intermediate district board shall terminate their employment therein, or such employees, at their election, may transfer their employment to the new intermediate school district in which their respective county is located. If such employment is so transferred, each employee shall retain the same leave benefits and other benefits that he or she had in his or her previous position. If the intermediate school district has a different system of computing leave benefits and other benefits, then the employee shall be granted the same leave and other benefits as a person will receive who would have had similar occupational status and total years of service with the new intermediate school district.

[1990 c 33 § 290; 1969 ex.s. c 176 § 22. Formerly RCW 28A.21.210, 28.19.600.]

Notes:

Severability--Rights preserved--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.310.430 Local school district superintendents to advise board and superintendent.

The superintendents of all local school districts within an educational service district shall serve in an advisory capacity to the educational service district board and superintendent in matters pertaining to budgets, programs, policy, and staff.

[1975 1st ex.s. c 275 § 37; 1971 ex.s. c 282 § 28; 1969 ex.s. c 176 § 23. Formerly RCW 28A.21.220, 28.19.605.]

Notes:

Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.

Severability--Rights preserved--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.310.440 ESD as self-insurer--Authority.

The board of directors of any educational service district is authorized to enter into agreements with the board of directors of any local school district and/or other educational service districts to form a self-insurance group for the purpose of qualifying as a self-insurer under chapter 51.14 RCW.

[1982 c 191 § 9. Formerly RCW 28A.21.255.]

Notes:

Severability--1982 c 191: See note following RCW 28A.335.210.

Educational service districts as self-insurers: RCW 51.14.150 and 51.14.160.

RCW 28A.310.460 Contracts to lease building space and portable buildings and lease or have maintained security systems, computers and other equipment.

The board of any educational service district may enter into contracts for their respective districts for periods not exceeding twenty years in duration with public and private persons, organizations, and entities for the following purposes:

(1) To rent or lease building space, portable buildings, security systems, computers and other equipment; and

(2) To have maintained and repaired security systems, computers and other equipment.

The budget of each educational service district shall identify that portion of each contractual liability incurred pursuant to this section extending beyond the fiscal year by amount, duration, and nature of the contracted service and/or item in accordance with rules and regulations of the superintendent of public instruction adopted pursuant to RCW 28A.310.330 and 28A.505.140.

[1990 c 33 § 291; 1987 c 508 § 2; 1977 ex.s. c 210 § 2. Formerly RCW 28A.21.310.]

Notes:

Severability--1977 ex.s. c 210: See note following RCW 28A.335.170.

RCW 28A.310.470 Delegation to ESD of SPI program, project or service--Contract.

The superintendent of public instruction may delegate to any educational service district or combination of educational service districts all or any portion of a program, project, or service authorized or directed by the legislature to be performed by the superintendent of public instruction: PROVIDED, That any such delegation shall be by contract pursuant to chapter 39.34 RCW, as now or hereafter amended.

[1977 ex.s. c 283 § 5. Formerly RCW 28A.21.350.]

Notes:

Severability--1977 ex.s. c 283: See note following RCW 28A.310.010.

RCW 28A.310.480 Delegation to ESD of state board of education program, project or service--Contract.

The state board of education may delegate to any educational service district or combination of educational service districts all or any portion of a program, project, or service authorized or directed by the legislature to be performed by the state board of education: PROVIDED, That any such delegation shall be by contract pursuant to chapter 39.34 RCW, as now or hereafter amended.

[1977 ex.s. c 283 § 6. Formerly RCW 28A.21.355.]

Notes:

Severability--1977 ex.s. c 283: See note following RCW 28A.310.010.

RCW 28A.310.490 ESD employee attendance incentive program--Remuneration or benefit plan for unused sick leave.

Every educational service district board of directors shall establish an attendance incentive program for all certificated and classified employees in the following manner.

(1) In January of the year following any year in which a minimum of sixty days of leave for illness or injury is accrued, and each January thereafter, any eligible employee may exercise an option to receive remuneration for unused leave for illness or injury accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued leave for illness or injury in excess of sixty days. Leave for illness or injury for which compensation has been received shall be deducted from accrued leave for illness or injury at the rate of four days for every one day's monetary compensation. No employee may receive compensation under this section for any portion of leave for illness or injury accumulated at a rate in excess of one day per month.

(2) At the time of separation from educational service district employment due to retirement or death an eligible employee or the employee's estate shall receive remuneration at a rate equal to one day's current monetary compensation of the employee for each four full days accrued leave for illness or injury.

(3) In lieu of remuneration for unused leave for illness or injury as provided for in subsections (1) and (2) of this section, an educational service district board of directors may, with equivalent funds, provide eligible employees a benefit plan that provides reimbursement for medical expenses. Any benefit plan adopted after July 28, 1991, shall require, as a condition of participation under the plan, that the employee sign an agreement with the district to hold the district harmless should the United States government find that the district or the employee is in debt to the United States as a result of the employee not paying income taxes due on the equivalent funds placed into the plan, or as a result of the district not withholding or deducting any tax, assessment, or other payment on such funds as required under federal law.

Moneys or benefits received under this section shall not be included for the purposes of computing a retirement allowance under any public retirement system in this state.

The superintendent of public instruction in its administration hereof, shall promulgate uniform rules and regulations to carry out the purposes of this section.

Should the legislature revoke any benefits granted under this section, no affected employee shall be entitled thereafter to receive such benefits as a matter of contractual right.

[1997 c 13 § 7; 1991 c 92 § 1; 1989 c 69 § 1; 1985 c 341 § 9; 1980 c 182 § 6. Formerly RCW 28A.21.360.]

Notes:

Severability--1980 c 182: See note following RCW 41.04.340.

Chapter 28A.315 RCW

ORGANIZATION AND REORGANIZATION OF SCHOOL DISTRICTS

Sections

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Notes:

Redistricting by local governments and municipal corporations--Census information for--Plan, prepared when, criteria for, hearing on, request for review of, certification, remand--Sanctions when review request frivolous: RCW 29.70.100.

School district boundary changes--Excess levies: RCW 84.09.037.

RCW 28A.315.005 Governance structure.

(1) Under the constitutional framework and the laws of the state of Washington, the governance structure for the state's public common school system is comprised of the following

bodies: The legislature, the governor, the superintendent of public instruction, the state board of education, the educational service district boards of directors, and local school district boards of directors. The respective policy and administrative roles of each body are determined by the state Constitution and statutes.

(2) Local school districts are political subdivisions of the state and the organization of such districts, including the powers, duties, and boundaries thereof, may be altered or abolished by laws of the state of Washington.

[1999 c 315 § 1.]

RCW 28A.315.015 Purpose--Policy.

(1) It is the purpose of this chapter to:

(a) Incorporate into a single, comprehensive, school district organization law all essential provisions governing:

(i) The formation and establishment of new school districts;

(ii) The alteration of the boundaries of existing districts; and

(iii) The adjustment of the assets and liabilities of school districts when changes are made under this chapter; and

(b) Establish methods and procedures whereby changes in the school district system may be brought about by the people concerned and affected.

(2) It is the state's policy that decisions on proposed changes in school district organization should be made, whenever possible, by negotiated agreement between the affected school districts. If the districts cannot agree, the decision shall be made by the regional committees on school district organization, based on the committees' best judgment, taking into consideration the following factors and factors under RCW 28A.315.205:

(a) A balance of local petition requests and the needs of the state-wide community at large in a manner that advances the best interest of public education in the affected school districts and communities, the educational service district, and the state;

(b) Responsibly serving all of the affected citizens and students by contributing to logical service boundaries and recognizing a changing economic pattern within the educational service districts of the state;

(c) Enhancing the educational opportunities of pupils in the territory by reducing existing disparities among the affected school districts' ability to provide operating and capital funds through an equitable adjustment of the assets and liabilities of the affected districts;

(d) Promoting a wiser use of public funds through improvement in the school district system of the educational service districts and the state; and

(e) Other criteria or considerations as may be established in rule by the state board of education.

(3) It is neither the intent nor purpose of this chapter to apply to organizational changes and the procedure therefor relating to capital fund aid by nonhigh school districts as provided for in chapter 28A.540 RCW.

[1999 c 315 § 101.]

RCW 28A.315.025 Definitions.

As used in this chapter:

(1) "Change in the organization and extent of school districts" means the formation and establishment of new school districts, the dissolution of existing school districts, the alteration of the boundaries of existing school districts, or all of them.

(2) "Regional committee" means the regional committee on school district organization created by this chapter.

(3) "State board" means the state board of education.

(4) "School district" means the territory under the jurisdiction of a single governing board designated and referred to as the board of directors.

(5) "Educational service district superintendent" means the educational service district superintendent as provided for in RCW 28A.310.170 or his or her designee.

[1990 c 33 § 293; 1985 c 385 § 1; 1983 c 3 § 33; 1975 1st ex.s. c 275 § 78; 1971 c 48 § 25; 1969 ex.s. c 223 § 28A.57.020. Prior: 1955 c 395 § 1; 1947 c 266 § 2; Rem. Supp. 1947 § 4693-21. Formerly RCW 28A.315.020, 28A.57.020, 28.57.020.]

Notes:

Severability--1985 c 385: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 385 § 41.]

Severability--1971 c 48: See note following RCW 28A.305.040.

RCW 28A.315.035 Organization of school districts.

A school district shall be organized in form and manner as hereinafter in this chapter provided, and shall be known as . . . . . (insert here the name of the district) School District No. . . . ., ... county, state of Washington: PROVIDED, That all school districts now existing as shown by the records of the educational service district superintendent are hereby recognized as legally organized districts: PROVIDED FURTHER, That all school districts existing on April 25, 1969 as shown by the records of the county or intermediate district superintendents are hereby recognized as legally organized districts.

[1975 1st ex.s. c 275 § 88; 1969 ex.s. c 176 § 124; 1969 ex.s. c 223 § 28A.57.130. Prior: 1947 c 266 § 3; Rem. Supp. 1947 § 4693-22. Formerly RCW 28A.315.220, 28A.57.130, 28.57.130.]

Notes:

Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.315.045 Reorganization.

(1) A new school district may be formed comprising contiguous territory lying in either a single county or in two or more counties. The new district may comprise:

(a) Two or more whole school districts;

(b) Parts of two or more school districts; and/or

(c) Territory that is not a part of any school district if such territory is contiguous to the district to which it is transferred.

(2) The boundaries of existing school districts may be altered:

(a) By the transfer of territory from one district to another district;

(b) By the consolidation of one or more school districts with one or more school districts; or

(c) By the dissolution and annexation to a district of a part or all of one or more other districts or of territory that is not a part of any school district: PROVIDED, That such territory shall be contiguous to the district to which it is transferred or annexed.

(3) Territory may be transferred or annexed to or consolidated with an existing school district without regard to county boundaries.

[1999 c 315 § 201.]

RCW 28A.315.055 Conflicting or incorrectly described school district boundaries.

In case the boundaries of any of the school districts are conflicting or incorrectly described, the educational service district board of directors, after due notice and a public hearing, shall change, harmonize, and describe them and shall so certify, with a complete transcript of boundaries of all districts affected, such action to the state board for its approval or revision. Upon receipt of notification of state board action, the educational service district superintendent shall transmit to the county legislative authority of the county or counties in which the affected districts are located a complete transcript of the boundaries of all districts affected.

[1999 c 315 § 203.]

RCW 28A.315.065 District boundary changes--Submission to county auditor.

(1) Any district boundary changes shall be submitted to the county auditor by the educational service district superintendent within thirty days after the changes have been approved in accordance with this chapter. The superintendent shall submit both legal descriptions and maps.

(2) Any boundary changes submitted to the county auditor after the fourth Monday in June of odd-numbered years does not take effect until the following calendar year.

[1999 c 315 § 204.]

RCW 28A.315.075 Effect of 1999 c 315--Existing provisions not affected.

(1) Any proposed change in school district organization initiated before July 25, 1999, shall be considered under the laws and rules in effect before July 25, 1999. Chapter 315, Laws of 1999 applies to any proposed change in school district organization initiated on or after July 25,

1999.

(2) For purposes of this section, "initiated" means the filing of a petition, the motion of a school board, or the report of an educational service district. This section does not preclude the filing of a new petition on or after July 25, 1999, where the same or a similar proposal was filed before July 25, 1999.

[1999 c 315 § 205.]

RCW 28A.315.085 Personnel and supplies--Reimbursement.

(1) The superintendent of public instruction shall furnish to the state board and to regional committees the services of employed personnel and the materials and supplies necessary to enable them to perform the duties imposed upon them by this chapter and shall reimburse the members thereof for expenses necessarily incurred by them in the performance of their duties, such reimbursement for regional committee members to be in accordance with RCW 28A.315.155, and such reimbursement for state board members to be in accordance with RCW 28A.305.120.

(2) Costs that may be incurred by an educational service district in association with school district negotiations under RCW 28A.315.195 and supporting the regional committee under RCW 28A.315.205 shall be reimbursed by the state from such funds as are appropriated for these purposes.

[1999 c 315 § 206.]

RCW 28A.315.095 Regional committees--Powers and duties.

The powers and duties of each regional committee are to:

(1) Hear and approve or disapprove proposals for changes in the organization and extent of school districts in the educational service districts when a hearing on a proposal has been requested under RCW 28A.315.195;

(2) Act on notices and proposals from the educational service district under RCW 28A.315.225;

(3) Make an equitable adjustment of the property and other assets and of the liabilities, including bonded indebtedness and excess tax levies as otherwise authorized under this section, as to the old school districts and the new district or districts, if any, involved in or affected by a proposed change in the organization and extent of the school districts;

(4) Make an equitable adjustment of the bonded indebtedness outstanding against any of the old and new districts whenever in its judgment such adjustment is advisable, as to all of the school districts involved in or affected by any change heretofore or hereafter effected;

(5) Provide that territory transferred from a school district by a change in the organization and extent of school districts shall either remain subject to, or be relieved of, any one or more excess tax levies that are authorized for the school district under RCW 84.52.053 before the effective date of the transfer of territory from the school district;

(6) Provide that territory transferred to a school district by a change in the organization

and extent of school districts shall either be made subject to, or be relieved of, any one or more excess tax levies that are authorized for the school district under RCW 84.52.053 before the effective date of the transfer of territory to the school district;

(7) Establish the date by which a committee-approved transfer of territory shall take effect;

(8) Hold and keep a record of a public hearing or public hearings (a) on every proposal for the formation of a new school district or for the transfer from one existing district to another of any territory in which children of school age reside or for annexation of territory when the conditions set forth in *RCW 28A.315.290 or 28A.315.320 prevail; and (b) on every proposal for adjustment of the assets and of the liabilities of school districts provided for in this chapter. Three members of the regional committee or two members of the committee and the educational service district superintendent may be designated by the committee to hold any public hearing that the committee is required to hold. The regional committee shall cause notice to be given, at least ten days prior to the date appointed for any such hearing, in one or more newspapers of general circulation within the geographical boundaries of the school districts affected by the proposed change or adjustment. In addition notice may be given by radio and television, or either thereof, when in the committee's judgment the public interest will be served thereby; and

(9) Prepare and submit to the superintendent of public instruction from time to time or, upon his or her request, reports and recommendations respecting the urgency of need for school plant facilities, the kind and extent of the facilities required, and the development of improved local school administrative units and attendance areas in the case of school districts that seek state assistance in providing school plant facilities.

[1999 c 315 § 301.]

Notes:

***Reviser's note:** RCW 28A.315.290 and 28A.315.320 were repealed by 1999 c 315 § 801. Later enactment of RCW 28A.315.320, see RCW 28A.315.225.

RCW 28A.315.105 Regional committees--Created.

There is hereby created in each educational service district a committee which shall be known as the regional committee on school district organization, which committee shall be composed of not less than seven nor more than nine registered voters of the educational service district, the number to correspond with the number of board member districts established for the governance of the educational service district in which the regional committee is located. One member of the regional committee shall be elected from the registered voters of each such educational service district board member district.

[1985 c 385 § 2; 1969 ex.s. c 223 § 28A.57.030. Prior: 1947 c 266 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28A.315.040, 28A.57.030, 28.57.030, part.]

Notes:

Severability--1985 c 385: See note following RCW 28A.315.025.

RCW 28A.315.115 Regional committees--Membership limitation.

Persons possessing the status of any of the following positions shall not be eligible to be a member of a regional committee: The superintendent of public instruction, a member of the state board of education, an educational service district superintendent, a member of a board of directors of a school district, a member of an educational service district board, a member of a governing board of either a private school or a private school district which conducts any grades kindergarten through twelve, officers appointed by any such governing board, and employees of a school district, an educational service district, the office of the superintendent of public instruction, a private school, or a private school district.

[1985 c 385 § 3; 1975 1st ex.s. c 275 § 79; 1969 ex.s. c 176 § 115; 1969 ex.s. c 223 § 28A.57.031. Prior: 1947 c 226 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28A.315.050, 28A.57.031, 28.57.030, part.]

Notes:

Severability--1985 c 385: See note following RCW 28A.315.025.

Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.315.125 Regional committees--Election of members--Qualifications.

The members of each regional committee shall be elected in the following manner:

(1) On or before the 25th day of September, 1994, and not later than the 25th day of September of every subsequent even-numbered year, each superintendent of an educational service district shall call an election to be held in each educational service district within which resides a member of a regional committee whose term of office expires on the second Monday of January next following, and shall give written notice thereof to each member of the board of directors of each school district in the educational service district. Such notice shall include instructions, and the rules and regulations established by the state board of education for the conduct of the election. The state board of education is hereby empowered to adopt rules pursuant to chapter 34.05 RCW which establish standards and procedures which the state board deems necessary to conduct elections pursuant to this section; to conduct run-off elections in the event an election for a position is indecisive; and to decide run-off elections which result in tie votes, in a fair and orderly manner.

(2) Candidates for membership on a regional committee shall file a declaration of candidacy with the superintendent of the educational service district wherein they reside. Declarations of candidacy may be filed by person or by mail not earlier than the 1st day of October, and not later than the 15th day of October of each even-numbered year. The superintendent may not accept any declaration of candidacy that is not on file in his or her office or not postmarked before the 16th day of October, or if not postmarked or the postmark is not legible, if received by mail after the 20th day of October of each even-numbered year.

(3) Each member of the regional committee shall be elected by a majority of the votes cast for all candidates for the position by the members of the boards of directors of school districts in the educational service district. All votes shall be cast by mail ballot addressed to the superintendent of the educational service district wherein the school director resides. No votes

shall be accepted for counting if postmarked after the 16th day of November or if not postmarked or the postmark is not legible, if received by mail after the 21st day of November of each even-numbered year. An election board comprised of three persons appointed by the board of the educational service district shall count and tally the votes not later than the 25th day of November or the next business day if the 25th falls on a Saturday, Sunday, or legal holiday of each even-numbered year. Each vote cast by a school director shall be recorded as one vote. Within ten days following the count of votes, the educational service district superintendent shall certify to the superintendent of public instruction the name or names of the person(s) elected to be members of the regional committee.

(4) In the event of a change in the number of educational service districts or in the number of educational service district board members pursuant to chapter 28A.310 RCW a new regional committee shall be elected for each affected educational service district at the next election conducted pursuant to this section. Those persons who were serving on a regional committee within an educational service district affected by a change in the number of districts or board members shall continue to constitute the regional committee for the educational service district within which they are registered to vote until the majority of a new board has been elected and certified.

(5) No member of a regional committee shall continue to serve thereon if he or she ceases to be a registered voter of the educational service district board member district or if he or she is absent from three consecutive meetings of the committee without an excuse acceptable to the committee.

[1993 c 416 § 2; 1990 c 33 § 295; 1985 c 385 § 4; 1975-'76 2nd ex.s. c 15 § 1. Prior: 1975 1st ex.s. c 275 § 80; 1975 c 43 § 3; 1969 ex.s. c 176 § 116; 1969 ex.s. c 223 § 28A.57.032; prior: 1947 c 226 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28A.315.060, 28A.57.032, 28.57.030, part.]

Notes:

Effective date--1993 c 416: "This act shall take effect September 1, 1994." [1993 c 416 § 4.]
Severability--1985 c 385: See note following RCW 28A.315.025.
Effective date--Severability--1975 c 43: See notes following RCW 28A.535.050.
Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.315.135 Regional committees--Vacancies.

In case of a vacancy from any cause on a regional committee, the remaining members of the committee shall fill such vacancy by appointment pursuant to a majority vote of the remaining members: PROVIDED, That should there exist fewer members on a regional committee than constitutes a majority of the legally established committee member positions, the educational service district board members of the district in which the committee is located, by the vote of a majority of the members in its legally established number of board member positions, shall appoint a sufficient number of committee members to constitute a legal majority on the committee. Appointees to fill vacancies shall meet the requirements provided by law for committee members and shall serve until the next regular election for members of regional committees at which time a successor shall be elected for the balance of the unexpired term.

[1985 c 385 § 5; 1975 1st ex.s. c 275 § 81; 1969 ex.s. c 176 § 117; 1969 ex.s. c 223 § 28A.57.033. Prior: 1947 c 266 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28A.315.070, 28A.57.033, 28.57.030, part.]

Notes:

Severability--1985 c 385: See note following RCW 28A.315.025.

Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.315.145 Regional committees--Terms of members.

The terms of members of the regional committees shall be for four years and until their successors are certified as elected. For the 1994 election conducted pursuant to *RCW 28A.315.030 and the election of a new regional committee following a change in the number of educational service districts or board members, regional committee member positions one, three, five, seven, and nine shall be for a term of two years, positions two, four, six, and eight shall be for a term of four years.

[1993 c 416 § 3; 1990 c 33 § 296; 1985 c 385 § 6; 1969 ex.s. c 223 § 28A.57.034. Prior: 1947 c 226 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28A.315.080, 28A.57.034, 28.57.030, part.]

Notes:

***Reviser's note:** RCW 28A.315.030 was repealed by 1999 c 315 § 801.

Effective date--1993 c 416: See note following RCW 28A.315.125.

Severability--1985 c 385: See note following RCW 28A.315.025.

RCW 28A.315.155 Regional committees--Members' expenses reimbursed.

Members of each regional committee shall serve without compensation but shall be reimbursed for expenses necessarily incurred in the performance of their duties.

[1985 c 385 § 7; 1969 ex.s. c 176 § 118; 1969 ex.s. c 223 § 28A.57.035. Prior: 1947 c 266 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28A.315.090, 28A.57.035, 28.57.030, part.]

Notes:

Severability--1985 c 385: See note following RCW 28A.315.025.

Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.315.165 Regional committees--Organization, meetings, quorum.

Each regional committee shall organize by electing from its membership a chair and a vice chair. The educational service district superintendent shall be the secretary of the committee. Meetings of the committee shall be held upon call of the chair or of a majority of the members thereof. A majority of the committee shall constitute a quorum.

[1990 c 33 § 297; 1985 c 385 § 8; 1975 1st ex.s. c 275 § 82; 1969 ex.s. c 176 § 119; 1969 ex.s. c 223 § 28A.57.040. Prior: 1947 c 266 § 12; Rem. Supp. 1947 § 4693-31; prior: 1941 c 248 § 4; Rem. Supp. 1941 § 4709-4. Formerly RCW 28A.315.100, 28A.57.040, 28.57.040.]

Notes:

Severability--1985 c 385: See note following RCW 28A.315.025.

Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.315.175 State board--Powers and duties.

The powers and duties of the state board with respect to this chapter shall be:

(1) To aid regional committees in the performance of their duties by furnishing them with plans of procedure, standards, data, maps, forms, and other necessary materials and services essential to a study and understanding of the problems of school district organization in their respective educational service districts.

(2) To hear appeals as provided in RCW 28A.315.205.

[1999 c 315 § 302.]

RCW 28A.315.185 Annual training.

To the extent funds are appropriated, the superintendent of public instruction, in cooperation with the educational service districts and the Washington state school directors' association, shall conduct an annual training meeting for the regional committees, state board members, educational service district superintendents, and local school district superintendents and boards of directors. Training may also be provided upon request.

[1999 c 315 § 303.]

RCW 28A.315.195 Transfer of territory by petition--Requirements--Rules--Costs.

(1) A proposed change in school district organization by transfer of territory from one school district to another may be initiated by a petition in writing presented to the educational service district superintendent:

(a) Signed by at least ten percent of the registered voters residing in the territory proposed to be transferred; or

(b) Signed by a majority of the members of the board of directors of one of the districts affected by a proposed transfer of territory.

(2) The petition shall state the name and number of each district affected, describe the boundaries of the territory proposed to be transferred, and state the reasons for desiring the change and the number of children of school age, if any, residing in the territory.

(3) The educational service district superintendent shall not complete any transfer of territory under this section that involves ten percent or more of the common school student population of the entire district from which the transfer is proposed, unless the educational service district superintendent has first called and held a special election of the voters of the entire school district from which the transfer of territory is proposed. The purpose of the election is to afford those voters an opportunity to approve or reject the proposed transfer. A simple majority shall determine approval or rejection.

(4) The state board may establish rules limiting the frequency of petitions that may be

filed pertaining to territory included in whole or in part in a previous petition.

(5) Upon receipt of the petition, the educational service district superintendent shall notify in writing the affected districts that:

(a) Each school district board of directors, whether or not initiating a proposed transfer of territory, is required to enter into negotiations with the affected district or districts;

(b) In the case of a citizen-initiated petition, the affected districts must negotiate on the entire proposed transfer of territory;

(c) The districts have ninety calendar days in which to agree to the proposed transfer of territory;

(d) The districts may request and shall be granted by the educational service district superintendent one thirty-day extension to try to reach agreement; and

(e) Any district involved in the negotiations may at any time during the ninety-day period notify the educational service district superintendent in writing that agreement will not be possible.

(6) If the negotiating school boards cannot come to agreement about the proposed transfer of territory, the educational service district superintendent, if requested by the affected districts, shall appoint a mediator. The mediator has thirty days to work with the affected school districts to see if an agreement can be reached on the proposed transfer of territory.

(7) If the affected school districts cannot come to agreement about the proposed transfer of territory, and the districts do not request the services of a mediator or the mediator was unable to bring the districts to agreement, either district may file with the educational service district superintendent a written request for a hearing by the regional committee.

(8) If the affected school districts cannot come to agreement about the proposed transfer of territory initiated by citizen petition, and the districts do not request the services of a mediator or the mediator was unable to bring the districts to agreement, the district in which the citizens who filed the petition reside shall file with the educational service district superintendent a written request for a hearing by the regional committee, unless a majority of the citizen petitioners request otherwise.

(9) Upon receipt of a notice under subsection (7) or (8) of this section, the educational service district superintendent shall notify the chair of the regional committee in writing within ten days.

(10) Costs incurred by school districts under this section shall be reimbursed by the state from such funds as are appropriated for this purpose.

[1999 c 315 § 401.]

RCW 28A.315.205 Transfer of territory by petition--Regional committee responsibilities--Rules--Appeals.

(1) The chair of the regional committee shall schedule a hearing on the proposed transfer of territory at a location in the educational service district within sixty calendar days of being notified under RCW 28A.315.195 (7) or (8).

(2) Within thirty calendar days of the hearing under subsection (1) of this section, or final

hearing if more than one is held by the committee, the committee shall issue its written findings and decision to approve or disapprove the proposed transfer of territory. The educational service district superintendent shall transmit a copy of the committee's decision to the superintendents of the affected school districts within ten calendar days.

(3) In carrying out the purposes of RCW 28A.315.015 and in making decisions as authorized under RCW 28A.315.095(1), the regional committee shall base its judgment upon whether and to the extent the proposed change in school district organization complies with RCW 28A.315.015(2) and rules adopted by the state board under chapter 34.05 RCW.

(4) State board rules under subsection (3) of this section shall provide for giving consideration to all of the following:

(a) The annual school performance reports required under *RCW 28A.320.205 in the affected districts and improvement of the educational opportunities of pupils in the territory proposed for a change in school district organization;

(b) The safety and welfare of pupils. For the purposes of this subsection, "safety" means freedom or protection from danger, injury, or damage and "welfare" means a positive condition or influence regarding health, character, and well-being;

(c) The history and relationship of the property affected to the students and communities affected, including, for example, inclusion within a single school district, for school attendance and corresponding tax support purposes, of entire master planned communities that were or are to be developed pursuant to an integrated commercial and residential development plan with over one thousand dwelling units;

(d) Whether or not geographic accessibility warrants a favorable consideration of a recommended change in school district organization, including remoteness or isolation of places of residence and time required to travel to and from school; and

(e) All funding sources of the affected districts, equalization among school districts of the tax burden for general fund and capital purposes through a reduction in disparities in per pupil valuation when all funding sources are considered, improvement in the economies in the administration and operation of schools, and the extent the proposed change would potentially reduce or increase the individual and aggregate transportation costs of the affected school districts.

(5)(a)(i) A petitioner or school district may appeal a decision by the regional committee to approve a change in school district organization to the state board based on the claim that the regional committee failed to follow the applicable statutory and regulatory procedures or acted in an arbitrary and capricious manner. Any such appeal shall be based on the record and the appeal must be filed within thirty days of the final decision of the regional committee.

(ii) If the state board finds that all applicable procedures were not followed or that the regional committee acted in an arbitrary and capricious manner, it shall refer the matter back to the regional committee with an explanation of the board's findings. The regional committee shall rehear the proposal.

(iii) If the state board finds that all applicable procedures were followed or that the regional committee did not act in an arbitrary and capricious manner, depending on the appeal, the educational service district shall be notified and directed to implement the changes.

(b) Any school district or citizen petitioner affected by a final decision of the regional committee may seek judicial review of the committee's decision in accordance with RCW 34.05.570.

[1999 c 315 § 402.]

Notes:

***Reviser's note:** RCW 28A.320.205 was recodified as RCW 28A.655.110 pursuant to 1999 c 388 § 607.

RCW 28A.315.215 Transfer of territory by agreement or order--Approval--Order.

(1) Upon receipt by the educational service district superintendent of a written agreement by two or more school districts to the transfer of territory between the affected districts, the superintendent shall make an order establishing all approved changes involving the alteration of the boundaries of the affected districts. The order shall also establish all approved terms of the equitable adjustment of assets and liabilities involving the affected districts. The superintendent shall certify his or her action to each county auditor, each county treasurer, each county assessor, and the superintendents of all school districts affected by the action.

(2) Upon receipt by the educational service district superintendent of a written order by the regional committee approving the transfer of territory between two or more school districts, the superintendent shall make an order establishing all approved changes involving the alteration of the boundaries of the affected districts. The order may not be implemented before the period of appeal authorized under RCW 28A.315.205(5)(a)(i) has ended. The order shall also establish all approved terms of the equitable adjustment of assets and liabilities involving the affected districts. The superintendent shall certify his or her action to each county auditor, each county treasurer, each county assessor, and the superintendents of all school districts affected by the action.

[1999 c 315 § 403.]

RCW 28A.315.225 Dissolution and annexation of certain districts--Annexation of nondistrict property.

In case any school district has an average enrollment of fewer than five kindergarten through eighth grade pupils during the preceding school year or has not made a reasonable effort to maintain, during the preceding school year at least the minimum term of school required by law, the educational service district superintendent shall report that fact to the regional committee, which committee shall dissolve the school district and annex the territory thereof to some other district or districts. For the purposes of this section, in addition to any other finding, "reasonable effort" shall be deemed to mean the attempt to make up whatever days are short of the legal requirement by conducting of school classes on any days to include available holidays, though not to include Saturdays and Sundays, prior to June 15th of that year. School districts operating an extended school year program, most commonly implemented as a 45-15 plan, shall be deemed to be making a reasonable effort. In the event any school district has suffered any interruption in its normal school calendar due to a strike or other work stoppage or slowdown by

any of its employees that district shall not be subject to this section. In case any territory is not a part of any school district, the educational service district superintendent shall present to the regional committee a proposal for the annexation of the territory to some contiguous district or districts.

[1999 c 315 § 501.]

RCW 28A.315.235 Consolidation--Petition.

(1) A proposed change in school district organization by consolidation of territory from two or more school districts to form a new school district may be initiated by:

(a) A written petition presented to the educational service district superintendent signed by ten or more registered voters residing:

(i) In each whole district and in each part of a district proposed to be included in any single new district; or

(ii) In the territory of a proposed new district that comprises a part of only one or more districts and approved by the boards of directors of the affected school districts;

(b) A written petition presented to the educational service district superintendent signed by ten percent or more of the registered voters residing in such affected areas or area without the approval of the boards of directors of the affected school districts.

(2) The petition shall state the name and number of each district involved in or affected by the proposal to form the new district and shall describe the boundaries of the proposed new district. No more than one petition for consolidation of the same two school districts or parts thereof shall be considered during a school fiscal year.

(3) The educational service district superintendent may not complete any consolidation of territory under this section unless he or she has first called and held a special election of the voters of the affected districts to afford those voters an opportunity to approve or reject the proposed consolidation. A simple majority shall determine approval or rejection.

(4) If a proposed change in school district organization by consolidation of territory has been approved under this section, the educational service district superintendent shall make an order establishing all approved changes involving the alteration of the boundaries of the affected districts. The order shall also establish all approved terms of the equitable adjustment of assets and liabilities involving the affected districts. The superintendent shall certify his or her action to each county auditor, each county treasurer, each county assessor, and the superintendents of all school districts affected by the action.

[1999 c 315 § 601.]

RCW 28A.315.245 Adjustment of assets and liabilities.

In determining an equitable adjustment of assets and liabilities, the negotiating school districts and the regional committee shall consider the following factors:

(1) The number of school age children residing in each school district and in each part of a district involved or affected by the proposed change in school district organization;

(2) The assessed valuation of the property located in each school district and in each part of a district involved or affected by the proposed change in school district organization;

(3) The purpose for which the bonded indebtedness of any school district involved or affected by the proposed change in school district organization was incurred;

(4) The history and relationship of the property affected to the students and communities affected by the proposed change in school district organization;

(5) Additional burdens to the districts affected by the proposed change in school district organization as a result of the proposed organization;

(6) The value, location, and disposition of all improvements located in the school districts involved or affected by the proposed change in school district organization;

(7) The consideration of all other sources of funding; and

(8) Any other factors that in the judgment of the school districts or regional committee are important or essential to the making of an equitable adjustment of assets and liabilities.

[1999 c 315 § 701.]

RCW 28A.315.255 Adjustment of indebtedness.

(1) The fact of the issuance of bonds by a school district, heretofore or hereafter, does not prevent changes in the organization and extent of school districts, regardless of whether or not such bonds or any part thereof are outstanding at the time of change.

(2) In case of any change:

(a) The bonded indebtedness outstanding against any school district involved in or affected by such change shall be adjusted equitably among the old school districts and the new district or districts, if any, involved or affected; and

(b) The property and other assets and the liabilities other than bonded indebtedness of any school district involved in or affected by any such change shall also be adjusted in the manner and to the effect provided for in this section, except if all the territory of an old school district is included in a single new district or is annexed to a single existing district, in which event the title to the property and other assets and the liabilities other than bonded indebtedness of the old district vests in and becomes the assets and liabilities of the new district or of the existing district, as applicable.

[1999 c 315 § 702.]

RCW 28A.315.265 Adjustment of bonded indebtedness--Order--Special elections.

If adjustments of bonded indebtedness are made between or among school districts in connection with the alteration of the boundaries of the school districts under this chapter, the order of the educational service district superintendent establishing the terms of adjustment of bonded indebtedness shall provide and specify:

(1) In every case where bonded indebtedness is transferred from one school district to another school district:

(a) That such bonded indebtedness is assumed by the school district to which it is

transferred;

(b) That thereafter such bonded indebtedness shall be the obligation of the school district to which it is transferred;

(c) That, if the terms of adjustment so provide, any bonded indebtedness thereafter incurred by such transferee school district through the sale of bonds authorized before the date its boundaries were altered shall be the obligation of such school district including the territory added thereto; and

(d) That taxes shall be levied thereafter against the taxable property located within such school district as it is constituted after its boundaries were altered, the taxes to be levied at the times and in the amounts required to pay the principal of and the interest on the bonded indebtedness assumed or incurred, as the same become due and payable.

(2) In computing the debt limitation of any school district from which or to which bonded indebtedness has been transferred, the amount of transferred bonded indebtedness at any time outstanding:

(a) Shall be an offset against and deducted from the total bonded indebtedness, if any, of the school district from which the bonded indebtedness was transferred; and

(b) Shall be deemed to be bonded indebtedness solely of the transferee school district that assumed the indebtedness.

(3) In every case where adjustments of bonded indebtedness do not provide for transfer of bonded indebtedness from one school district to another school district:

(a) That the existing bonded indebtedness of each school district, the boundaries of which are altered and any bonded indebtedness incurred by each such school district through the sale of bonds authorized before the date its boundaries were altered is the obligation of the school district in its reduced or enlarged form, as the case may be; and

(b) That taxes shall be levied thereafter against the taxable property located within each such school district in its reduced or enlarged form, as the case may be, at the times and in the amounts required to pay the principal of and interest on such bonded indebtedness as the same become due and payable.

(4) If a change in school district organization approved by the regional committee concerns a proposal to form a new school district or a proposal for adjustment of bonded indebtedness involving an established school district and one or more former school districts now included therein pursuant to a vote of the people concerned, a special election of the voters residing within the territory of the proposed new district, or of the established district involved in a proposal for adjustment of bonded indebtedness as the case may be, shall be held for the purpose of affording those voters an opportunity to approve or reject such proposals as concern or affect them.

(5) In a case involving both the question of the formation of a new school district and the question of adjustment of bonded indebtedness, the questions may be submitted to the voters either in the form of a single proposition or as separate propositions, whichever seems expedient to the educational service district superintendent. When the regional committee has passed appropriate resolutions for the questions to be submitted and the educational service district superintendent has given notice thereof to the county auditor, the special election shall be called

and conducted, and the returns canvassed as in regular school district elections.

[1999 c 315 § 703.]

RCW 28A.315.275 Notice of elections.

Notice of special elections as provided for in RCW 28A.315.265 shall be given by the county auditor as provided in RCW 29.27.080. The notice of election shall state the purpose for which the election has been called and contain a description of the boundaries of the proposed new district and a statement of any terms of adjustment of bonded indebtedness on which to be voted.

[1999 c 315 § 704.]

RCW 28A.315.285 Special election--Determination--Order--Certification.

(1) If a special election is held to vote on a proposal or alternate proposals to form a new school district, the votes cast by the registered voters in each component district shall be tabulated separately. Any such proposition shall be considered approved only if it receives a majority of the votes cast in each separate district voting thereon.

(2) If a special election is held to vote on a proposal for adjustment of bonded indebtedness, the entire vote cast by the registered voters of the proposed new district or of the established district as the case may be shall be tabulated. Any such proposition shall be considered approved if sixty percent or more of all votes cast thereon are in the affirmative.

(3) In the event of approval of a proposition or propositions voted on at a special election, the educational service district superintendent shall:

(a) Make an order establishing such new school district or such terms of adjustment of bonded indebtedness or both, as were approved by the registered voters and shall also order such other terms of adjustment, if there are any, of property and other assets and of liabilities other than bonded indebtedness as have been approved by the state council; and

(b) Certify his or her action to the county and school district officials specified in RCW 28A.315.215. The educational service district superintendent may designate, with the approval of the superintendent of public instruction, a name and number different from that of any component thereof, but must designate the new district by name and number different from any other district in existence in the county.

(4) The educational service district superintendent shall fix as the effective date of any order or orders he or she is required to make by this chapter, the date specified in the order of final approval of any change in the organization and extent of school districts or of any terms of adjustment of the assets and liabilities of school districts subject, for taxing purposes, to the redrawing of taxing district boundaries under RCW 84.09.030, by the regional committee.

(5) Upon receipt of certification under this section, the superintendent of each school district that is included in the new district shall deliver to the superintendent of the new school district those books, papers, documents, records, and other materials pertaining to the territory transferred.

[1999 c 315 § 705.]

RCW 28A.315.295 Rejection of proposal.

If a proposal for the formation of a new school district and for adjustment of bonded indebtedness, or either, is rejected by the registered voters at a special election, the matter is terminated.

[1999 c 315 § 706.]

RCW 28A.315.305 School district organizational changes--Corporate existence--Payment of bonded indebtedness--Levy authority.

(1) Each school district involved in or affected by any change made in the organization and extent of school districts under this chapter retains its corporate existence insofar as is necessary for the purpose, until the bonded indebtedness outstanding against it on and after the effective date of the change has been paid in full. This section may not be construed to prevent, after the effective date of the change, such adjustments of bonded indebtedness as are provided for in this chapter.

(2) The county legislative authority shall provide, by appropriate levies on the taxable property of each school district, for the payment of the bonded indebtedness outstanding against it after any of the changes or adjustments under this chapter have been effected.

(3) In case any such changes or adjustments involve a joint school district, the tax levy for the payment of any bonded indebtedness outstanding against the joint district, after the changes or adjustments are effected, shall be made and the proceeds thereof shall be transmitted, credited, and paid out in conformity with the provisions of law applicable to the payment of the bonded indebtedness of joint school districts.

[1999 c 315 § 707.]

RCW 28A.315.315 Appeal.

An appeal may be taken, as provided for in RCW 28A.645.010, to the superior court of the county in which a school district or any part thereof is situated on any question of adjustment of property and other assets and of liabilities provided for in this chapter. If the court finds the terms of the adjustment in question not equitable, the court shall make an adjustment that is equitable.

[1990 c 33 § 305; 1983 c 3 § 34; 1969 ex.s. c 223 § 28A.57.120. Prior: 1947 c 266 § 40; Rem. Supp. 1947 § 4693-59. Formerly RCW 28A.315.210, 28A.57.120, 28.57.120.]

Notes:

Boundary change, copy of decision to county assessor: RCW 28A.645.040.

RCW 28A.315.901 Part headings and captions not law--1999 c 315.

Part headings and section captions used in this act are not any part of the law.

[1999 c 315 § 808.]

Chapter 28A.320 RCW
PROVISIONS APPLICABLE TO ALL DISTRICTS

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ELECTORS--QUALIFICATIONS, VOTING PLACE, AND SPECIAL MEETINGS

28A.320.400 Elections--Qualifications of electors--Voting place.
28A.320.410 Elections--Elections to be conducted according to Title 29 RCW.
28A.320.420 Special meetings of voters--Authorized--Purpose.
28A.320.430 Special meetings of voters--Place, notice, procedure, record.
28A.320.440 Special meetings of voters--Directors to follow electors' decision.

SUMMER SCHOOL, NIGHT SCHOOL, EXTRACURRICULAR ACTIVITIES, AND ATHLETICS

28A.320.500 Summer and/or other student vacation period programs--Authorized--Tuition and fees.
28A.320.510 Night schools, summer schools, meetings, use of facilities for.

NOTES:
Assistance of certificated or classified employee--Reimbursement for substitute: RCW 28A.300.035.

DISTRICT POWERS

RCW 28A.320.010 Corporate powers.

A school district shall constitute a body corporate and shall possess all the usual powers of a public corporation, and in that name and style may sue and be sued and transact all business necessary for maintaining school and protecting the rights of the district, and enter into such obligations as are authorized therefor by law.

[1969 ex.s. c 223 § 28A.58.010. Prior: (i) 1909 c 97 p 287 § 7, part; RRS § 4782, part; prior: 1897 c 118 § 44, part; 1891 c 127 § 11, part; 1890 p 366 § 30, part. Formerly RCW 28.58.040, part. (ii) 1947 c 266 § 6, part; Rem. Supp. 1947 § 4693-25, part; prior: 1909 c 97 p 265 § 2, part. Formerly RCW 28A.58.010, 28.57.135, 28.58.010.]

RCW 28A.320.015 School boards of directors--Powers--Notice of adoption of policy.

(1) The board of directors of each school district may exercise the following:

(a) The broad discretionary power to determine and adopt written policies not in conflict with other law that provide for the development and implementation of programs, activities, services, or practices that the board determines will:

(i) Promote the education of kindergarten through twelfth grade students in the public schools; or

(ii) Promote the effective, efficient, or safe management and operation of the school district;

(b) Such powers as are expressly authorized by law; and

(c) Such powers as are necessarily or fairly implied in the powers expressly authorized by law.

(2) Before adopting a policy under subsection (1)(a) of this section, the school district

board of directors shall comply with the notice requirements of the open public meetings act, chapter 42.30 RCW, and shall in addition include in that notice a statement that sets forth or reasonably describes the proposed policy. The board of directors shall provide a reasonable opportunity for public written and oral comment and consideration of the comment by the board of directors.

[1992 c 141 § 301.]

Notes:

Findings--Part headings--Severability--1992 c 141: See note following RCW 28A.410.040.

RCW 28A.320.020 Liability for debts and judgments.

Every school district shall be liable for any debts legally due, and for judgments against the district, and such district shall pay any such judgment or liability out of the proper school funds to the credit of the district.

[1969 ex.s. c 223 § 28A.58.020. Prior: 1909 c 97 p 287 § 4; RRS § 4779; prior: 1897 c 118 § 41; 1890 p 365 § 27. Formerly RCW 28A.58.020, 28.58.020.]

RCW 28A.320.025 School district name change.

(1) The board of directors may change the name of the school district if:

(a) Either ten percent of the registered voters of the district file a petition requesting that the name of the school district be changed and submit the proposed new name with the request to the board or the board passes a motion to hold a hearing to change the school district name;

(b) After receiving the petition or adopting the motion, the board holds a hearing within one month after the petition was submitted to the board. The board shall publish notice of the hearing and the proposed new name once a week for three consecutive weeks in a newspaper of general circulation within the school district. At the hearing, other names may be proposed and considered by the board without additional notice requirements; and

(c) A majority of the board votes to adopt the new name.

(2) If the board adopts the new name, the new name shall be recorded in the school district office and with the educational service district superintendent, the superintendent of public instruction, the state board of education, and the secretary of state.

[1999 c 101 § 1.]

RCW 28A.320.030 Gifts, conveyances, etc., for scholarship and student aid purposes, receipt and administration.

The board of directors of any school district may accept, receive and administer for scholarship and student aid purposes such gifts, grants, conveyances, devises and bequests of personal or real property, in trust or otherwise, for the use or benefit of the school district or its students; and sell, lease, rent or exchange and invest or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof, if any, for the

foregoing purposes; and enter into contracts and adopt regulations deemed necessary by the board to provide for the receipt and expenditure of the foregoing.

[1974 ex.s. c 8 § 1. Formerly RCW 28A.58.030.]

RCW 28A.320.035 Contracting out--Board's powers and duties--Goods and services.

(1) The board of directors of a school district may contract with other school districts, educational service districts, public or private organizations, agencies, schools, or individuals to implement the board's powers and duties. The board of directors of a school district may contract for goods and services, including but not limited to contracts for goods and services as specifically authorized in statute or rule, as well as other educational, instructional, and specialized services. When a school district board of directors contracts for educational, instructional, or specialized services, the purpose of the contract must be to improve student learning or achievement.

(2) A contract under subsection (1) of this section may not be made with a religious or sectarian organization or school where the contract would violate the state or federal Constitution.

[1997 c 267 § 1.]

RCW 28A.320.040 Bylaws for board and school government.

Every board of directors shall have power to make such bylaws for their own government, and the government of the common schools under their charge, as they deem expedient, not inconsistent with the provisions of this title, or rules and regulations of the superintendent of public instruction or the state board of education.

[1969 ex.s. c 223 § 28A.58.110. Prior: 1909 c 97 p 287 § 6; RRS § 4781; prior: 1897 c 118 § 43; 1890 p 366 § 29. Formerly RCW 28A.58.110, 28.58.110.]

RCW 28A.320.050 Reimbursement of expenses of directors, other school representatives, and superintendent candidates--Advancing anticipated expenses.

The actual expenses of school directors in going to, returning from and attending upon directors' meetings or other meetings called or held pursuant to statute shall be paid. Likewise, the expenses of school superintendents and other school representatives chosen by the directors to attend any conferences or meetings or to attend to any urgent business at the behest of the state superintendent of public instruction or the board of directors shall be paid. The board of directors may pay the actual and necessary expenses for travel, lodging and meals a superintendent candidate incurs when he or she attends an employment interview in the school district. The school directors, school superintendents, other school representatives or superintendent candidates may be advanced sufficient sums to cover their anticipated expenses in accordance with rules and regulations promulgated by the state auditor and which shall substantially conform to the procedures provided in RCW 43.03.150 through 43.03.210.

[1977 c 73 § 1; 1969 ex.s. c 26 § 2; 1969 ex.s. c 223 § 28A.58.310. Prior: 1961 c 268 § 15; prior: 1919 c 90 § 6, part; 1909 c 97 p 287 § 8, part; RRS § 4783, part. Formerly RCW 28A.58.310, 28.58.310.]

RCW 28A.320.060 Officers, employees or agents of school districts or educational service districts, insurance to protect and hold personally harmless.

Any school district board of directors and educational service district board are authorized to purchase insurance to protect and hold personally harmless any director, officer, employee or agent of the respective school district or educational service district from any action, claim or proceeding instituted against him or her arising out of the performance or failure of performance of duties for or employment with such institution and to hold him or her harmless from any expenses connected with the defense, settlement or monetary judgments from such actions.

[1990 c 33 § 330; 1975 1st ex.s. c 275 § 116; 1972 ex.s. c 142 § 2. Formerly RCW 28A.58.630.]

RCW 28A.320.070 School district as self-insurer--Authority.

Any school district board of directors is authorized to enter into agreements with the board of directors of other school districts and/or educational service districts to form a self-insurance group for the purpose of qualifying as a self-insurer under chapter 51.14 RCW.

[1982 c 191 § 10. Formerly RCW 28A.58.410.]

Notes:

Severability--1982 c 191: See note following RCW 28A.335.210.

School districts as self-insurers: RCW 51.14.150 and 51.14.160.

RCW 28A.320.080 Commencement exercises--Lip reading instruction--Joint purchasing, including issuing interest bearing warrants and agreements with private schools--Budgets.

Every board of directors, unless otherwise specifically provided by law, shall:

(1) Provide for the expenditure of a reasonable amount for suitable commencement exercises;

(2) In addition to providing free instruction in lip reading for children disabled by defective hearing, make arrangements for free instruction in lip reading to adults disabled by defective hearing whenever in its judgment such instruction appears to be in the best interests of the school district and adults concerned;

(3) Join with boards of directors of other school districts or an educational service district pursuant to RCW 28A.310.180(3), or both such school districts and educational service district in buying supplies, equipment and services by establishing and maintaining a joint purchasing agency, or otherwise, when deemed for the best interests of the district, any joint agency formed hereunder being herewith authorized and empowered to issue interest bearing warrants in payment of any obligation owed: PROVIDED, HOWEVER, That those agencies issuing interest

bearing warrants shall assign accounts receivable in an amount equal to the amount of the outstanding interest bearing warrants to the county treasurer issuing such interest bearing warrants: PROVIDED FURTHER, That the joint purchasing agency shall consider the request of any one or more private schools requesting the agency to jointly buy supplies, equipment, and services including but not limited to school bus maintenance services, and, after considering such request, may cooperate with and jointly make purchases with private schools of supplies, equipment, and services, including but not limited to school bus maintenance services, so long as such private schools pay in advance their proportionate share of the costs or provide a surety bond to cover their proportionate share of the costs involved in such purchases;

(4) Consider the request of any one or more private schools requesting the board to jointly buy supplies, equipment and services including but not limited to school bus maintenance services, and, after considering such request, may provide such joint purchasing services: PROVIDED, That such private schools pay in advance their proportionate share of the costs or provide a surety bond to cover their proportionate share of the costs involved in such purchases; and

(5) Prepare budgets as provided for in chapter 28A.505 RCW.

[1995 c 77 § 21; 1990 c 33 § 331; 1986 c 77 § 1; 1983 c 125 § 1; 1981 c 308 § 1; 1979 ex.s. c 66 § 2; 1971 c 26 § 1; 1969 c 53 § 2; 1969 ex.s. c 223 § 28A.58.107. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part; prior: 1943 c 52 § 1, part; 1941 c 179 § 1, part; 1939 c 131 § 1, part; 1925 ex.s. c 57 § 1, part; 1919 c 89 § 3, part; 1915 c 44 § 1, part; 1909 c 97 p 285 § 2, part; 1907 c 240 § 5, part; 1903 c 104 § 17, part; 1901 c 41 § 3, part; 1897 c 118 § 40, part; 1890 p 364 § 26, part; Rem. Supp. 1943 § 4776, part. Formerly RCW 28A.58.107, 28.58.100(7), (13) and (14).]

Notes:

Severability--1981 c 308: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 308 § 3.]

Severability--1979 ex.s. c 66: See note following RCW 28A.310.180.

RCW 28A.320.090 Preparing and distributing information on district's instructional program, operation and maintenance--Limitation.

The board of directors of any school district shall have authority to authorize the expenditure of funds for the purpose of preparing and distributing information to the general public to explain the instructional program, operation and maintenance of the schools of the district: PROVIDED, That nothing contained herein shall be construed to authorize preparation and distribution of information to the general public for the purpose of influencing the outcome of a school district election.

[1969 ex.s. c 283 § 11. Formerly RCW 28A.58.610, 28.58.610.]

Notes:

Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28A.320.100 Actions against officers, employees or agents of school districts and educational service districts--Defense, costs, fees--Payment of obligation.

Whenever any action, claim or proceeding is instituted against any director, officer, employee or agent of a school district or educational service district arising out of the performance or failure of performance of duties for, or employment with any such district, the board of directors of the school district or educational service district board, as the case may be, may grant a request by such person that the prosecuting attorney and/or attorney of the district's choosing be authorized to defend said claim, suit or proceeding, and the costs of defense, attorney's fees, and any obligation for payment arising from such action may be paid from the school district's general fund, or in the case of an educational service district, from any appropriation made for the support of the educational service district, to which said person is attached: PROVIDED, That costs of defense and/or judgment against such person shall not be paid in any case where the court has found that such person was not acting in good faith or within the scope of his or her employment with or duties for the district.

[1990 c 33 § 332; 1975 1st ex.s. c 275 § 115; 1972 ex.s. c 142 § 1. Formerly RCW 28A.58.620.]

RCW 28A.320.110 Information and research services.

For the purpose of obtaining information on school organization, administration, operation, finance and instruction, school districts and educational service districts may contract for or purchase information and research services from public universities, colleges and other public bodies, or from private individuals or agencies. For the same purpose, school districts and educational service district superintendents may become members of any nonprofit organization whose principal purpose is to provide such services. Charges payable for such services and membership fees payable to such organizations may be based on the cost of providing such services, on the benefit received by the participating school districts measured by enrollment, or on any other reasonable basis, and may be paid before, during, or after the receipt of such services or the participation as members of such organizations.

[1975 1st ex.s. c 275 § 112; 1971 ex.s. c 93 § 4; 1969 ex.s. c 176 § 142; 1969 ex.s. c 223 § 28A.58.530. Prior: 1963 c 30 § 1. Formerly RCW 28A.58.530, 28.58.530.]

Notes:

Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.320.120 Cooperation with technical colleges--Jurisdiction over property--Administrative charges--Discrimination against employees of technical colleges prohibited--Dispute resolution.

As of May 17, 1991, school districts shall not remove facilities, equipment, or property from the jurisdiction or use of the technical colleges. This shall include direct and indirect funds other than those indirect charges provided for in the 1990-91 appropriations act. School districts shall not increase direct or indirect charges for central district administrative support for technical college programs above the percentage rate charged in the 1990-91 school year. This

provision on administrative charges for technical college programs shall apply to any state and federal grants, tuition, and other revenues generated by technical college programs. School districts and the superintendent of public instruction shall cooperate fully with the technical colleges and the state board for community and technical colleges with regard to the implementation of chapter 238, Laws of 1991. No employee of a technical college may be discriminated against based on actions or opinions expressed on issues surrounding chapter 238, Laws of 1991. Any dispute related to issues contained in this section shall be resolved under RCW 28B.50.302.

[1991 c 238 § 142.]

Notes:

Effective dates--Severability--1991 c 238: See RCW 28B.50.917 and 28B.50.918.

RCW 28A.320.130 Weapons incidents--Reporting.

Each school district and each private school approved under chapter 28A.195 RCW shall report to the superintendent of public instruction by January 31st of each year all known incidents involving the possession of weapons on school premises, on transportation systems, or in areas of facilities while being used exclusively by public or private schools, in violation of RCW 9.41.280 in the year preceding the report. The superintendent shall compile the data and report it to the house of representatives, the senate, and the governor.

[1993 c 347 § 2.]

RCW 28A.320.135 Telecommunication devices--Limits on possession--Policies.

School district boards of directors may adopt policies that limit the possession of (1) paging telecommunication devices by students that emit audible signals, vibrate, display a message, or otherwise summons or delivers a communication to the possessor, and (2) portable or cellular telephones.

[1997 c 266 § 10.]

Notes:

Findings--Intent--Severability--1997 c 266: See notes following RCW 28A.600.455.

RCW 28A.320.140 Schools with special standards--Dress codes.

(1) School district boards of directors may establish schools or programs which parents may choose for their children to attend in which: (a) Students are required to conform to dress and grooming codes, including requiring that students wear uniforms; (b) parents are required to participate in the student's education; or (c) discipline requirements are more stringent than in other schools in the district.

(2) School district boards of directors may establish schools or programs in which: (a) Students are required to conform to dress and grooming codes, including requiring that students wear uniforms; (b) parents are regularly counseled and encouraged to participate in the student's education; or (c) discipline requirements are more stringent than in other schools in the district.

School boards may require that students who are subject to suspension or expulsion attend these schools or programs as a condition of continued enrollment in the school district.

(3) If students are required to wear uniforms in these programs or schools, school districts shall accommodate students so that the uniform requirement is not an unfair barrier to school attendance and participation.

(4) Nothing in this section impairs or reduces in any manner whatsoever the authority of a board under other law to impose a dress and appearance code. However, if a board requires uniforms under such other authority, it shall accommodate students so that the uniform requirement is not an unfair barrier to school attendance and participation.

(5) School district boards of directors may adopt dress and grooming code policies which prohibit students from wearing gang-related apparel. If a dress and grooming code policy contains this provision, the school board must also establish policies to notify students and parents of what clothing and apparel is considered to be gang-related apparel. This notice must precede any disciplinary action resulting from a student wearing gang-related apparel.

(6) School district boards of directors may not adopt a dress and grooming code policy which precludes students who participate in nationally recognized youth organizations from wearing organization uniforms on days that the organization has a scheduled activity or prohibit students from wearing clothing in observance of their religion.

[1997 c 266 § 14; 1994 sp.s. c 7 § 612.]

Notes:

Findings--Intent--Severability--1997 c 266: See notes following RCW 28A.600.455.

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

RCW 28A.320.155 Criminal history record information--School volunteers.

If a volunteer alerts a school district that the volunteer has undergone a criminal records check in accordance with applicable state law, including RCW 10.97.050, 28A.400.303, 28A.410.010, or 43.43.830 through 43.43.845, within the two years before the time the volunteer is volunteering in the school, then the school may request that the volunteer furnish the school with a copy of the criminal history record information or sign a release to the business, school, organization, criminal justice agency, or juvenile justice or care agency, or other state agency that originally obtained the criminal history record information to permit the record information to be shared with the school. Once the school requests the information from the business, school, organization, or agency the information shall be furnished to the school. Any business, school, organization, agency, or its employee or official that shares the criminal history record information with the requesting school in accordance with this section is immune from criminal and civil liability for dissemination of the information.

If the criminal history record information is shared, the school must require the volunteer to sign a disclosure statement indicating that there has been no conviction since the completion date of the most recent criminal background inquiry.

[1999 c 21 § 1.]

RCW 28A.320.165 Notice of pesticide use. ***(Effective July 1, 2002.)***

Schools as defined in RCW 17.21.415 shall provide notice of pesticide use to parents or guardians of students and employees pursuant to chapter 17.21 RCW.

[2001 c 333 § 4.]

NOTES:

Effective date--2001 c 333: See note following RCW 17.21.020.

PROGRAM EVALUATION

RCW 28A.320.200 Self-study process by school districts--Requirements--Rules.

Notes:

Reviser's note: RCW 28A.320.200 was amended by 1995 c 335 § 502 without reference to its repeal by 1992 c 141 § 506. It has been decodified for publication purposes under RCW 1.12.025.

RCW 28A.320.230 Instructional materials--Instructional materials committee.

Every board of directors, unless otherwise specifically provided by law, shall:

(1) Prepare, negotiate, set forth in writing and adopt, policy relative to the selection or deletion of instructional materials. Such policy shall:

(a) State the school district's goals and principles relative to instructional materials;

(b) Delegate responsibility for the preparation and recommendation of teachers' reading lists and specify the procedures to be followed in the selection of all instructional materials including text books;

(c) Establish an instructional materials committee to be appointed, with the approval of the school board, by the school district's chief administrative officer. This committee shall consist of representative members of the district's professional staff, including representation from the district's curriculum development committees, and, in the case of districts which operate elementary school(s) only, the educational service district superintendent, one of whose responsibilities shall be to assure the correlation of those elementary district adoptions with those of the high school district(s) which serve their children. The committee may include parents at the school board's discretion: PROVIDED, That parent members shall make up less than one-half of the total membership of the committee;

(d) Provide for reasonable notice to parents of the opportunity to serve on the committee and for terms of office for members of the instructional materials committee;

(e) Provide a system for receiving, considering and acting upon written complaints regarding instructional materials used by the school district;

(f) Provide free text books, supplies and other instructional materials to be loaned to the

pupils of the school, when, in its judgment, the best interests of the district will be subserved thereby and prescribe rules and regulations to preserve such books, supplies and other instructional materials from unnecessary damage.

Recommendation of instructional materials shall be by the district's instructional materials committee in accordance with district policy. Approval or disapproval shall be by the local school district's board of directors.

Districts may pay the necessary travel and subsistence expenses for expert counsel from outside the district. In addition, the committee's expenses incidental to visits to observe other districts' selection procedures may be reimbursed by the school district.

Districts may, within limitations stated in board policy, use and experiment with instructional materials for a period of time before general adoption is formalized.

Within the limitations of board policy, a school district's chief administrator may purchase instructional materials to meet deviant needs or rapidly changing circumstances.

(2) Establish a depreciation scale for determining the value of texts which students wish to purchase.

[1989 c 371 § 1; 1979 ex.s. c 134 § 2; 1975 1st ex.s. c 275 § 109; 1971 c 48 § 29; 1969 ex.s. c 223 § 28A.58.103. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28A.58.103, 28.58.100 (8) and (9).]

Notes:

Severability--1971 c 48: See note following RCW 28A.305.040.

Disposal of obsolete or surplus reading materials by school districts and libraries: RCW 39.33.070.

Surplus texts and other educational aids, notice of availability--Student priority as to texts: RCW 28A.335.180.

RCW 28A.320.240 Operation and stocking of libraries.

Every board of directors shall provide for the operation and stocking of such libraries as the board deems necessary for the proper education of the district's students or as otherwise required by law or rule or regulation of the superintendent of public instruction or the state board of education.

[1969 ex.s. c 223 § 28A.58.104. Prior: (i) 1909 c 97 p 299 § 7; RRS § 4817. Formerly RCW 28.63.040. (ii) 1909 c 97 p 302 § 7; RRS § 4829. Formerly RCW 28A.58.104, 28.63.042.]

DEPOSIT, INVESTMENT, AND USE OF PROCEEDS

RCW 28A.320.300 Investment of funds, including funds received by ESD--Authority--Procedure.

Any common school district board of directors is empowered to direct and authorize, and to delegate authority to an employee, officer, or agent of the common school district or the educational service district to direct and authorize, the county treasurer to invest funds described in RCW 28A.320.310 and 28A.320.320 and funds from state and federal sources as are then or

thereafter received by the educational service district, and such funds from county sources as are then or thereafter received by the county treasurer, for distribution to the common school districts. Funds from state, county and federal sources which are so invested may be invested only for the period the funds are not required for the immediate necessities of the common school district as determined by the school district board of directors or its delegatee, and shall be invested in behalf of the common school district pursuant to the terms of RCW 28A.320.310, 28A.320.320, 36.29.020, 36.29.022, or 36.29.024 as the nature of the funds shall dictate. A grant of authority by a common school district pursuant to this section shall be by resolution of the board of directors and shall specify the duration and extent of the authority so granted. Any authority delegated to an educational service district pursuant to this section may be redelegated pursuant to RCW 28A.310.220.

[1999 c 18 § 1; 1990 c 33 § 335; 1982 c 191 § 5; 1975 c 47 § 1. Formerly RCW 28A.58.430.]

Notes:

Severability--1982 c 191: See note following RCW 28A.335.210.

Transportation vehicle fund--Deposits in--Use--Rules for establishment and use: RCW 28A.160.130.

RCW 28A.320.310 Investment of building funds--Restrictions.

The board of directors of any school district of the state of Washington which now has, or hereafter shall have, funds in the capital projects fund of the district in the office of the county treasurer which in the judgment of said board are not required for the immediate necessities of the district, may invest and reinvest all, or any part, of such funds pursuant to RCW 35.39.030, 36.29.020, 36.29.022, 36.29.024, 39.59.020, 39.59.030, and 43.84.080: PROVIDED, That nothing herein authorized, or the type and character of the securities thus specified, shall have in itself the effect of delaying any program of building for which said funds shall have been authorized. Said funds and said securities and the profit and interest thereon, and the proceeds thereof, shall be held by the county treasurer to the credit and benefit of the capital projects fund of the district in the county treasurer's office.

[1999 c 18 § 2; 1990 c 33 § 336; 1985 c 7 § 95; 1971 c 8 § 4. Prior: 1945 c 29 § 1. Formerly RCW 28A.58.435.]

Notes:

Severability--1971 c 8: "If any provision of this 1971 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 c 8 § 7.]

School funds enumerated--Deposits--Uses: RCW 28A.320.330.

RCW 28A.320.320 Investment of funds of district--Service fee.

The county treasurer, or the trustee, guardian, or any other custodian of any school fund, when authorized to do so by the board of directors of any school district, shall invest or reinvest any school funds of such district in investment securities pursuant to RCW 36.29.020 and 36.29.022. The county treasurer shall have the power to select the particular investment in which said funds may be invested. All earnings and income from such investments shall inure to the

benefit of any school fund designated by the board of directors of the school district which such board may lawfully designate: PROVIDED, That any interest or earnings being credited to a fund different from that which earned the interest or earnings shall only be expended for instructional supplies, equipment or capital outlay purposes. This section shall apply to all funds which may be lawfully so invested or reinvested which in the judgment of the school board are not required for the immediate necessities of the district.

Five percent of the interest or earnings, with an annual minimum of ten dollars or annual maximum of fifty dollars, on any transactions authorized by each resolution of the board of school directors shall be paid as an investment service fee to the office of county treasurer when the interest or earnings becomes available to the school district or an amount as determined pursuant to RCW 36.29.022 and 36.29.024.

[1999 c 18 § 3; 1983 c 66 § 1; 1969 ex.s. c 223 § 28A.58.440. Prior: 1965 c 111 § 1; 1961 c 123 § 1. Formerly RCW 28A.58.440, 28.58.440.]

Notes:

Severability--1983 c 66: See note following RCW 39.58.010.

Investment of idle building funds--1945 act: 1945 c 29 § 1.

School funds enumerated--Deposits--Uses: RCW 28A.320.330.

RCW 28A.320.330 School funds enumerated--Deposits--Uses.

School districts shall establish the following funds in addition to those provided elsewhere by law:

(1) A general fund for maintenance and operation of the school district to account for all financial operations of the school district except those required to be accounted for in another fund.

(2) A capital projects fund shall be established for major capital purposes. All statutory references to a "building fund" shall mean the capital projects fund so established. Money to be deposited into the capital projects fund shall include, but not be limited to, bond proceeds, proceeds from excess levies authorized by RCW 84.52.053, state apportionment proceeds as authorized by RCW 28A.150.270, and earnings from capital projects fund investments as authorized by RCW 28A.320.310 and 28A.320.320.

Money derived from the sale of bonds, including interest earnings thereof, may only be used for those purposes described in RCW 28A.530.010, except that accrued interest paid for bonds shall be deposited in the debt service fund.

Money to be deposited into the capital projects fund shall include but not be limited to rental and lease proceeds as authorized by RCW 28A.335.060, and proceeds from the sale of real property as authorized by RCW 28A.335.130.

Money legally deposited into the capital projects fund from other sources may be used for the purposes described in RCW 28A.530.010, and for the purposes of:

(a) Major renovation, including the replacement of facilities and systems where periodical repairs are no longer economical. Major renovation and replacement shall include, but shall not be limited to, roofing, heating and ventilating systems, floor covering, and electrical

systems.

(b) Renovation and rehabilitation of playfields, athletic fields, and other district real property.

(c) The conduct of preliminary energy audits and energy audits of school district buildings. For the purpose of this section:

(i) "Preliminary energy audits" means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption, and major energy using systems of the building.

(ii) "Energy audit" means a survey of a building or complex which identifies the type, size, energy use level, and major energy using systems; which determines appropriate energy conservation maintenance or operating procedures and assesses any need for the acquisition and installation of energy conservation measures, including solar energy and renewable resource measures.

(iii) "Energy capital improvement" means the installation, or modification of the installation, of energy conservation measures in a building which measures are primarily intended to reduce energy consumption or allow the use of an alternative energy source.

(d) Those energy capital improvements which are identified as being cost-effective in the audits authorized by this section.

(e) Purchase or installation of additional major items of equipment and furniture: PROVIDED, That vehicles shall not be purchased with capital projects fund money.

(3) A debt service fund to provide for tax proceeds, other revenues, and disbursements as authorized in chapter 39.44 RCW.

(4) An associated student body fund as authorized by RCW 28A.325.030.

(5) Advance refunding bond funds and refunded bond funds to provide for the proceeds and disbursements as authorized in chapter 39.53 RCW.

[1990 c 33 § 337; 1983 c 59 § 13; 1982 c 191 § 6; 1981 c 250 § 2. Formerly RCW 28A.58.441.]

Notes:

Application--Effective date--Severability--1983 c 59: See notes following RCW 28A.505.010.
Severability--1982 c 191: See note following RCW 28A.335.210.
Effective date--1981 c 250: See note following RCW 28A.335.060.

ELECTORS--QUALIFICATIONS, VOTING PLACE, AND SPECIAL MEETINGS

RCW 28A.320.400 Elections--Qualifications of electors--Voting place.

Qualifications of electors at all school elections shall be the same as at a general state or county election. Except as otherwise provided by law, only those electors residing within the district shall be entitled to vote, and an elector may vote only at the polling place designated by the proper election official.

[1969 ex.s. c 223 § 28A.58.520. Prior: 1941 c 12 § 1; Rem. Supp. 1941 § 5025-1. Formerly RCW 28A.58.520, 28.58.520.]

RCW 28A.320.410 Elections--Elections to be conducted according to Title 29 RCW.

All school district elections, regular or special, shall be conducted according to the election laws of the state as contained in Title 29 RCW, and in the event of a conflict as to the application of the laws of this title or Title 29 RCW, the latter shall prevail.

[1969 ex.s. c 223 § 28A.58.521. Prior: 1965 c 123 § 8. Formerly RCW 28A.58.521, 28.58.521.]

RCW 28A.320.420 Special meetings of voters--Authorized--Purpose.

Any board of directors at its discretion may, and, upon a petition of a majority of the legal voters of their district, shall call a special meeting of the voters of the district, to determine the length of time in excess of the minimum length of time prescribed by law that such school shall be maintained in the district during the year; to determine whether or not the district shall purchase any schoolhouse site or sites, and to determine the location thereof; or to determine whether or not the district shall build one or more schoolhouses or school facilities; or to determine whether or not the district shall sell any real or personal property belonging to the district, borrow money or establish and maintain a school district library.

[1982 c 158 § 4; 1969 ex.s. c 223 § 28A.58.370. Prior: 1909 c 97 p 349 § 1; RRS § 5028; prior: 1901 c 177 § 18; 1897 c 118 § 156. Formerly RCW 28A.58.370, 28.58.370.]

Notes:

Severability--1982 c 158: See note following RCW 28A.150.220.

RCW 28A.320.430 Special meetings of voters--Place, notice, procedure, record.

All such special meetings shall be held at such schoolhouse or place as the board of directors may determine. The voting shall be by ballot, the ballots to be of white paper of uniform size and quality. At least ten days' notice of such special meeting shall be given by the school district superintendent, in the manner that notice is required to be given of the annual school election, which notice shall state the object or objects for which the meeting is to be held, and no other business shall be transacted at such meeting than such as is specified in the notice. The school district superintendent shall be the secretary of the meeting, and the chairman of the board of directors or, in his absence, the senior director present, shall be chairman of the meeting: PROVIDED, That in the absence of one or all of said officials, the qualified electors present may elect a chairman or secretary, or both chairman and secretary, of said meeting as occasion may require, from among their number. The secretary of the meeting shall make a record of the proceedings of the meeting, and when the secretary of such meeting has been elected by the qualified voters present, he or she shall within ten days thereafter, file the record of the proceedings, duly certified, with the superintendent of the district, and said records shall become a part of the records of the district, and be preserved as other records.

[1990 c 33 § 338; 1969 ex.s. c 223 § 28A.58.380. Prior: 1909 c 97 p 350 § 2; RRS § 5029; prior: 1897 c 118 § 157. Formerly RCW 28A.58.380, 28.58.380, 28.58.390, part.]

RCW 28A.320.440 Special meetings of voters--Directors to follow electors' decision.

It shall be the duty of every board of directors to carry out the directions of the electors of their districts as expressed at any such meeting.

[1969 ex.s. c 223 § 28A.58.390. Prior: 1909 c 97 p 350 § 3; RRS § 5030; prior: 1897 c 118 § 158. Formerly RCW 28A.58.390, 28.58.390.]

SUMMER SCHOOL, NIGHT SCHOOL, EXTRACURRICULAR ACTIVITIES, AND ATHLETICS

RCW 28A.320.500 Summer and/or other student vacation period programs--Authorized--Tuition and fees.

Every school district board of directors is authorized to establish and operate summer and/or other student vacation period programs and to assess such tuition and special fees as it deems necessary to offset the maintenance and operation costs of such programs in whole or part. A summer and/or other student vacation period program may consist of such courses and activities as the school district board shall determine to be appropriate: PROVIDED, That such courses and activities shall not conflict with the provisions of RCW 28A.305.130. Attendance shall be voluntary.

[1990 c 33 § 339; 1974 ex.s. c 161 § 1. Formerly RCW 28A.58.080.]

RCW 28A.320.510 Night schools, summer schools, meetings, use of facilities for.

Every board of directors, unless otherwise specifically provided by law, shall:

(1) Authorize school facilities to be used for night schools and establish and maintain the same whenever deemed advisable;

(2) Authorize school facilities to be used for summer schools or for meetings, whether public, literary, scientific, religious, political, mechanical, agricultural or whatever, upon approval of the board under such rules or regulations as the board of directors may adopt, which rules or regulations may require a reasonable rental for the use of such facilities.

[1969 ex.s. c 223 § 28A.58.105. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28A.58.105, 28.58.100 (10) and (12).]

Chapter 28A.323 RCW
JOINT SCHOOL DISTRICTS--SCHOOL DISTRICTS IN TWO OR MORE EDUCATIONAL SERVICE DISTRICTS

Sections

28A.323.010 Joint school districts--Defined--Designation.
28A.323.020 School districts in two or more educational service districts--Change or adjustment of districts.
28A.323.030 School districts in two or more educational service districts--Proposed change or adjustment--Procedure when one committee does not approve or fails to act--Temporary committee.
28A.323.040 Joint school districts--Administration--County to which joint school district considered as belonging.
28A.323.050 Joint school districts--Elections for director.
28A.323.060 Joint school districts--Directors--Vacancies.
28A.323.070 Joint school districts--Powers and duties.
28A.323.080 Joint school districts--Assessed valuation--Certification.
28A.323.090 Joint school districts--Levy of tax.
28A.323.100 Joint school districts--Levy of tax--Remittance to district treasurer.

RCW 28A.323.010 Joint school districts--Defined--Designation.

Any school district composed of territory lying in more than one county shall be known as a joint school district, and shall be designated by number in accordance with rules and regulations promulgated under *RCW 28A.305.150.

[1990 c 33 § 309; 1973 c 47 § 1; 1969 ex.s. c 223 § 28A.57.230. Prior: 1947 c 266 § 25; Rem. Supp. 1947 § 4693-44; prior: 1909 c 97 p 264 § 6; RRS § 4699; prior: 1897 c 118 § 13. Formerly RCW 28A.315.350, 28A.57.230, 28.57.230.]

Notes:

***Reviser's note:** RCW 28A.305.150 was repealed by 1999 c 315 § 801. Later enactment, see RCW 28A.300.065.

Severability--1973 c 47: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 47 § 6.]

RCW 28A.323.020 School districts in two or more educational service districts--Change or adjustment of districts.

The duties in this chapter imposed upon and required to be performed by a regional committee and by an educational service district superintendent in connection with a change in the organization and extent of school districts and/or with the adjustment of the assets and liabilities of school districts and with all matters related to such change or adjustment whenever territory lying in a single educational service district is involved shall be performed jointly by the regional committees and by the superintendents of the several educational service districts as required whenever territory lying in more than one educational service district is involved in a proposed change in the organization and extent of school districts: PROVIDED, That a regional committee may designate three of its members, or two of its members and the educational service district superintendent, as a subcommittee to serve in lieu of the whole committee, but action by a subcommittee shall not be binding unless approved by a majority of the regional

committee. Proposals for changes in the organization and extent of school districts and proposed terms of adjustment of assets and liabilities thus prepared and approved shall be submitted to the state board by the regional committee of the educational service district in which is located the part of the proposed or enlarged district having the largest number of common school pupils residing therein.

[1985 c 385 § 25; 1975 1st ex.s. c 275 § 95; 1973 c 47 § 2; 1969 ex.s. c 176 § 131; 1969 ex.s. c 223 § 28A.57.240. Prior: 1947 c 266 § 26; Rem. Supp. 1947 § 4693-45. Formerly RCW 28A.315.360, 28A.57.240, 28.57.240.]

Notes:

Severability--1985 c 385: See note following RCW 28A.315.025.
Severability--1973 c 47: See note following RCW 28A.323.010.
Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.323.030 School districts in two or more educational service districts--Proposed change or adjustment--Procedure when one committee does not approve or fails to act--Temporary committee.

Whenever a proposed change in the organization and extent of school districts or an adjustment of the assets and liabilities of school districts, or both, or any other matters related to such change or adjustment involve school districts in two or more educational service districts, and a majority of at least one of the regional committees involved approve a proposal but the proposal is not approved by the other regional committee or committees or one or more of said committees fails or refuses to act upon the proposal within sixty days of its receipt, the regional committee or committees approving the proposal shall certify the proposal and its approval to the state superintendent of public instruction. Upon receipt of a properly certified proposal, the state superintendent of public instruction shall appoint a temporary committee composed of five persons. The members of the temporary committee shall be selected from the membership of any regional committee in this state except that no member shall be appointed from any educational service district in which there is situated a school district that would be affected by the proposed change. Said committee shall meet at the call of the state superintendent of public instruction and organize by electing a chair and secretary. Thereupon, this temporary committee shall have jurisdiction of the proposal and shall treat the same as a proposal initiated on its own motion. Said committee shall have the powers and duties imposed upon and required to be performed by a regional committee under the provisions of this chapter and the secretary of the committee shall have the powers and duties imposed upon and required to be performed by the educational service district superintendents under the provisions of this chapter. It shall be the duty of the educational service district superintendents of the educational service districts in which the school districts that would be affected by the proposed change are situated to assist the temporary committee by supplying said committee with information from the records and files of their offices and with a proper and suitable place for holding meetings.

[1990 c 33 § 310; 1985 c 385 § 26; 1975 1st ex.s. c 275 § 96; 1969 ex.s. c 176 § 132; 1969 ex.s. c 223 § 28A.57.245. Prior: 1959 c 268 § 5. Formerly RCW 28A.315.370, 28A.57.245, 28.57.245.]

Notes:

Severability--1985 c 385: See note following RCW 28A.315.025.
Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.323.040 Joint school districts--Administration--County to which joint school district considered as belonging.

For all purposes essential to the maintenance, operation, and administration of the schools of a district, including the apportionment of current state and county school funds, the county in which a joint school district shall be considered as belonging shall be as designated by the state board of education. Prior to making such designation, the state board of education shall hold at least one public hearing on the matter, at which time the recommendation of the joint school district shall be presented and, in addition to such recommendation, the state board shall consider the following prior to its designation:

(1) Service needs of such district;

(2) Availability of services;

(3) Geographic location of district and servicing agencies; and

(4) Relationship to contiguous school districts.

[1973 c 47 § 3; 1969 ex.s. c 223 § 28A.57.250. Prior: 1947 c 266 § 27; Rem. Supp. 1947 § 4693-46. Formerly RCW 28A.315.380, 28A.57.250, 28.57.250.]

Notes:

Severability--1973 c 47: See note following RCW 28A.323.010.

RCW 28A.323.050 Joint school districts--Elections for director.

The registered voters residing within a joint school district shall be entitled to vote on the office of school director of their district.

Jurisdiction of any such election shall rest with the county auditor of the county administering such joint district as provided in *RCW 28A.315.380.

At each general election, or upon approval of a request for a special election as provided for in RCW 29.13.020, such county auditor shall:

(1) See that there shall be at least one polling place in each county;

(2) At least twenty days prior to the elections concerned, certify in writing to the superintendent of the school district the number and location of the polling places established by such auditor for such regular or special elections; and

(3) Do all things otherwise required by law for the conduct of such election.

It is the intention of this section that the qualified electors of a joint school district shall not be forced to go to a different polling place on the same day when other elections are being held to vote for school directors of their district.

[1990 c 33 § 311; 1983 c 56 § 6; 1975 1st ex.s. c 275 § 97; 1973 c 47 § 4; 1969 ex.s. c 176 § 133; 1969 ex.s. c 223 § 28A.57.255. Prior: 1961 c 130 § 23. Formerly RCW 28A.315.390, 28A.57.255, 28.57.255.]

Notes:

***Reviser's note:** RCW 28A.315.380 was recodified as RCW 28A.323.040 pursuant to 1999 c 315 § 803.
Severability--1983 c 56: See note following RCW 28A.195.010.

Severability--1973 c 47: See note following RCW 28A.323.010.
Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.323.060 Joint school districts--Directors--Vacancies.

A vacancy in the office of director of a joint district shall be filled in the manner provided by *RCW 28A.315.530 for filling vacancies, such appointment to be valid only until a director is elected and qualified to fill such vacancy at the next regular district election.

[1990 c 33 § 312; 1973 c 47 § 5; 1971 c 53 § 3; 1969 ex.s. c 176 § 134; 1969 ex.s. c 223 § 28A.57.260. Prior: 1947 c 266 § 28; Rem. Supp. 1947 § 4693-47. Formerly RCW 28A.315.400, 28A.57.260, 28.57.260.]

Notes:

***Reviser's note:** RCW 28A.315.530 was recodified as RCW 28A.343.370 pursuant to 1999 c 315 § 804.
Severability--1973 c 47: See note following RCW 28A.323.010.
Severability--1971 c 53: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 c 53 § 6.]
Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.323.070 Joint school districts--Powers and duties.

A joint school district and the officers thereof shall possess all the powers and be subject to all of the duties vested in or imposed upon other school districts of the same class and upon the officers thereof, except as otherwise provided by law. Whenever the laws relating to school districts shall provide for any action by a county officer, such action, if required to be performed in behalf of a joint school district, shall be performed by the proper officer of the county to which the joint district belongs, except as otherwise provided by law.

[1969 ex.s. c 223 § 28A.57.270. Prior: 1947 c 266 § 29; Rem. Supp. 1947 § 4693-48. Formerly RCW 28A.315.410, 28A.57.270, 28.57.270.]

RCW 28A.323.080 Joint school districts--Assessed valuation--Certification.

It shall be the duty of the assessor of each county, a part of which is included within a joint school district, to certify annually to the auditor of the assessor's county and to the auditor of the county to which the joint district belongs, for the board of county commissioners thereof, the aggregate assessed valuation of all taxable property in the assessor's county situated in such joint school district, as the same appears from the last assessment roll of the assessor's county.

[1990 c 33 § 313; 1969 ex.s. c 223 § 28A.57.280. Prior: 1947 c 266 § 30; Rem. Supp. 1947 § 4693-49; prior: 1927 c 286 § 1; 1925 ex.s. c 77 § 8; RRS § 4753-8. Formerly RCW 28A.315.420, 28A.57.280, 28.57.280.]

RCW 28A.323.090 Joint school districts--Levy of tax.

The amount of tax to be levied upon the taxable property of that part of a joint school district lying in one county shall be in such ratio to the whole amount levied upon the property in the entire joint district as the assessed valuation of the property lying in such county bears to the assessed valuation of the property in the entire joint district.

[1983 c 56 § 7; 1975 1st ex.s. c 275 § 98; 1969 ex.s. c 176 § 135; 1969 ex.s. c 223 § 28A.57.290. Prior: 1947 c 266 § 31; Rem. Supp. 1947 § 4693-50; prior: (i) 1925 ex.s. c 77 § 10; RRS § 4753-10. (ii) 1927 c 286 § 2; RRS § 4753-11. Formerly RCW 28A.315.430, 28A.57.290, 28.57.290.]

Notes:

Severability--1983 c 56: See note following RCW 28A.195.010.

Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.323.100 Joint school districts--Levy of tax--Remittance to district treasurer.

Upon receipt of the aforesaid certificate, it shall be the duty of the county legislative authority of each county to levy on all taxable property of that part of the joint school district which lies within the county a tax sufficient to raise the amount necessary to meet the county's proportionate share of the estimated expenditures of the joint district, as shown by the certificate of the educational service district superintendent of the district to which the joint school district belongs. Such taxes shall be levied and collected in the same manner as other taxes are levied and collected, and the proceeds thereof shall be forwarded monthly by the treasurer of each county, other than the county to which the joint district belongs, to the treasurer of the county to which such district belongs and shall be placed to the credit of said district. The treasurer of the county to which a joint school district belongs is hereby declared to be the treasurer of such district.

[1994 c 301 § 3; 1975 1st ex.s. c 275 § 99; 1969 ex.s. c 176 § 136; 1969 ex.s. c 223 § 28A.57.300. Prior: 1947 c 266 § 32; Rem. Supp. 1947 § 4693-51. Formerly RCW 28A.315.440, 28A.57.300, 28.57.300.]

Notes:

Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

Chapter 28A.325 RCW
ASSOCIATED STUDENT BODIES

Sections

28A.325.010 Fees for optional noncredit extracurricular events--Disposition.
28A.325.020 Associated student bodies--Powers and responsibilities affecting.
28A.325.030 Associated student body program fund--Fund-raising activities--Nonassociated student body program fund moneys.

RCW 28A.325.010 Fees for optional noncredit extracurricular events--Disposition.

The board of directors of any common school district may establish and collect a fee from students and nonstudents as a condition to their attendance at any optional noncredit extracurricular event of the district which is of a cultural, social, recreational, or athletic nature: PROVIDED, That in so establishing such fee or fees, the district shall adopt regulations for waiving and reducing such fees in the cases of those students whose families, by reason of their low income, would have difficulty in paying the entire amount of such fees and may likewise

waive or reduce such fees for nonstudents of the age of sixty-five or over who, by reason of their low income, would have difficulty in paying the entire amount of such fees. An optional comprehensive fee may be established and collected for any combination or all of such events or, in the alternative, a fee may be established and collected as a condition to attendance at any single event. Fees collected pursuant to this section shall be deposited in the associated student body program fund of the school district, and may be expended to defray the costs of optional noncredit extracurricular events of such a cultural, social, recreational, or athletic nature, or to otherwise support the activities and programs of associated student bodies.

[1977 ex.s. c 170 § 1; 1975 1st ex.s. c 284 § 1. Formerly RCW 28A.58.113.]

Notes:

Severability--1975 1st ex.s. c 284: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of its provisions to other persons or circumstances is not affected." [1975 1st ex.s. c 284 § 4.]

RCW 28A.325.020 Associated student bodies--Powers and responsibilities affecting.

As used in this section, an "associated student body" means the formal organization of the students of a school formed with the approval of and regulation by the board of directors of the school district in conformity to the rules and regulations promulgated by the superintendent of public instruction: PROVIDED, That the board of directors of a school district may act or delegate the authority to an employee of the district to act as the associated student body for any school plant facility within the district containing no grade higher than the sixth grade.

The superintendent of public instruction, after consultation with appropriate school organizations and students, shall promulgate rules and regulations to designate the powers and responsibilities of the boards of directors of the school districts of the state of Washington in developing efficient administration, management, and control of moneys, records, and reports of the associated student bodies organized in the public schools of the state.

[1984 c 98 § 1; 1975 1st ex.s. c 284 § 3; 1973 c 52 § 1. Formerly RCW 28A.58.115.]

Notes:

Severability--1975 1st ex.s. c 284: See note following RCW 28A.325.010.

RCW 28A.325.030 Associated student body program fund--Fund-raising activities--Nonassociated student body program fund moneys.

(1)(a) There is hereby created a fund on deposit with each county treasurer for each school district of the county having an associated student body as defined in RCW 28A.325.020. Such fund shall be known as the associated student body program fund. Rules adopted by the superintendent of public instruction under RCW 28A.325.020 shall require separate accounting for each associated student body's transactions in the school district's associated student body program fund.

(b) All moneys generated through the programs and activities of any associated student

body shall be deposited in the associated student body program fund. Such funds may be invested for the sole benefit of the associated student body program fund in items enumerated in RCW 28A.320.320 and the county treasurer may assess a fee as provided therein. Disbursements from such fund shall be under the control and supervision, and with the approval, of the board of directors of the school district, and shall be by warrant as provided in chapter 28A.350 RCW: PROVIDED, That in no case shall such warrants be issued in an amount greater than the funds on deposit with the county treasurer in the associated student body program fund. To facilitate the payment of obligations, an imprest bank account or accounts may be created and replenished from the associated student body program fund.

(c) The associated student body program fund shall be budgeted by the associated student body, subject to approval by the board of directors of the school district. All disbursements from the associated student body program fund or any imprest bank account established thereunder shall have the prior approval of the appropriate governing body representing the associated student body. Notwithstanding the provisions of RCW 43.09.210, it shall not be mandatory that expenditures from the district's general fund in support of associated student body programs and activities be reimbursed by payments from the associated student body program fund.

(2) Subject to applicable school board policies, student groups may conduct fund-raising activities, including but not limited to soliciting donations, in their private capacities for the purpose of generating nonassociated student body fund moneys. The school board policy shall include provisions to ensure appropriate accountability for these funds. Nonassociated student body program fund moneys generated and received by students for private purposes to use for scholarship, student exchange, and/or charitable purposes shall be held in trust in one or more separate accounts within an associated student body program fund and be disbursed for such purposes as the student group conducting the fund-raising activity shall determine: PROVIDED, That the school district shall either withhold an amount from such moneys as will pay the district for its direct costs in providing the service or otherwise be compensated for its cost for such service. Nonassociated student body program fund moneys shall not be deemed public moneys under section 7, Article VIII of the state Constitution. Notice shall be given identifying the intended use of the proceeds. The notice shall also state that the proceeds are nonassociated student body funds to be held in trust by the school district exclusively for the intended purpose. "Charitable purpose" under this section does not include any activity related to assisting a campaign for election of a person to an office or for the promotion or opposition to a ballot proposition.

[2000 c 157 § 2; 1990 c 33 § 340; 1984 c 98 § 2; 1982 c 231 § 1; 1977 ex.s. c 160 § 1; 1975 1st ex.s. c 284 § 2. Formerly RCW 28A.58.120.]

Notes:

Findings--Intent--2000 c 157: "The legislature finds that current law permits associated student bodies to conduct fund-raising activities, including but not limited to soliciting donations, to raise money for school sports programs and school clubs. However, students also want to conduct fund-raising activities for charitable causes, such as to fund scholarships and student exchange programs, assist families whose homes have been destroyed, to fund community projects, and to rebuild the Statue of Liberty.

The legislature further finds that current law is not clear how student groups may raise funds for charitable

purposes, whether proceeds from any fund-raising activities can be used for charitable purposes or only donations may be used for charitable purposes, and whether recipients must be "poor or infirm." This has resulted in considerable confusion on the part of students regarding what type of fund-raising is permissible when funds are raised for charitable purposes by student groups.

It is the intent of the legislature to allow students to broaden the types of fund-raisers that they may conduct for charitable purposes in their private nonassociated student body capacities, and ensure that these funds will be separate from student body funds to avoid constitutional issues pertaining to the gifting of public funds." [2000 c 157 § 1.]

Severability--1982 c 231: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 231 § 2.]

Severability--1975 1st ex.s. c 284: See note following RCW 28A.325.010.

Establishment of associated student body fund: RCW 28A.320.330.

Chapter 28A.330 RCW
PROVISIONS APPLICABLE TO SCHOOL DISTRICTS

Sections

PROVISIONS APPLICABLE ONLY
TO FIRST CLASS DISTRICTS

28A.330.010 Board president, vice president or president pro tempore--Secretary.
28A.330.020 Certain board elections, manner and vote required--Selection of personnel, manner.
28A.330.030 Duties of president.
28A.330.040 Duties of vice president.
28A.330.050 Duties of superintendent as secretary of the board.
28A.330.060 Superintendent's bond and oath.
28A.330.070 Office of board--Records available for public inspection.
28A.330.080 Payment of claims--Signing of warrants.
28A.330.090 Auditing committee and expenditures.
28A.330.100 Additional powers of board.
28A.330.110 Insurance reserve--Funds.

PROVISIONS APPLICABLE ONLY
TO SECOND CLASS DISTRICTS

28A.330.200 Organization of board--Assumption of superintendent's duties by board member, when.
28A.330.210 Notice to ESD superintendent of change of chairman or superintendent.
28A.330.220 Attorney may be employed.
28A.330.230 Drawing and issuance of warrants.
28A.330.240 Employment contracts.

Notes:

Missing children, participation by local school districts in providing information: RCW 13.60.030.

PROVISIONS APPLICABLE ONLY TO FIRST CLASS DISTRICTS

RCW 28A.330.010 Board president, vice president or president pro tempore--Secretary.

At the first meeting of the members of the board they shall elect a president and vice president from among their number who shall serve for a term of one year or until their successors are elected. In the event of the temporary absence or disability of both the president and vice president, the board of directors may elect a president pro tempore who shall discharge all the duties of president during such temporary absence or disability.

The superintendent of such school district shall act as secretary to the board in accordance with the provisions of RCW 28A.400.030.

[1990 c 33 § 341; 1969 ex.s. c 223 § 28A.59.030. Prior: 1953 c 111 § 6; prior: 1909 c 97 p 290 § 3, part; RRS § 4792, part. Formerly RCW 28A.59.030, 28.62.030.]

RCW 28A.330.020 Certain board elections, manner and vote required--Selection of personnel, manner.

The election of the officers of the board of directors or to fill any vacancy as provided in *RCW 28A.315.530, and the selection of the school district superintendent shall be by oral call of the roll of all the members, and no person shall be declared elected or selected unless he or she receives a majority vote of all the members of the board. Selection of other certificated and classified personnel shall be made in such manner as the board shall determine.

[1997 c 13 § 8; 1990 c 33 § 342; 1969 ex.s. c 223 § 28A.59.040. Prior: 1909 c 97 p 290 § 4; RRS § 4793. Formerly RCW 28A.59.040, 28.62.040.]

Notes:

***Reviser's note:** RCW 28A.315.530 was recodified as RCW 28A.343.370 pursuant to 1999 c 315 § 804.

RCW 28A.330.030 Duties of president.

It shall be the duty of the president to preside at all meetings of the board, and to perform such other duties as the board may prescribe.

[1969 ex.s. c 223 § 28A.59.050. Prior: 1909 c 97 p 290 § 5; RRS § 4794. Formerly RCW 28A.59.050, 28.62.050.]

RCW 28A.330.040 Duties of vice president.

It shall be the duty of the vice president to perform all the duties of president in case of the president's absence or disability.

[1990 c 33 § 343; 1969 ex.s. c 223 § 28A.59.060. Prior: 1909 c 97 p 291 § 6; RRS § 4795. Formerly RCW 28A.59.060, 28.62.060.]

RCW 28A.330.050 Duties of superintendent as secretary of the board.

In addition to the duties as prescribed in RCW 28A.400.030, the school district

superintendent, as secretary of the board, may be authorized by the board to act as business manager, purchasing agent, and/or superintendent of buildings and janitors, and charged with the special care of school buildings and other property of the district, and he or she shall perform other duties as the board may direct.

[1990 c 33 § 344; 1969 ex.s. c 223 § 28A.59.070. Prior: 1919 c 90 § 8; 1909 c 97 p 291 § 7; RRS § 4796. Formerly RCW 28A.59.070, 28.62.070.]

RCW 28A.330.060 Superintendent's bond and oath.

Before entering upon the discharge of the superintendent's duties, the superintendent as secretary of the board shall give bond in such sum as the board of directors may fix from time to time, but for not less than five thousand dollars, with good and sufficient sureties, and shall take and subscribe an oath or affirmation, before a proper officer that he or she will support the Constitution of the United States and of the state of Washington and faithfully perform the duties of the office, a copy of which oath or affirmation shall be filed with the educational service district superintendent.

[1990 c 33 § 345; 1975 1st ex.s. c 275 § 117; 1971 c 48 § 33; 1969 ex.s. c 223 § 28A.59.080. Prior: 1909 c 97 p 291 § 8; RRS § 4797. Formerly RCW 28A.59.080, 28.62.080.]

Notes:

Severability--1971 c 48: See note following RCW 28A.305.040.

RCW 28A.330.070 Office of board--Records available for public inspection.

The board of directors shall maintain an office where all records, vouchers and other important papers belonging to the board may be preserved. Such records, vouchers, and other important papers at all reasonable times shall be available for public inspection. The regular meetings shall be held within the district boundaries.

[1989 c 232 § 1; 1969 ex.s. c 223 § 28A.59.100. Prior: 1909 c 97 p 291 § 10; RRS § 4799; prior: 1897 c 118 § 87; 1890 p 389 § 14. Formerly RCW 28A.59.100, 28.62.100.]

RCW 28A.330.080 Payment of claims--Signing of warrants.

Moneys of such school districts shall be paid out only upon orders for warrants signed by the president, or a majority of the board of directors and countersigned by the secretary: PROVIDED, That when, in the judgment of the board of directors, the orders for warrants issued by the district monthly shall have reached such numbers that the signing of each warrant by the president personally imposes too great a task on the president, the board of directors, after auditing all payrolls and bills as provided by RCW 28A.330.090, may authorize the issuing of one general certificate to the county treasurer, to be signed by the president, authorizing said treasurer to pay all the warrants specified by date, number, name and amount, and the funds on which said warrants shall be drawn; thereupon the secretary of said board shall be authorized to draw and sign said orders for warrants.

[1990 c 33 § 346; 1969 ex.s. c 223 § 28A.59.110. Prior: 1909 c 97 p 292 § 11; RRS § 4800. Formerly RCW 28A.59.110, 28.62.110.]

RCW 28A.330.090 Auditing committee and expenditures.

All accounts shall be audited by a committee of board members chosen in such manner as the board so determines to be styled the "auditing committee," and, except as otherwise provided by law, no expenditure greater than three hundred dollars shall be voted by the board except in accordance with a written contract, nor shall any money or appropriation be paid out of the school fund except on a recorded affirmative vote of a majority of all members of the board: PROVIDED, That nothing herein shall be construed to prevent the board from making any repairs or improvements to the property of the district through their shop and repair department as otherwise provided in RCW 28A.335.190.

[1990 c 33 § 347; 1983 c 56 § 9; 1975 1st ex.s. c 275 § 118; 1971 c 48 § 34; 1969 ex.s. c 223 § 28A.59.150. Prior: 1909 c 97 p 292 § 14; RRS § 4803. Formerly RCW 28A.59.150, 28.62.150, 28.62.160.]

Notes:

Severability--1983 c 56: See note following RCW 28A.195.010.
Severability--1971 c 48: See note following RCW 28A.305.040.

RCW 28A.330.100 Additional powers of board.

Every board of directors of a school district of the first class, in addition to the general powers for directors enumerated in this title, shall have the power:

(1) To employ for a term of not exceeding three years a superintendent of schools of the district, and for cause to dismiss him or her; and to fix his or her duties and compensation.

(2) To employ, and for cause dismiss one or more assistant superintendents and to define their duties and fix their compensation.

(3) To employ a business manager, attorneys, architects, inspectors of construction, superintendents of buildings and a superintendent of supplies, all of whom shall serve at the board's pleasure, and to prescribe their duties and fix their compensation.

(4) To employ, and for cause dismiss, supervisors of instruction and to define their duties and fix their compensation.

(5) To prescribe a course of study and a program of exercises which shall be consistent with the course of study prepared by the state board of education for the use of the common schools of this state.

(6) To, in addition to the minimum requirements imposed by this title establish and maintain such grades and departments, including night, high, kindergarten, vocational training and, except as otherwise provided by law, industrial schools, and schools and departments for the education and training of any class or classes of youth with disabilities, as in the judgment of the board, best shall promote the interests of education in the district.

(7) To determine the length of time over and above one hundred eighty days that school shall be maintained: PROVIDED, That for purposes of apportionment no district shall be

credited with more than one hundred and eighty-three days' attendance in any school year; and to fix the time for annual opening and closing of schools and for the daily dismissal of pupils before the regular time for closing schools.

(8) To maintain a shop and repair department, and to employ, and for cause dismiss, a foreman and the necessary help for the maintenance and conduct thereof.

(9) To provide free textbooks and supplies for all children attending school.

(10) To require of the officers or employees of the district to give a bond for the honest performance of their duties in such penal sum as may be fixed by the board with good and sufficient surety, and to cause the premium for all bonds required of all such officers or employees to be paid by the district: PROVIDED, That the board may, by written policy, allow that such bonds may include a deductible proviso not to exceed two percent of the officer's or employee's annual salary.

(11) To prohibit all secret fraternities and sororities among the students in any of the schools of the said districts.

(12) To appoint a practicing physician, resident of the school district, who shall be known as the school district medical inspector, and whose duty it shall be to decide for the board of directors all questions of sanitation and health affecting the safety and welfare of the public schools of the district who shall serve at the board's pleasure: PROVIDED, That children shall not be required to submit to vaccination against the will of their parents or guardian.

[1995 c 335 § 503; 1995 c 77 § 22; 1991 c 116 § 17; 1990 c 33 § 348; 1983 c 2 § 7. Prior: 1982 c 191 § 11; 1982 c 158 § 6; 1969 ex.s. c 223 § 28A.59.180; prior: 1919 c 90 § 9; 1909 c 97 p 293 § 16; RRS § 4805. Formerly RCW 28A.59.180, 28.62.180, 28.31.070.]

Notes:

Reviser's note: This section was amended by 1995 c 77 § 22 and by 1995 c 335 § 503, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

Severability--1983 c 2: See note following RCW 18.71.030.

Severability--1982 c 191: See note following RCW 28A.335.210.

Severability--1982 c 158: See note following RCW 28A.150.220.

RCW 28A.330.110 Insurance reserve--Funds.

School districts of the first class, when in the judgment of the board of directors it be deemed expedient, shall have power to create and maintain an insurance reserve for said districts, to be used to meet losses specified by the board of directors of the school districts.

Funds required for maintenance of such an insurance reserve shall be budgeted and allowed as are other moneys required for the support of the school district.

[1983 c 59 § 16; 1982 c 191 § 12; 1969 ex.s. c 223 § 28A.59.185. Prior: (i) 1911 c 79 § 1; RRS § 4707. Formerly RCW 28.59.010. (ii) 1911 c 79 § 2; RRS § 4708. Formerly RCW 28.59.020. (iii) 1941 c 187 § 1; 1911 c 79 § 3; Rem. Supp. 1941 § 4709. Formerly RCW 28A.59.185, 28.59.030.]

Notes:

Application--Effective date--Severability--1983 c 59: See notes following RCW 28A.505.010.
Severability--1982 c 191: See note following RCW 28A.335.210.

PROVISIONS APPLICABLE ONLY TO SECOND CLASS DISTRICTS

RCW 28A.330.200 Organization of board--Assumption of superintendent's duties by board member, when.

The term of office of directors of districts of the second class shall begin, and the board shall organize, as provided in *RCW 28A.315.500. At the first meeting of the members of the board they shall elect a chair from among their number who shall serve for a term of one year or until his or her successor is elected. The school district superintendent as defined in RCW 28A.150.080 shall serve as secretary to the board. Whenever a district shall be without the services of such a superintendent and the business of the district necessitates action thereby, the board shall appoint any member thereof to carry out the superintendent's powers and duties for the district.

[1990 c 33 § 349; 1988 c 187 § 2; 1975 c 43 § 14; 1969 ex.s. c 223 § 28A.60.010. Prior: 1953 c 111 § 1; prior: (i) 1909 c 97 p 298 § 5; RRS § 4815. (ii) 1909 c 97 p 301 § 5; RRS § 4827. Formerly RCW 28A.60.010, 28.63.010.]

Notes:

***Reviser's note:** RCW 28A.315.500 was recodified as RCW 28A.343.360 pursuant to 1999 c 315 § 804.
Effective date--Severability--1975 c 43: See notes following RCW 28A.535.050.

RCW 28A.330.210 Notice to ESD superintendent of change of chairman or superintendent.

Every school district superintendent in districts of the second class shall within ten days after any change in the office of chair or superintendent, notify the educational service district superintendent of such change.

[1990 c 33 § 350; 1975-'76 2nd ex.s. c 15 § 11. Prior: 1975 1st ex.s. c 275 § 119; 1975 c 43 § 15; 1971 c 48 § 35; 1969 ex.s. c 223 § 28A.60.070; prior: 1909 c 97 p 304 § 1; RRS § 4841; prior: 1903 c 104 § 19. Formerly RCW 28A.60.070, 28.63.070.]

Notes:

Effective date--Severability--1975 c 43: See notes following RCW 28A.535.050.
Severability--1971 c 48: See note following RCW 28A.305.040.

RCW 28A.330.220 Attorney may be employed.

The board of directors of every second class district in addition to their other powers are authorized to employ an attorney and to prescribe the attorney's duties and fix the attorney's compensation.

[1990 c 33 § 351; 1975 c 43 § 19; 1971 c 8 § 5. Prior: 1967 c 220 § 1. Formerly RCW 28A.60.310, 28.63.340.]

Notes:

Effective date--Severability--1975 c 43: See notes following RCW 28A.535.050.
Severability--1971 c 8: See note following RCW 28A.320.310.

RCW 28A.330.230 Drawing and issuance of warrants.

Second class school districts, subject to the approval of the superintendent of public instruction, may draw and issue warrants for the payment of moneys upon approval of a majority of the board of directors, such warrants to be signed by the chair of the board and countersigned by the secretary: PROVIDED, That when, in the judgment of the board of directors, the orders for warrants issued by the district monthly shall have reached such numbers that the signing of each warrant by the chair of the board personally imposes too great a task on the chair, the board of directors, after auditing all payrolls and bills, may authorize the issuing of one general certificate to the county treasurer, to be signed by the chair of the board, authorizing said treasurer to pay all the warrants specified by date, number, name and amount, and the funds on which said warrants shall be drawn; thereupon the secretary of said board shall be authorized to draw and sign said orders for warrants.

[1990 c 33 § 352; 1983 c 56 § 10; 1975 c 43 § 21; 1973 c 111 § 1. Formerly RCW 28A.60.328.]

Notes:

Severability--1983 c 56: See note following RCW 28A.195.010.
Effective date--Severability--1975 c 43: See notes following RCW 28A.535.050.
Severability--1973 c 111: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 111 § 6.]

RCW 28A.330.240 Employment contracts.

The board of directors of each second class school district shall adopt a written policy governing procedures for the letting of any employment contract authorized under RCW 42.23.030. This policy shall include provisions to ensure fairness and the appearance of fairness in all matters pertaining to employment contracts so authorized.

[1989 c 263 § 2. Formerly RCW 28A.60.360.]

Notes:

Severability--1989 c 263: See note following RCW 42.23.030.

Chapter 28A.335 RCW
SCHOOL DISTRICTS' PROPERTY

Sections

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28A.335.020 School closures--Policy of citizen involvement required--Summary of effects--Hearings--Notice.
28A.335.030 Emergency school closures exempt from RCW 28A.335.020.
28A.335.040 Surplus school property, rental, lease, or use of--Authorized--Limitations.

28A.335.050 Surplus school property, rental, lease or use of--Joint use--Compensation--Conditions generally.
28A.335.060 Surplus school property--Rental, lease or use of--Disposition of moneys received from.
28A.335.070 Surplus school property, rental, lease or use of--Existing contracts not impaired.
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28A.335.250 School property used for public purposes.
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28A.335.290 Housing for superintendent--Authorized--Limitation.
28A.335.300 Playground matting.
28A.335.320 Enhanced 911 service--Common and public school service required.

Notes:

Chapter not to apply to certain materials printed in school districts: RCW 82.04.600.
Contracts with community service organizations for public improvements: RCW 35.21.278.
Determination if lands purchased or leased by school districts are used as school sites--Reversion: RCW 79.01.780.
Dissolution of inactive port districts, assets to school districts: RCW 53.47.040.
Interlocal cooperation act: Chapter 39.34 RCW.
School districts, purchase of leased lands with improvements: RCW 79.01.770 through 79.01.778.
Subcontractors to be identified by bidder, when: RCW 39.30.060.

RCW 28A.335.010 School buildings, maintenance, furnishing and insuring.

Every board of directors, unless otherwise specifically provided by law, shall:

(1) Cause all school buildings to be properly heated, lighted and ventilated and maintained in a clean and sanitary condition; and

(2) Maintain and repair, furnish and insure such school buildings.

[1969 ex.s. c 223 § 28A.58.102. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28A.58.102, 28.58.100(3), part, and (4) part.]

Notes:
Energy audits and energy capital improvements: RCW 28A.320.330.

RCW 28A.335.020 School closures--Policy of citizen involvement required--Summary of effects--Hearings--Notice.

Before any school closure, a school district board of directors shall adopt a policy regarding school closures which provides for citizen involvement before the school district board of directors considers the closure of any school for instructional purposes. The policy adopted shall include provisions for the development of a written summary containing an analysis as to the effects of the proposed school closure. The policy shall also include a requirement that during the ninety days before a school district's final decision upon any school closure, the school board of directors shall conduct hearings to receive testimony from the public on any issues related to the closure of any school for instructional purposes. The policy shall require separate hearings for each school which is proposed to be closed.

The policy adopted shall provide for reasonable notice to the residents affected by the proposed school closure. At a minimum, the notice of any hearing pertaining to a proposed school closure shall contain the date, time, place, and purpose of the hearing. Notice of each hearing shall be published once each week for two consecutive weeks in a newspaper of general circulation in the area where the school, subject to closure, is located. The last notice of hearing shall be published not later than seven days immediately before the final hearing.

[1983 c 109 § 2. Formerly RCW 28A.58.031.]

Notes:
Application of RCW 43.21C.030(2)(c) to school closures: RCW 43.21C.038.

RCW 28A.335.030 Emergency school closures exempt from RCW 28A.335.020.

A school district may close a school for emergency reasons, as set forth in RCW 28A.150.290(2) (a) and (b), without complying with the requirements of RCW 28A.335.020.

[1990 c 33 § 353; 1983 c 109 § 3. Formerly RCW 28A.58.032.]

RCW 28A.335.040 Surplus school property, rental, lease, or use of--Authorized--Limitations.

(1) Every school district board of directors is authorized to permit the rental, lease, or

occasional use of all or any portion of any surplus real property owned or lawfully held by the district to any person, corporation, or government entity for profit or nonprofit, commercial or noncommercial purposes: PROVIDED, That the leasing or renting or use of such property is for a lawful purpose and does not interfere with conduct of the district's educational program and related activities: PROVIDED FURTHER, That the lease or rental agreement entered into shall include provisions which permit the recapture of the leased or rented surplus property of the district should such property be needed for school purposes in the future except in such cases where, due to proximity to an international airport, land use has been so permanently altered as to preclude the possible use of the property for a school housing students and the school property has been heavily impacted by surrounding land uses so that a school housing students would no longer be appropriate in that area.

(2) Authorization to rent, lease or permit the occasional use of surplus school property under this section, RCW 28A.335.050 and 28A.335.090 is conditioned on the establishment by each school district board of directors of a policy governing the use of surplus school property.

(3) The board of directors of any school district desiring to rent or lease any surplus real property owned by the school district shall publish a written notice in a newspaper of general circulation in the school district for rentals or leases totalling ten thousand dollars or more in value. School districts shall not rent or lease the property for at least forty-five days following the publication of the newspaper notice.

(4) Private schools shall have the same rights as any other person or entity to submit bids for the rental or lease of surplus real property and to have such bids considered along with all other bids: PROVIDED, That the school board may establish reasonable conditions for the use of such real property to assure the safe and proper operation of the property in a manner consistent with board policies.

[1991 c 116 § 12. Prior: 1990 c 96 § 1; 1990 c 33 § 354; 1981 c 306 § 2; 1980 c 115 § 2. Formerly RCW 28A.58.033.]

Notes:

Severability--1981 c 306: See note following RCW 28A.335.180.

Severability--1980 c 115: See note following RCW 28A.335.090.

RCW 28A.335.050 Surplus school property, rental, lease or use of--Joint use--Compensation--Conditions generally.

(1) Authorization to rent, lease, or permit the occasional use of surplus school property under RCW 28A.335.040 may include the joint use of school district property, which is in part used for school purposes, by any combination of persons, corporations or government entities for other than common school purposes: PROVIDED, That any such joint use shall comply with existing local zoning ordinances.

(2) Authorization to rent, lease, or permit the occasional use of surplus school property under RCW 28A.335.040 shall be conditioned on the payment by all users, lessees or tenants, assessed on a basis that is nondiscriminatory within classes of users, of such reasonable compensation and under such terms as regulations adopted by the board of directors shall

provide.

(3) Nothing in RCW 28A.335.040 and 28A.335.090 shall prohibit a school board of directors and a lessee or tenant from agreeing to conditions to the lease otherwise lawful, including conditions of reimbursement or partial reimbursement of costs associated with the lease or rental of the property.

[1990 c 33 § 355; 1980 c 115 § 3. Formerly RCW 28A.58.034.]

Notes:

Severability--1980 c 115: See note following RCW 28A.335.090.

RCW 28A.335.060 Surplus school property--Rental, lease or use of--Disposition of moneys received from.

Each school district's board of directors shall deposit moneys derived from the lease, rental or occasional use of surplus school property as follows:

(1) Moneys derived from real property shall be deposited into the district's debt service fund and/or capital projects fund except for moneys required to be expended for general maintenance, utility, insurance costs, and any other costs associated with the lease or rental of such property, which moneys shall be deposited in the district's general fund;

(2) Moneys derived from pupil transportation vehicles shall be deposited in the district's transportation vehicle fund;

(3) Moneys derived from other personal property shall be deposited in the district's general fund.

[1989 c 86 § 2; 1983 c 59 § 15; 1982 c 191 § 4; 1981 c 250 § 4; 1980 c 115 § 4. Formerly RCW 28A.58.035.]

Notes:

Application--Effective date--Severability--1983 c 59: See notes following RCW 28A.505.010.

Effective date--1982 c 191 §§ 3 and 4: See note following RCW 28A.335.170.

Severability--1982 c 191: See note following RCW 28A.335.210.

Effective date--1981 c 250: "The effective date of this amendatory act shall be September 1, 1981." [1981 c 250 § 5.]

Severability--1980 c 115: See note following RCW 28A.335.090.

School funds enumerated--Deposits--Uses: RCW 28A.320.330.

RCW 28A.335.070 Surplus school property, rental, lease or use of--Existing contracts not impaired.

The provisions of contracts for the use, rental or lease of school district real property executed prior to June 12, 1980, which were lawful at the time of execution shall not be impaired by such new terms and conditions to the rental, lease or occasional use of school property as may now be established by RCW 28A.335.040, 28A.335.050, and 28A.335.090.

[1990 c 33 § 356; 1980 c 115 § 5. Formerly RCW 28A.58.036.]

Notes:

Severability--1980 c 115: See note following RCW 28A.335.090.

RCW 28A.335.080 Surplus school property, rental, lease or use of--Community use not impaired.

Nothing in RCW 28A.335.040 through 28A.335.070 shall preclude school district boards of directors from making available school property for community use in accordance with the provisions of RCW 28A.335.150, 28A.320.510, or 28A.335.250, and school district administrative policy governing such use.

[1990 c 33 § 357; 1980 c 115 § 6. Formerly RCW 28A.58.037.]

Notes:

Severability--1980 c 115: See note following RCW 28A.335.090.

RCW 28A.335.090 Conveyance and acquisition of property--Management--Appraisal.

(1) The board of directors of each school district shall have exclusive control of all school property, real or personal, belonging to the district; said board shall have power, subject to RCW 28A.335.120, in the name of the district, to convey by deed all the interest of their district in or to any real property of the district which is no longer required for school purposes. Except as otherwise specially provided by law, and RCW 28A.335.120, the board of directors of each school district may purchase, lease, receive and hold real and personal property in the name of the district, and rent, lease or sell the same, and all conveyances of real estate made to the district shall vest title in the district.

(2) Any purchase of real property by a school district shall be preceded by a market value appraisal by a professionally designated real estate appraiser as defined in RCW 74.46.020 or by a general real estate appraiser certified under chapter 18.140 RCW who was selected by the board of directors.

[2001 c 183 § 1; 1995 c 358 § 1; 1990 c 33 § 358; 1981 c 306 § 3; 1980 c 115 § 1; 1969 ex.s. c 223 § 28A.58.040. Prior: (i) 1947 c 266 § 6, part; Rem. Supp. 1947 § 4693-25, part; prior: 1909 p 265 § 2, part. Formerly RCW 28.57.135, part. (ii) 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28.58.100(3) and (5), part. (iii) 1909 c 97 p 287 § 7, part; RRS § 4782, part; prior: 1897 c 118 § 44, part; 1891 c 127 § 11, part; 1890 p 366 § 30, part. Formerly RCW 28A.58.040, 28.58.040.]

NOTES:

Severability--1981 c 306: See note following RCW 28A.335.180.

Severability--1980 c 115: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 115 § 9.]

RCW 28A.335.100 School district associations, right to mortgage or convey money security interest in association property--Limitations.

Any association established by school districts pursuant to the interlocal cooperation act, chapter 39.34 RCW for the purpose of jointly and cooperatively purchasing school supplies,

materials and equipment, if otherwise authorized for school district purposes to purchase personal or real property, is hereby authorized, subject to rules and regulations of the state board of education, to mortgage, or convey a purchase money security interest in real or personal property of such association of every kind, character or description whatsoever, or any interest in such personal or real property: PROVIDED, That any such association shall be prohibited from causing any creditor of the association to acquire any rights against the property, properties or assets of any of its constituent school districts and any creditor of such association shall be entitled to look for payment of any obligation incurred by such association solely to the assets and properties of such association.

[1975-'76 2nd ex.s. c 23 § 1. Formerly RCW 28A.58.0401.]

RCW 28A.335.110 Real property--Annexation to city or town.

In addition to other powers and duties as provided by law, every board of directors, if seeking to have school property annexed to a city or town and if such school property constitutes the whole of such property in the annexation petition, shall be allowed to petition therefor under RCW 35.13.125 and 35.13.130.

[1971 c 69 § 3. Formerly RCW 28A.58.044.]

Notes:

Severability--1971 c 69: See note following RCW 35.13.125.

RCW 28A.335.120 Real property--Sale--Notice of and hearing on--Appraisal required--Broker or real estate appraiser services--Real estate sales contracts, limitation.

(1) The board of directors of any school district of this state may:

(a) Sell for cash, at public or private sale, and convey by deed all interest of the district in or to any of the real property of the district which is no longer required for school purposes; and

(b) Purchase real property for the purpose of locating thereon and affixing thereto any house or houses and appurtenant buildings removed from school sites owned by the district and sell for cash, at public or private sale, and convey by deed all interest of the district in or to such acquired and improved real property.

(2) When the board of directors of any school district proposes a sale of school district real property pursuant to this section and the value of the property exceeds seventy thousand dollars, the board shall publish a notice of its intention to sell the property. The notice shall be published at least once each week during two consecutive weeks in a legal newspaper with a general circulation in the area in which the school district is located. The notice shall describe the property to be sold and designate the place where and the day and hour when a hearing will be held. The board shall hold a public hearing upon the proposal to dispose of the school district property at the place and the day and hour fixed in the notice and admit evidence offered for and against the propriety and advisability of the proposed sale.

(3) The board of directors of any school district desiring to sell surplus real property shall

publish a notice in a newspaper of general circulation in the school district. School districts shall not sell the property for at least forty-five days following the publication of the newspaper notice.

(4) Private schools shall have the same rights as any other person or entity to submit bids for the purchase of surplus real property and to have such bids considered along with all other bids.

(5) Any sale of school district real property authorized pursuant to this section shall be preceded by a market value appraisal by a professionally designated real estate appraiser as defined in RCW 74.46.020 or a general real estate appraiser certified under chapter 18.140 RCW selected by the board of directors and no sale shall take place if the sale price would be less than ninety percent of the appraisal made by the real estate appraiser: PROVIDED, That if the property has been on the market for one year or more the property may be reappraised and sold for not less than seventy-five percent of the reappraised value with the unanimous consent of the board.

(6) If in the judgment of the board of directors of any district the sale of real property of the district not needed for school purposes would be facilitated and greater value realized through use of the services of licensed real estate brokers, a contract for such services may be negotiated and concluded: PROVIDED, That the use of a licensed real estate broker will not eliminate the obligation of the board of directors to provide the notice described in this section: PROVIDED FURTHER, That the fee or commissions charged for any broker services shall not exceed seven percent of the resulting sale value for a single parcel: PROVIDED FURTHER, That any professionally designated real estate appraiser as defined in RCW 74.46.020 or a general real estate appraiser certified under chapter 18.140 RCW selected by the board to appraise the market value of a parcel of property to be sold may not be a party to any contract with the school district to sell such parcel of property for a period of three years after the appraisal.

(7) If in the judgment of the board of directors of any district the sale of real property of the district not needed for school purposes would be facilitated and greater value realized through sale on contract terms, a real estate sales contract may be executed between the district and buyer: PROVIDED, That the terms and conditions of any such sales contract must comply with rules and regulations of the state board of education, herein authorized, governing school district real property contract sales.

[2001 c 183 § 2; 1995 c 358 § 2; 1991 c 116 § 13; 1984 c 103 § 1; 1981 c 306 § 4; 1979 ex.s. c 16 § 1; 1975 1st ex.s. c 243 § 1; 1969 ex.s. c 223 § 28A.58.045. Prior: 1963 c 67 § 1; 1953 c 225 § 1. Formerly RCW 28A.58.045, 28.58.045.]

NOTES:

Severability--1981 c 306: See note following RCW 28A.335.180.

RCW 28A.335.130 Real property--Sale--Use of proceeds.

The proceeds from any sale of school district real property by a board of directors shall be deposited to the debt service fund and/or the capital projects fund, except for amounts required to be expended for the costs associated with the sale of such property, which moneys

may be deposited into the fund from which the expenditure was incurred.

[1983 c 59 § 14; 1981 c 250 § 3; 1975-'76 2nd ex.s. c 80 § 1; 1975 1st ex.s. c 243 § 2. Formerly RCW 28A.58.0461.]

Notes:

Application--Effective date--Severability--1983 c 59: See notes following RCW 28A.505.010.

Effective date--1981 c 250: See note following RCW 28A.335.060.

School funds enumerated--Deposits--Uses: RCW 28A.320.330.

RCW 28A.335.140 Expenditure of funds on county, city building authorized--Conditions.

Notwithstanding any other provision of law, every school district board of directors may expend local funds held for capital projects or improvements for improvements on any building owned by a city or county in which the district or any part thereof is located if an agreement is entered into with such city or county whereby the school district receives a beneficial use of such building commensurate to the amount of funds expended thereon by the district.

[1971 ex.s. c 238 § 3. Formerly RCW 28A.58.047.]

RCW 28A.335.150 Permitting use and rental of playgrounds, athletic fields or athletic facilities.

Boards of directors of school districts are hereby authorized to permit the use of, and to rent school playgrounds, athletic fields, or athletic facilities, by, or to, any person or corporation for any athletic contests or athletic purposes.

Permission to use and/or rent said school playgrounds, athletic fields, or athletic facilities shall be for such compensation and under such terms as regulations of the board of directors adopted from time to time so provide.

[1969 ex.s. c 223 § 28A.58.048. Prior: (i) 1935 c 99 § 1; Rem. Supp. §4776-1. Formerly RCW 28.58.048. (ii) 1935 c 99 § 2; RRS § 4776-2. Formerly RCW 28A.58.048, 28.58.050.]

RCW 28A.335.155 Use of buildings for youth programs--Limited immunity.

In order to facilitate school districts permitting the use of school buildings for use by private nonprofit groups operating youth programs, school districts shall have a limited immunity in accordance with RCW 4.24.660. Nothing in RCW 4.24.660, including a school district's failure to require a private nonprofit group to have liability insurance, broadens the scope of a school district's liability.

[1999 c 316 § 2.]

Notes:

Intent--1999 c 316: "The legislature intends to expand the opportunities of children to take advantage of services of private nonprofit groups by encouraging the groups' use of public school district facilities to provide programs to serve youth in the facilities. The legislature intends the very limited grant of immunity provided in this

act to encourage such use, but only under the circumstances set forth in this act." [1999 c 316 § 1.]

Effective date--1999 c 316: "This act takes effect January 1, 2000." [1999 c 316 § 4.]

RCW 28A.335.160 Joint educational facilities, services or programs--Rules.

Any school district may cooperate with one or more school districts in the joint financing, planning, construction, equipping and operating of any educational facility otherwise authorized by law: PROVIDED, That any cooperative financing plan involving the construction of school plant facilities must be approved by the state board of education pursuant to such rules as may now or hereafter be promulgated relating to state approval of school construction.

[1995 c 335 § 604; 1990 c 33 § 359; 1969 c 130 § 12. Formerly RCW 28A.58.075.]

Notes:

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

Conditional sales contracts for acquisition of property or property rights: RCW 28A.335.200.

Education of children with disabilities: RCW 28A.155.040.

RCW 28A.335.170 Contracts to lease building space and portable buildings, rent or have maintained security systems, computers, and other equipment, and provide pupil transportation services.

The board of directors of any school district may enter into contracts for their respective districts with public and private persons, organizations, and entities for the following purposes:

(1) To rent or lease building space and portable buildings for periods not exceeding ten years in duration;

(2) To rent security systems, computers, and other equipment or to have maintained and repaired security systems, computers, and other equipment for periods not exceeding five years in duration; and

(3) To provide pupil transportation services for periods not exceeding five years in duration.

No school district may enter into a contract for pupil transportation unless it has notified the superintendent of public instruction that, in the best judgment of the district, the cost of contracting will not exceed the projected cost of operating its own pupil transportation.

The budget of each school district shall identify that portion of each contractual liability incurred pursuant to this section extending beyond the fiscal year by amount, duration, and nature of the contracted service and/or item in accordance with rules and regulations of the superintendent of public instruction adopted pursuant to RCW 28A.505.140 and 28A.310.330.

The provisions of this section shall not have any effect on the length of contracts for school district employees specified by RCW 28A.400.300 and 28A.405.210.

[1999 c 386 § 1; 1990 c 33 § 360; 1987 c 141 § 1; 1985 c 7 § 93; 1982 c 191 § 3; 1977 ex.s. c 210 § 1. Formerly RCW 28A.58.131.]

Notes:

Severability--1987 c 141: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not

affected." [1987 c 141 § 3.]

Effective date--1982 c 191 §§ 3 and 4: "The effective date of sections 3 and 4 of this amendatory act shall be September 1, 1982." [1982 c 191 § 13.]

Severability--1982 c 191: See note following RCW 28A.335.210.

Severability--1977 ex.s. c 210: "If any provision of this 1977 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 210 § 3.]

RCW 28A.335.180 Surplus texts and other educational aids, notice of availability--Student priority as to texts.

(1) Notwithstanding any other provision of law, school districts, educational service districts, or any other state or local governmental agency concerned with education, when declaring texts and other books, equipment, materials or relocatable facilities as surplus, shall, prior to other disposal thereof, serve notice in writing in a newspaper of general circulation in the school district and to any public school district or private school in Washington state annually requesting such a notice, that the same is available for sale, rent, or lease to public school districts or approved private schools, at depreciated cost or fair market value, whichever is greater: PROVIDED, That students wishing to purchase texts pursuant to RCW 28A.320.230(2) shall have priority as to such texts. The notice requirement in this section does not apply to the sale or transfer of assistive devices under RCW 28A.335.205 or chapter 72.40 RCW. Such districts or agencies shall not otherwise sell, rent or lease such surplus property to any person, firm, organization, or nongovernmental agency for at least thirty days following publication of notice in a newspaper of general circulation in the school district.

(2) In lieu of complying with subsection (1) of this section, school districts and educational service districts may elect to grant surplus personal property to a federal, state, or local governmental entity, or to indigent persons, at no cost on the condition the property be used for preschool through twelfth grade educational purposes, or elect to loan surplus personal property to a nonreligious, nonsectarian private entity on the condition the property be used for the preschool through twelfth grade education of members of the public on a nondiscriminatory basis.

[1997 c 264 § 1; 1997 c 104 § 1; 1991 c 116 § 1; 1990 c 33 § 361; 1981 c 306 § 1; 1977 ex.s. c 303 § 1. Formerly RCW 28A.02.110.]

Notes:

Reviser's note: This section was amended by 1997 c 104 § 1 and by 1997 c 264 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability--1981 c 306: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 306 § 5.]

Disposal of obsolete or surplus reading materials by school districts and libraries: RCW 39.33.070.

RCW 28A.335.190 Advertising for bids--Competitive bid procedures--Telephone or

written quotation solicitation, limitations--Emergencies.

(1) When, in the opinion of the board of directors of any school district, the cost of any furniture, supplies, equipment, building, improvements, or repairs, or other work or purchases, except books, will equal or exceed the sum of fifty thousand dollars, complete plans and specifications for such work or purchases shall be prepared and notice by publication given in at least one newspaper of general circulation within the district, once each week for two consecutive weeks, of the intention to receive bids therefor and that specifications and other information may be examined at the office of the board or any other officially designated location: PROVIDED, That the board without giving such notice may make improvements or repairs to the property of the district through the shop and repair department of such district when the total of such improvements or repair does not exceed the sum of (a) fifteen thousand dollars, for districts with fifteen thousand five hundred or more full-time equivalent students; or (b) for districts with fewer than fifteen thousand five hundred full-time equivalent students, fifteen thousand dollars if more than one craft or trade is involved with the school district improvement or repair, or ten thousand dollars if a single craft or trade is involved with the school district improvement or repair. The cost of any public work, improvement or repair for the purposes of this section shall be the aggregate of all amounts to be paid for labor, material, and equipment on one continuous or interrelated project where work is to be performed simultaneously or in close sequence. The bids shall be in writing and shall be opened and read in public on the date and in the place named in the notice and after being opened shall be filed for public inspection.

(2) Every purchase of furniture, equipment or supplies, except books, the cost of which is estimated to be in excess of fifteen thousand dollars, shall be on a competitive basis. The board of directors shall establish a procedure for securing telephone and/or written quotations for such purchases. Whenever the estimated cost is from fifteen thousand dollars up to fifty thousand dollars, the procedure shall require quotations from at least three different sources to be obtained in writing or by telephone, and recorded for public perusal. Whenever the estimated cost is in excess of fifty thousand dollars, the public bidding process provided in subsection (1) of this section shall be followed.

(3) Every building, improvement, repair or other public works project, the cost of which is estimated to be in excess of (a) fifteen thousand dollars, for districts with fifteen thousand five hundred or more full-time equivalent students; or (b) for districts with fewer than fifteen thousand five hundred full-time equivalent students, fifteen thousand dollars if more than one craft or trade is involved with the school district improvement or repair, or ten thousand dollars if a single craft or trade is involved with the school district improvement or repair, shall be on a competitive bid process. Whenever the estimated cost of a public works project is fifty thousand dollars or more, the public bidding process provided in subsection (1) of this section shall be followed unless the contract is let using the small works roster process in RCW 39.04.155 or under any other procedure authorized for school districts. One or more school districts may authorize an educational service district to establish and operate a small works roster for the school district under the provisions of RCW 39.04.155.

(4) The contract for the work or purchase shall be awarded to the lowest responsible

bidder as defined in RCW 43.19.1911 but the board may by resolution reject any and all bids and make further calls for bids in the same manner as the original call. On any work or purchase the board shall provide bidding information to any qualified bidder or the bidder's agent, requesting it in person.

(5) In the event of any emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board declaring the existence of such an emergency and reciting the facts constituting the same, the board may waive the requirements of this section with reference to any purchase or contract: PROVIDED, That an "emergency", for the purposes of this section, means a condition likely to result in immediate physical injury to persons or to property of the school district in the absence of prompt remedial action.

(6) This section does not apply to the direct purchase of school buses by school districts and educational services in accordance with RCW 28A.160.195.

[2000 c 138 § 201; 1995 1st sp.s. c 10 § 3; 1994 c 212 § 1; 1990 c 33 § 362; 1985 c 324 § 1; 1980 c 61 § 1; 1975-'76 2nd ex.s. c 26 § 1; 1969 ex.s. c 49 § 2; 1969 ex.s. c 223 § 28A.58.135. Prior: 1961 c 224 § 1. Formerly RCW 28A.58.135, 28.58.135.]

Notes:

Purpose--Part headings not law--2000 c 138: See notes following RCW 39.04.155.

RCW 28A.335.200 Conditional sales contracts for acquisition of property or property rights.

Any school district may execute an executory conditional sales contract with any other municipal corporation, the state or any of its political subdivisions, the government of the United States or any private party for the purchase of any real or personal property, or property rights, in connection with the exercise of any powers or duties which they now or hereafter are authorized to exercise, if the entire amount of the purchase price specified in such contract does not result in a total indebtedness in excess of the limitation authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred without the assent of the voters: PROVIDED, That if such a proposed contract would result in a total indebtedness in excess of the limitation authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred without the assent of the voters, a proposition in regard to whether or not such a contract may be executed shall be submitted to the voters for approval or rejection in the same manner that bond issues for capital purposes are submitted to the voters: PROVIDED FURTHER, That any school district may jointly with another school district execute contracts authorized by this section.

[1970 ex.s. c 42 § 11; 1969 ex.s. c 223 § 28A.58.550. Prior: 1965 c 62 § 1. Formerly RCW 28A.58.550, 28.58.550.]

Notes:

Severability--Effective date--1970 ex.s. c 42: See notes following RCW 39.36.015.

Transportation vehicle fund--Deposits in--Use--Rules for establishment and use: RCW 28A.160.130.

RCW 28A.335.205 Assistive devices--Transfer for benefit of children with disabilities--Record, inventory.

Notwithstanding any other provision of law, the office of the superintendent of public instruction, the Washington state school for the blind, the Washington state school for the deaf, school districts, educational service districts, and all other state or local governmental agencies concerned with education may loan, lease, sell, or transfer assistive devices for the use and benefit of children with disabilities to children with disabilities or their parents or to any other public or private nonprofit agency providing services to or on behalf of individuals with disabilities including but not limited to any agency providing educational, health, or rehabilitation services. The notice requirement in RCW 28A.335.180 does not apply to the loan, lease, sale, or transfer of such assistive devices. The sale or transfer of such devices is authorized under this section regardless of whether or not the devices have been declared surplus. The sale or transfer shall be recorded in an agreement between the parties and based upon the item's depreciated value.

For the purposes of this section, "assistive device" means any item, piece of equipment, or product system, whether acquired commercially off-the-shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of children with disabilities.

For the purpose of implementing this section, each educational agency shall establish and maintain an inventory of assistive technology devices in its possession that exceed one hundred dollars and, for each such device, shall establish a value, which shall be adjusted annually to reflect depreciation.

This section shall not enhance or diminish the obligation of school districts to provide assistive technology to children with disabilities where needed to achieve a free and appropriate public education and equal opportunity in accessing academic and extracurricular activities.

[1997 c 104 § 2.]

RCW 28A.335.210 Purchase of works of art--Procedure.

The state board of education and superintendent of public instruction shall allocate, as a nondeductible item, out of any moneys appropriated for state assistance to school districts for the original construction of any school plant facility the amount of one-half of one percent of the appropriation to be expended by the Washington state arts commission for the acquisition of works of art. The works of art may be placed in accordance with Article IX, sections 2 and 3 of the state Constitution on public lands, integral to or attached to a public building or structure, detached within or outside a public building or structure, part of a portable exhibition or collection, part of a temporary exhibition, or loaned or exhibited in other public facilities. The Washington state arts commission shall, in consultation with the superintendent of public instruction, determine the amount to be made available for the purchase of works of art under this section, and payments therefor shall be made in accordance with law. The designation of projects and sites, selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works

of art shall be the responsibility of the Washington state arts commission in consultation with the superintendent of public instruction and representatives of school district boards of directors. However, the costs to carry out the Washington state arts commission's responsibility for maintenance shall not be funded from the moneys referred to under this section, RCW 43.17.200, 43.19.455, or 28B.10.025, but shall be contingent upon adequate appropriations being made for that purpose: PROVIDED, That the superintendent of public instruction and the school district board of directors of the districts where the sites are selected shall have the right to:

(1) Waive its use of the one-half of one percent of the appropriation for the acquisition of works of art before the selection process by the Washington state arts commission;

(2) Appoint a representative to the body established by the Washington state arts commission to be part of the selection process with full voting rights;

(3) Reject the results of the selection process;

(4) Reject the placement of a completed work or works of art on school district premises if such works are portable.

Rejection at any point before or after the selection process shall not cause the loss of or otherwise endanger state construction funds available to the local school district. Any works of art rejected under this section shall be applied to the provision of works of art under this chapter, at the discretion of the Washington state arts commission, notwithstanding any contract or agreement between the affected school district and the artist involved. In addition to the cost of the works of art the one-half of one percent of the appropriation as provided herein shall be used to provide for the administration by the Washington state arts commission and all costs for installation of the work of art. For the purpose of this section building shall not include sheds, warehouses or other buildings of a temporary nature.

The executive director of the arts commission, the superintendent of public instruction and the Washington state school directors association shall appoint a study group to review the operations of the one-half of one percent for works of art under this section.

[1983 c 204 § 7; 1982 c 191 § 2; 1974 ex.s. c 176 § 5. Formerly RCW 28A.58.055.]

Notes:

Implementation--1983 c 204 § 7: "Implementation of section 7 of this 1983 act shall become effective upon approval by the arts commission, the superintendent of public instruction and the Washington state school directors association." [1983 c 204 § 10.] "Section 7 of this 1983 act," was the 1983 c 204 amendment to RCW 28A.58.055, now recodified as RCW 28A.335.210.

Severability--1983 c 204: See note following RCW 43.46.090.

Severability--1982 c 191: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 191 § 14.]

Acquisition of works of art for public buildings and lands--Visual arts program established: RCW 43.46.090.

Allocation of moneys for acquisition of works of art--Expenditure by arts commission--Conditions: RCW 43.17.200.

Purchase of works of art--Interagency reimbursement for expenditure by visual arts program: RCW 43.17.205.

State art collection: RCW 43.46.095.

RCW 28A.335.220 Eminent domain.

The board of directors of any school district may proceed to condemn and appropriate not more than fifteen acres of land for any elementary school purpose; not more than twenty-five acres for any junior high school purpose; not more than forty acres for any senior high school purpose; except as otherwise provided by law, not more than seventy-five acres for any vocational technical school purpose; and not more than fifteen acres for any other school district purpose. Such condemnation proceedings shall be in accordance with chapters 8.16 and 8.25 RCW and such other laws of this state providing for appropriating private property for public use by school districts.

[1969 ex.s. c 223 § 28A.58.070. Prior: 1963 c 41 § 1; 1957 c 155 § 1; 1949 c 54 § 1; 1909 c 97 p 289 § 13; Rem. Supp. 1949 § 4788. Formerly RCW 28A.58.070, 28.58.070.]

RCW 28A.335.230 Vacant school plant facilities--Lease by contiguous district, when required--Eligibility for matching funds.

School districts shall be required to lease for a reasonable fee vacant school plant facilities from a contiguous school district wherever possible.

No school district with unhoused students may be eligible for the state matching funds for the construction of school plant facilities if:

(1) The school district contiguous to the school district applying for the state matching percentage has vacant school plant facilities;

(2) The superintendent of public instruction and the state board of education have determined the vacant school plant facilities available in the contiguous district will fulfill the needs of the applicant district in housing unhoused students. In determining whether the contiguous district school plant facilities meet the needs of the applicant district, consideration shall be given, but not limited to the geographic location of the vacant facilities as they relate to the applicant district; and

(3) A lease of the vacant school plant facilities can be negotiated.

[1987 c 112 § 1. Formerly RCW 28A.47.105.]

Notes:

Surplus school property: RCW 28A.335.040 through 28A.335.080.

RCW 28A.335.240 Schoolhouses, teachers' cottages--Purchase of realty for district purposes.

The board of directors of a second class school district shall build schoolhouses and teachers' cottages when directed by a vote of the district to do so. The board of directors of a second class school district may purchase real property for any school district purpose.

[1969 ex.s. c 223 § 28A.60.181. Prior: 1963 c 61 § 1; 1959 c 169 § 1. Formerly RCW 28A.60.181, 28.63.181.]

Notes:

Borrowing money, issuing bonds, for schoolhouse sites, playgrounds, erecting buildings and equipping same: RCW 28A.530.010.
Real property--Sale--Purchase to relocate and sell buildings: RCW 28A.335.120.

RCW 28A.335.250 School property used for public purposes.

School boards in each district of the second class may provide for the free, comfortable and convenient use of the school property to promote and facilitate frequent meetings and association of the people in discussion, study, improvement, recreation and other community purposes, and may acquire, assemble and house material for the dissemination of information of use and interest to the farm, the home and the community, and facilities for experiment and study, especially in matters pertaining to the growing of crops, the improvement and handling of livestock, the marketing of farm products, the planning and construction of farm buildings, the subjects of household economies, home industries, good roads, and community vocations and industries; and may call meetings for the consideration and discussion of any such matters, employ a special supervisor, or leader, if need be, and provide suitable dwellings and accommodations for teachers, supervisors and necessary assistants.

[1975 c 43 § 16; 1969 ex.s. c 223 § 28A.60.190. Prior: 1913 c 129 § 1; RRS § 4837. Formerly RCW 28A.60.190, 28.63.190.]

Notes:

Effective date--Severability--1975 c 43: See notes following RCW 28A.535.050.

RCW 28A.335.260 School property used for public purposes--Community buildings.

Each school district of the second class, by itself or in combination with any other district or districts, shall have power, when in the judgment of the school board it shall be deemed expedient, to reconstruct, remodel, or build schoolhouses, and to erect, purchase, lease or otherwise acquire other improvements and real and personal property, and establish a communal assembly place and appurtenances, and supply the same with suitable and convenient furnishings and facilities for the uses mentioned in RCW 28A.335.250.

[1990 c 33 § 363; 1975 c 43 § 17; 1969 ex.s. c 223 § 28A.60.200. Prior: 1913 c 129 § 2; RRS § 4838. Formerly RCW 28A.60.200, 28.63.200.]

Notes:

Effective date--Severability--1975 c 43: See notes following RCW 28A.535.050.

RCW 28A.335.270 School property used for public purposes--Special state commission to pass on plans.

Plans of any second class district or combination of districts for the carrying out of the powers granted by RCW 28A.335.250 through 28A.335.280 shall be submitted to and approved by a board of supervisors composed of members, as follows: The superintendent of public instruction; the head of the extension department of Washington State University; the head of the extension department of the University of Washington; and the educational service district superintendent; these to choose one member from such county in which the facilities are

proposed to be located, and two members, from the district or districts concerned.

[1990 c 33 § 364; 1975-'76 2nd ex.s. c 15 § 12. Prior: 1975 1st ex.s. c 275 § 121; 1975 c 43 § 18; 1973 1st ex.s. c 154 § 46; 1971 c 48 § 37; 1969 ex.s. c 223 § 28A.60.210; prior: 1913 c 129 § 3; RRS § 4839. Formerly RCW 28A.60.210, 28.63.210.]

Notes:

Effective date--Severability--1975 c 43: See notes following RCW 28A.535.050.
Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.
Severability--1971 c 48: See note following RCW 28A.305.040.

RCW 28A.335.280 School property used for public purposes--Limit on expenditures.

No real or personal property or improvements shall be purchased, leased, exchanged, acquired or sold, nor any schoolhouses built, remodeled or removed, nor any indebtedness incurred or money expended for any of the purposes of RCW 28A.335.250 through 28A.335.280 except in the manner otherwise provided by law for the purchase, lease, exchange, acquisition and sale of school property, the building, remodeling and removing of schoolhouses and the incurring of indebtedness and expenditure of money for school purposes.

[1990 c 33 § 365; 1969 ex.s. c 223 § 28A.60.220. Prior: 1913 c 129 § 4; RRS § 4840. Formerly RCW 28A.60.220, 28.63.220.]

RCW 28A.335.290 Housing for superintendent--Authorized--Limitation.

Notwithstanding any other provision of law, any second class school district with an enrollment of three hundred students or less may provide housing for the superintendent of the school district, or any person acting in the capacity of superintendent, by such means and with such moneys as the school district shall determine: PROVIDED, That any second class school district presently providing such housing may continue to provide the same: PROVIDED FURTHER, That if such housing is exempt from real property taxation by virtue of school district ownership, the school district shall charge for such housing, rent at least equal to the amount of real property tax for which such housing would be liable were it not so owned.

[1984 c 40 § 10; 1975 1st ex.s. c 41 § 1. Formerly RCW 28A.60.350.]

Notes:

Severability--1984 c 40: See note following RCW 28A.195.050.

RCW 28A.335.300 Playground matting.

Every school board of directors shall consider the purchase of playground matting manufactured from shredded waste tires in undertaking construction or maintenance of playgrounds. The department of general administration shall upon request assist in the development of product specifications and vendor identification.

[1991 c 297 § 18.]

Notes:

Captions not law--1991 c 297: See RCW 43.19A.900.

RCW 28A.335.320 Enhanced 911 service--Common and public school service required.

By January 1, 1997, or one year after enhanced 911 service becomes available or a private switch automatic location identification service approved by the Washington utilities and transportation commission is available from the serving local exchange telecommunications company, whichever is later, all common and public schools located in counties that provide enhanced 911 service shall provide persons using school facilities direct access to telephones that are connected to the public switched network such that calls to 911 result in automatic location identification for each telephone in a format that is compatible with the existing and planned county enhanced 911 system during all times that the facility is in use. Any school district acquiring a private telecommunications system that allows connection to the public switched network after January 1, 1997, shall assure that the telecommunications system is connected to the public switched network such that calls to 911 result in automatic location identification for each telephone in a format that is compatible with the existing or planned county enhanced 911 system.

[1995 c 243 § 4.]

Notes:

Reviser's note: 1995 c 243 directed that this section be added to chapter 28A.150 RCW. This section has been codified in chapter 28A.335 RCW, which relates more directly to school district facilities.

Findings--Severability--1995 c 243: See notes following RCW 80.36.555.

Chapter 28A.340 RCW
SMALL HIGH SCHOOL COOPERATIVE PROJECTS

Sections

28A.340.010 Increased curriculum programs and opportunities.
28A.340.020 Eligibility--Participation.
28A.340.030 Application--Review by the superintendent of public instruction.
28A.340.040 Adoption of salary schedules--Computation of fringe benefits.
28A.340.060 Rules.
28A.340.070 Allocation of state funds for technical assistance--Contracting with agencies for technical assistance.

RCW 28A.340.010 Increased curriculum programs and opportunities.

Eligible school districts as defined under RCW 28A.340.020 are encouraged to establish cooperative projects with a primary purpose to increase curriculum programs and opportunities among the participating districts, by expanding the opportunity for students in the participating districts to take vocational and academic courses as may be generally more available in larger school districts, and to enhance student learning.

[1990 c 33 § 366; 1988 c 268 § 2. Formerly RCW 28A.100.080.]

Notes:

Findings--1988 c 268: "The legislature finds that partnerships among school districts can: Increase curriculum offerings for students, encourage creative educational programming and staffing, and result in the cost-effective delivery of educational programs. It is the intent of the legislature to establish a program to facilitate and encourage such partnerships among small school districts." [1988 c 268 § 1.]

Severability--1988 c 268: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 268 § 12.]

RCW 28A.340.020 Eligibility--Participation.

School districts eligible for funding as a small high school district pursuant to the state operating appropriations act shall be eligible to participate in a cooperative project: PROVIDED, That the superintendent of public instruction may adopt rules permitting second class school districts that are not eligible for funding as a small high school district in the state operating appropriations act to participate in a cooperative project.

Two or more school districts may participate in a cooperative project pursuant to RCW 28A.340.020 through 28A.340.070.

[1990 c 33 § 367; 1988 c 268 § 3. Formerly RCW 28A.100.082.]

Notes:

Findings--Severability--1988 c 268: See notes following RCW 28A.340.010.

RCW 28A.340.030 Application--Review by the superintendent of public instruction.

(1) Eligible school districts desiring to form a cooperative project pursuant to RCW 28A.340.020 through 28A.340.070 shall submit to the superintendent of public instruction an application for review as a cooperative project. The application shall include, but not be limited to, the following information:

(a) A description of the cooperative project, including the programs, services, and administrative activities that will be operated jointly;

(b) The improvements in curriculum offerings and educational opportunities expected to result from the establishment of the proposed cooperative project;

(c) A list of any statutory requirements or administrative rules which are considered financial disincentives to the establishment of cooperative projects and which would impede the operation of the proposed cooperative project; and the financial impact to the school districts and the state expected to result by the granting of a waiver from such statutory requirements or administrative rules;

(d) An assessment of community support for the proposed cooperative project, which assessment shall include each community affected by the proposed cooperative project; and

(e) A plan for evaluating the educational and cost-effectiveness of the proposed cooperative project, including curriculum offerings and staffing patterns.

(2) The superintendent of public instruction shall review the application before the

applicant school districts may commence the proposed cooperative project.

In reviewing applications, the superintendent shall be limited to: (a) The granting of waivers from statutory requirements, for which the superintendent of public instruction has the express power to implement pursuant to the adoption of rules, or administrative rules that need to be waived in order for the proposed cooperative project to be implemented: PROVIDED, That no statutory requirement or administrative rule dealing with health, safety, or civil rights may be waived; and (b) ensuring the technical accuracy of the application.

Any waiver granted by the superintendent of public instruction shall be reviewed and may be renewed by the superintendent every five years subject to the participating districts submitting a new application pursuant to this section.

(3) If additional eligible school districts wish to participate in an existing cooperative project the cooperative project as a whole shall reapply for review by the superintendent of public instruction.

[1990 c 33 § 368; 1988 c 268 § 4. Formerly RCW 28A.100.084.]

Notes:

Findings--Severability--1988 c 268: See notes following RCW 28A.340.010.

RCW 28A.340.040 Adoption of salary schedules--Computation of fringe benefits.

(1) School districts participating in a cooperative project pursuant to RCW 28A.340.030 may adopt identical salary schedules following compliance with chapter 41.59 RCW: PROVIDED, That if the districts participating in a cooperative project adopt identical salary schedules, the participating districts shall be considered a single school district for purposes of establishing compliance with the salary limitations of RCW 28A.400.200(3) but not for the purposes of allocation of state funds.

(2) For purposes of computing fringe benefit contributions for purposes of establishing compliance with RCW 28A.400.200(3)(b), the districts participating in a cooperative project pursuant to RCW 28A.340.030 may use the greater of: (a) The highest amount provided in the 1986-87 school year by a district participating in the cooperative project; or (b) the amount authorized for such purposes in the state operating appropriations act in effect at the time.

[1990 c 33 § 369; 1988 c 268 § 5. Formerly RCW 28A.100.086.]

Notes:

Findings--Severability--1988 c 268: See notes following RCW 28A.340.010.

RCW 28A.340.060 Rules.

(1) The superintendent of public instruction shall adopt rules as necessary under chapter 34.05 RCW to carry out the provisions of RCW 28A.340.010 through 28A.340.070.

(2) When the joint operation of programs or services includes the teaching of all or substantially all of the curriculum for a particular grade or grades in only one local school district, the rules shall provide that the affected students are attending school in the district in which they reside for the purposes of RCW 28A.150.250 and 28A.150.260 and chapter 28A.545 RCW.

[1990 c 33 § 371; 1988 c 268 § 8. Formerly RCW 28A.100.090.]

Notes:

Findings--Severability--1988 c 268: See notes following RCW 28A.340.010.

RCW 28A.340.070 Allocation of state funds for technical assistance--Contracting with agencies for technical assistance.

(1) The superintendent of public instruction may allocate state funds, as may be appropriated, to provide technical assistance to eligible school districts interested in developing and implementing a cooperative project.

(2) The superintendent of public instruction may contract with other agencies to provide some or all of the technical assistance under subsection (1) of this section.

[1988 c 268 § 9. Formerly RCW 28A.100.092.]

Notes:

Findings--Severability--1988 c 268: See notes following RCW 28A.340.010.

Chapter 28A.343 RCW
SCHOOL DIRECTOR DISTRICTS

Sections

28A.343.010 Director candidates in undivided districts--Indication of term sought--How elected.
28A.343.020 Certain school districts--Election for formation of new school district.
28A.343.030 Certain school districts--Election to authorize division in school districts not already divided into directors' districts.
28A.343.040 Division or redivision of district into director districts.
28A.343.050 Dissolution of directors' districts.
28A.343.060 District boundary changes--Submission to county auditor.
28A.343.070 Map and record of directors' districts.

ELECTIONS

28A.343.300 Directors--Terms--Number.
28A.343.310 Terms for directors in divided districts.
28A.343.320 Declarations of candidacy--Positions as separate offices.
28A.343.330 Ballots--Form.
28A.343.340 When elected--Eligibility.
28A.343.350 Residency.
28A.343.360 Oath of office.
28A.343.370 Vacancies.
28A.343.380 Meetings.
28A.343.390 Quorum--Failure to attend meetings.
28A.343.400 Compensation--Waiver.

PROVISIONS RELATING TO CERTAIN DISTRICTS

28A.343.600 Certain first class districts--Staggered terms.
28A.343.610 First class districts having city with population of 400,000 people or more--Directors' terms.

28A.343.620 First class districts containing no former first class district--Number and terms of directors.
28A.343.630 First class districts containing only one former first class district--Number and terms of directors.
28A.343.640 First class districts containing more than one former first class district--Number and terms of directors.
28A.343.650 New first class district having city with population of 400,000 people or more--Number and terms of directors.
28A.343.660 First class districts having city with population of 400,000 people or more--Boundaries of director districts--Candidate eligibility--Declaration of candidacy--Primary limited to district voters--Terms of directors.
28A.343.670 First class districts having city with population of 400,000 people or more--Initial director district boundaries--Appointments to fill vacancies for new director districts--Director district numbers.
28A.343.680 New second class districts--Number and terms of directors.

Notes:

Reviser's note: 1999 c 315 §§ 804, 805, and 806 directed that numerous sections in chapter 28A.315 RCW be recodified in three new chapters in Title 28A RCW. These sections have been recodified in chapter 28A.343 RCW with subheadings.

RCW 28A.343.010 Director candidates in undivided districts--Indication of term sought--How elected.

Whenever the directors to be elected in a school district that is not divided into directors' districts are not all to be elected for the same term of years, the county auditor shall distinguish them and designate the same as provided for in *RCW 29.21.140, and assign position numbers thereto as provided in **RCW 28A.315.470 and each candidate shall indicate on his or her declaration of candidacy the term for which he or she seeks to be elected and position number for which he or she is filing. The candidate receiving the largest number of votes for each position shall be deemed elected.

[1990 c 33 § 317; 1969 ex.s. c 223 § 28A.57.334. Prior: 1959 c 268 § 12. Formerly RCW 28A.315.560, 28A.57.334, 28.57.420.]

Notes:

Reviser's note: *(1) RCW 29.21.140 was recodified as RCW 29.15.140 pursuant to 1990 c 59 § 110, effective July 1, 1992.

**(2) RCW 28A.315.470 was recodified as RCW 28A.343.320 pursuant to 1999 c 315 § 804.

RCW 28A.343.020 Certain school districts--Election for formation of new school district.

Whenever an election shall be held for the purpose of securing the approval of the voters for the formation of a new school district other than a school district of the first class having within its boundaries a city with a population of four hundred thousand people or more, if requested by one of the boards of directors of the school districts affected, there shall also be submitted to the voters at the same election a proposition to authorize the board of directors to divide the school district, if formed, into five directors' districts in first class school districts and a choice of five directors' districts or no fewer than three directors' districts with the balance of the directors to be elected at large in second class school districts. Such director districts in second class districts, if approved, shall not become effective until the regular school election following the next regular school election at which time a new board of directors shall be elected

as provided in *RCW 28A.315.550. Such director districts in first class districts, if approved, shall not become effective until the next regular school election at which time a new board of directors shall be elected as provided in *RCW 28A.315.600, 28A.315.610, and 28A.315.620. Each of the five directors shall be elected from among the residents of the respective director district, or from among the residents of the entire school district in the case of directors at large, by the electors of the entire school district.

[1991 c 363 § 22; 1991 c 288 § 3. Prior: 1990 c 161 § 5; 1990 c 33 § 319; 1985 c 385 § 27; 1979 ex.s. c 183 § 2; 1975 c 43 § 8; 1973 2nd ex.s. c 21 § 2; 1971 c 67 § 2; 1969 ex.s. c 223 § 28A.57.342; prior: 1959 c 268 § 4. Formerly RCW 28A.315.580, 28A.57.342, 28.57.342.]

Notes:

Reviser's note: *(1) RCW 28A.315.550, 28A.315.600, 28A.315.610, and 28A.315.620 were recodified as RCW 28A.343.680, 28A.343.620, 28A.343.630, and 28A.343.640, respectively, pursuant to 1999 c 315 § 805.

(2) This section was amended by 1991 c 288 § 3 and by 1991 c 363 § 22, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Severability--1985 c 385: See note following RCW 28A.315.025.

Effective date--1979 ex.s. c 183: "This amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1979." [1979 ex.s. c 183 § 12.]

Severability--1979 ex.s. c 183: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 183 § 13.]

Effective date--Severability--1975 c 43: See notes following RCW 28A.535.050.

RCW 28A.343.030 Certain school districts--Election to authorize division in school districts not already divided into directors' districts.

The board of directors of every first class school district other than a school district of the first class having within its boundaries a city with a population of four hundred thousand people or more which is not divided into directors' districts may submit to the voters at any regular school district election a proposition to authorize the board of directors to divide the district into directors' districts or for second class school districts into director districts or a combination of no fewer than three director districts and no more than two at large positions. If a majority of the votes cast on the proposition is affirmative, the board of directors shall proceed to divide the district into directors' districts following the procedure established in RCW 29.70.100. Such director districts, if approved, shall not become effective until the next regular school election when a new five member board of directors shall be elected, one from each of the director districts from among the residents of the respective director district, or from among the residents of the entire school district in the case of directors at large, by the electors of the entire district, two for a term of two years and three for a term of four years, unless such district elects its directors for six years, in which case, one for a term of two years, two for a term of four years, and two for a term of six years.

[1991 c 363 § 23; 1991 c 288 § 4; 1990 c 161 § 6; 1985 c 385 § 28; 1979 ex.s. c 183 § 3; 1975 c 43 § 9; 1973 2nd

ex.s. c 21 § 3; 1971 c 67 § 8; 1969 ex.s. c 223 § 28A.57.344. Prior: 1959 c 268 § 3. Formerly RCW 28A.315.590, 28A.57.344, 28.57.344.]

Notes:

Reviser's note: This section was amended by 1991 c 288 § 4 and by 1991 c 363 § 23, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Severability--1985 c 385: See note following RCW 28A.315.025.

Effective date--Severability--1979 ex.s. c 183: See notes following RCW 28A.343.020.

Effective date--Severability--1975 c 43: See notes following RCW 28A.535.050.

RCW 28A.343.040 Division or redivision of district into director districts.

It is the responsibility of each school district board of directors to prepare for the division or redivision of the district into director districts no later than eight months after any of the following:

(1) Receipt of federal decennial census data from the redistricting commission established in RCW 44.05.030;

(2) Consolidation of two or more districts into one district under *RCW 28A.315.270;

(3) Transfer of territory to or from the district under *RCW 28A.315.280;

(4) Annexation of territory to or from the district under *RCW 28A.315.290 or 28A.315.320; or

(5) Approval by a majority of the registered voters voting on a proposition authorizing the division of the district into director districts pursuant to **RCW 28A.315.590.

The districting or redistricting plan shall be consistent with the criteria and adopted according to the procedure established under RCW 29.70.100.

[1991 c 288 § 1. Formerly RCW 28A.315.593.]

Notes:

Reviser's note: *(1) RCW 28A.315.270, 28A.315.280, 28A.315.290, and 28A.315.320 were repealed by 1999 c 315 § 801. Later enactment of RCW 28A.315.270, 28A.315.280, and 28A.315.320, see RCW 28A.315.195, 28A.315.215, and 28A.315.225, respectively.

**(2) RCW 28A.315.590 was recodified as RCW 28A.343.030 pursuant to 1999 c 315 § 806.

RCW 28A.343.050 Dissolution of directors' districts.

Upon receipt by the educational service district superintendent of a resolution adopted by the board of directors or a written petition from a second class school district signed by at least twenty percent of the registered voters of a school district previously divided into directors' districts, which resolution or petition shall request dissolution of the existing directors' districts and reapportionment of the district into no fewer than three directors' districts and with no more than two directors at large, the superintendent, after formation of the question to be submitted to the voters, shall give notice thereof to the county auditor who shall call and hold a special election of the voters of the entire school district to approve or reject such proposal, such election to be called, conducted and the returns canvassed as in regular school district elections.

If approval of a majority of those registered voters voting in said election is acquired, at

the expiration of terms of the incumbent directors of such school district their successors shall be elected in the manner approved.

[1990 c 161 § 3; 1990 c 33 § 326; 1975-'76 2nd ex.s. c 15 § 9. Prior: 1975 1st ex.s. c 275 § 107; 1975 c 43 § 13; 1971 c 48 § 27; 1969 ex.s. c 223 § 28A.57.415. Formerly RCW 28A.315.660, 28A.57.415.]

Notes:

Reviser's note: This section was amended by 1990 c 33 § 326 and by 1990 c 161 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date--Severability--1975 c 43: See notes following RCW 28A.535.050.

Severability--1971 c 48: See note following RCW 28A.305.040.

RCW 28A.343.060 District boundary changes--Submission to county auditor.

(1) Any district boundary changes, including changes in director district boundaries, shall be submitted to the county auditor by the school district board of directors within thirty days after the changes have been approved by the board. The board shall submit both legal descriptions and maps.

(2) Any boundary changes submitted to the county auditor after the fourth Monday in June of odd-numbered years shall not take effect until the following year.

[1991 c 288 § 9. Formerly RCW 28A.315.597.]

RCW 28A.343.070 Map and record of directors' districts.

Each educational service district superintendent shall prepare and keep in his or her office (1) a map showing the boundaries of the directors' districts of all school districts in or belonging to his or her educational service district that are so divided, and (2) a record of the action taken by the regional committee in establishing such boundaries.

[1990 c 33 § 324; 1985 c 385 § 29; 1975 1st ex.s. c 275 § 106; 1969 ex.s. c 176 § 140; 1969 ex.s. c 223 § 28A.57.390. Prior: 1947 c 266 § 38; Rem. Supp. 1947 § 4693-57. Formerly RCW 28A.315.640, 28A.57.390, 28.57.390.]

Notes:

Severability--1985 c 385: See note following RCW 28A.315.025.

Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

ELECTIONS

RCW 28A.343.300 Directors--Terms--Number.

The governing board of a school district shall be known as the board of directors of the district.

Unless otherwise specifically provided, as in RCW 29.13.060, each member of a board of directors shall be elected by ballot by the registered voters of the school district and shall hold office for a term of four years and until a successor is elected and qualified. Terms of school

directors shall be staggered, and insofar as possible, not more than a majority of one shall be elected to full terms at any regular election. In case a member or members of a board of directors are to be elected to fill an unexpired term or terms, the ballot shall specify the term for which each such member is to be elected.

Except for a school district of the first class having within its boundaries a city with a population of four hundred thousand people or more which shall have a board of directors of seven members, the board of directors of every school district of the first class or school district of the second class shall consist of five members.

[1991 c 363 § 20; 1980 c 35 § 1; 1980 c 47 § 1. Prior: 1979 ex.s. c 183 § 1; 1979 ex.s. c 126 § 4; 1975 c 43 § 5; 1973 2nd ex.s. c 21 § 1; 1969 c 131 § 8; 1969 ex.s. c 223 § 28A.57.312; prior: 1957 c 67 § 1; 1955 c 55 § 11; 1947 c 266 § 10; Rem. Supp. 1947 § 4693-29; prior: 1909 pp 289, 290 §§ 1,2; RRS §§ 4790, 4791. Formerly RCW 28A.315.450, 28A.57.312, 28.57.338, 28.58.080.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Severability--1980 c 35: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 35 § 10.]

Severability--1980 c 47: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 47 § 5.]

Effective date--Severability--1979 ex.s. c 183: See notes following RCW 28A.343.020.

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

Effective date--Severability--1975 c 43: See notes following RCW 28A.535.050.

RCW 28A.343.310 Terms for directors in divided districts.

Whenever all directors to be elected in a school district that is divided into directors' districts are not all to be elected for the same term of years, the county auditor, prior to the date set by law for filing a declaration of candidacy for the office of director, shall determine by lot the directors' districts from which directors shall be elected for a term of two years and the directors' districts from which directors shall be elected for a term of four years. In districts with a combination of directors' districts and directors at large, the county auditor shall determine the terms of office in such a manner that two-year terms and four-year terms are distributed evenly to the extent possible between the director district and at large positions. Each candidate shall indicate on his or her declaration of candidacy the directors' district from which he or she seeks to be elected or whether the candidate is seeking election as a director at large.

[1990 c 161 § 7; 1990 c 33 § 325; 1969 ex.s. c 223 § 28A.57.410. Prior: 1959 c 268 § 11. Formerly RCW 28A.315.650, 28A.57.410, 28.57.410.]

Notes:

Reviser's note: This section was amended by 1990 c 33 § 325 and by 1990 c 161 § 7, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

RCW 28A.343.320 Declarations of candidacy--Positions as separate offices.

Candidates for the position of school director shall file their declarations of candidacy as provided in Title 29 RCW.

The positions of school directors in each district shall be dealt with as separate offices for all election purposes, and where more than one position is to be filled, each candidate shall file for one of the positions so designated: PROVIDED, That in school districts containing director districts, or a combination of director districts and director at large positions, candidates shall file for such director districts or at large positions. Position numbers shall be assigned to correspond to director district numbers to the extent possible.

[1990 c 161 § 4; 1990 c 59 § 98; 1969 ex.s. c 223 § 28A.57.314. Prior: 1963 c 223 § 1. Formerly RCW 28A.315.470, 28A.57.314, 28.58.082.]

Notes:

Reviser's note: This section was amended by 1990 c 59 § 98 and by 1990 c 161 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Commencement of terms of office: RCW 29.13.020, 29.13.050.

Nonpartisan primaries and elections: Chapter 29.21 RCW.

School district elections

in counties with a population of less than two hundred ten thousand, times for holding: RCW 29.13.020.

in counties with a population of two hundred ten thousand or more, times for holding: RCW 29.13.020, 29.13.060.

Terms of office: RCW 29.13.020, 29.13.050, 29.13.060.

RCW 28A.343.330 Ballots--Form.

Except as provided in RCW 29.21.010, the positions of school directors and the candidates therefor shall appear separately on the nonpartisan ballot in substantially the following form:

SCHOOL DIRECTOR ELECTION BALLOT
District No. . . . .
Date . . . . . .

To vote for a person make a cross (X) in the square at the right of the name of the person for whom you desire to vote.

School District Directors
Position No. 1
Vote for One

. . . . . ☐

. . . . . ☐
. . . . . ☐

Position No. 2
Vote for One

. . . . . ☐
. . . . . ☐
. . . . . ☐

To Fill Unexpired Term
Position No. 3
2 (or 4) year term
Vote for One

. . . . . ☐
. . . . . ☐
. . . . . ☐

The names of candidates shall appear upon the ballot in order of filing for each position. There shall be no rotation of names in the printing of such ballots.

[1969 ex.s. c 223 § 28A.57.316. Prior: 1963 c 223 § 2. Formerly RCW 28A.315.480, 28A.57.316, 28.58.083.]

RCW 28A.343.340 When elected--Eligibility.

Directors of school districts shall be elected at regular school elections. No person shall be eligible to the office of school director who is not a citizen of the United States and the state of Washington and a registered voter of either the school district or director district, as the case may be.

[1969 ex.s. c 223 § 28A.57.318. Prior: 1909 c 97 p 285 § 1; RRS § 4775; prior: 1903 c 104 § 16; 1901 c 41 § 2; 1899 c 142 § 7; 1897 c 118 § 39; 1893 c 107 § 2; 1890 p 364 § 25. Formerly RCW 28A.315.490, 28A.57.318, 28.58.090.]

RCW 28A.343.350 Residency.

Notwithstanding RCW 42.12.010(4), a school director elected from a director district may continue to serve as a director from the district even though the director no longer resides in the director district, but continues to reside in the school district, under the following conditions:

(1) If, as a result of redrawing the director district boundaries, the director no longer resides in the director district, the director shall retain his or her position for the remainder of his or her term of office; and

(2) If, as a result of the director changing his or her place of residence the director no

longer resides in the director district, the director shall retain his or her position until a successor is elected and assumes office as follows: (a) If the change in residency occurs after the opening of the regular filing period provided under RCW 29.15.020, in the year two years after the director was elected to office, the director shall remain in office for the remainder of his or her term of office; or (b) if the change in residency occurs prior to the opening of the regular filing period provided under RCW 29.15.020, in the year two years after the director was elected to office, the director shall remain in office until a successor assumes office who has been elected to serve the remainder of the unexpired term of office at the school district general election held in that year.

[1999 c 194 § 1.]

Notes:

Reviser's note: 1999 c 194 § 1 directed that this section be added to chapter 28A.315 RCW. Chapter 28A.315 RCW was reorganized and partially recodified by 1999 c 315, therefore codification in chapter 28A.343 RCW is more appropriate.

RCW 28A.343.360 Oath of office.

Every person elected or appointed to the office of school director, before entering upon the discharge of the duties thereof, shall take an oath or affirmation to support the Constitution of the United States and the state of Washington and to faithfully discharge the duties of the office according to the best of his or her ability. In case any official has a written appointment or commission, the official's oath or affirmation shall be endorsed thereon and sworn to before any officer authorized to administer oaths. School officials are hereby authorized to administer all oaths or affirmations pertaining to their respective offices without charge or fee. All oaths of office, when properly made, shall be filed with the county auditor. Every person elected to the office of school director shall begin his or her term of office at the first official meeting of the board of directors following certification of the election results.

[1990 c 33 § 314; 1988 c 187 § 1; 1986 c 167 § 16; 1969 ex.s. c 223 § 28A.57.322. Prior: 1909 c 97 p 288 § 11; RRS § 4786; prior: 1897 c 118 § 61; 1890 p 380 § 70. Formerly RCW 28A.315.500, 28A.57.322, 28.58.095, 28.63.015, 28.63.017, 42.04.030.]

Notes:

Severability--1986 c 167: See note following RCW 29.01.055.

RCW 28A.343.370 Vacancies.

(1) In case of a vacancy from any cause on the board of directors of a school district other than a reconstituted board resulting from reorganized school districts, a majority of the legally established number of board members shall fill such vacancy by appointment: PROVIDED, That should there exist fewer board members on the board of directors of a school district than constitutes a majority of the legally established number of board members, the educational service district board members of the district in which the school district is located by the vote of a majority of its legally established number of board members shall appoint a sufficient number

of board members to constitute a legal majority on the board of directors of such school district; and the remaining vacancies on such board of directors shall be filled by such board of directors in accordance with the provisions of this section: PROVIDED FURTHER, That should any board of directors for whatever reason fail to fill a vacancy within ninety days from the creation of such vacancy, the members of the educational service district board of the district in which the school district is located by majority vote shall fill such vacancy.

(2) Appointees to fill vacancies on boards of directors of school districts shall meet the requirements provided by law for school directors and shall serve until the next regular school district election, at which time a successor shall be elected for the unexpired term.

(3) If a vacancy will be created by a board member who has submitted a resignation, that board member may not vote on the selection of his or her replacement.

[1991 c 60 § 1; 1975 1st ex.s. c 275 § 100; 1971 c 53 § 2; 1969 ex.s. c 176 § 156; 1969 ex.s. c 223 § 28A.57.326. Prior: (i) 1909 c 97 p 292 § 12; RRS 4801; prior: 1907 c 31 § 3; 1897 c 118 § 89; 1890 p 390 § 16. Formerly RCW 28.62.120. (ii) 1909 c 97 p 298 § 3; RRS § 4813. Formerly RCW 28.63.020. (iii) 1909 c 97 p 301 § 3; RRS § 4825. Formerly RCW 28.63.022. (iv) 1959 c 216 § 7, part; 1955 c 157 § 14, part; prior: 1909 p 281 § 4, part; 1903 c 104 § 14, part; 1899 c 142 § 6, part; 1897 c 118 § 33, part; 1891 c 127 § 3, part; 1890 p 355 § 11, part; RRS § 4770, part. Formerly RCW 28A.315.530, 28A.57.326, 28.19.060, part.]

Notes:

Severability--1971 c 53: See note following RCW 28A.323.060.

Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.343.380 Meetings.

Regular meetings of the board of directors of any school district shall be held monthly or more often at such a time as the board of directors by resolution shall determine or the bylaws of the board may prescribe. Special or deferred meetings may be held from time to time as circumstances may demand, at the call of the president, if a first class district, or the chair of the board, if a second class district, or on petition of a majority of the members of the board. All meetings shall be open to the public unless the board shall otherwise order an executive session as provided in RCW 42.30.110.

[1990 c 33 § 315; 1983 c 3 § 35; 1975 c 43 § 6; 1969 ex.s. c 223 § 28A.57.324. Prior: (i) 1909 c 97 p 291 § 9; RRS § 4798; prior: 1897 c 118 § 86; 1890 p 389 § 13. Formerly RCW 28.62.090. (ii) 1965 ex.s. c 87 § 1; 1909 c 97 p 299 § 6; RRS § 4816. Formerly RCW 28.63.030. (iii) 1965 ex.s. c 87 § 2; 1909 c 97 p 302 § 6; RRS § 4828. Formerly RCW 28A.315.510, 28A.57.324, 28.63.032.]

Notes:

Effective date--Severability--1975 c 43: See notes following RCW 28A.535.050.

RCW 28A.343.390 Quorum--Failure to attend meetings.

A majority of all members of the board of directors shall constitute a quorum. Absence of any board member from four consecutive regular meetings of the board, unless on account of sickness or authorized by resolution of the board, shall be sufficient cause for the remaining members of the board to declare by resolution that such board member position is vacated. In addition, vacancies shall occur as provided in RCW 42.12.010.

[1994 c 223 § 5; 1971 c 53 § 4. Formerly RCW 28A.315.520, 28A.57.325.]

Notes:

Severability--1971 c 53: See note following RCW 28A.323.060.

RCW 28A.343.400 Compensation--Waiver.

Each member of the board of directors of a school district may receive compensation of fifty dollars per day or portion thereof for attending board meetings and for performing other services on behalf of the school district, not to exceed four thousand eight hundred dollars per year, if the district board of directors has authorized by board resolution, at a regularly scheduled meeting, the provision of such compensation. A board of directors of a school district may authorize such compensation only from locally collected excess levy funds available for that purpose, and compensation for board members shall not cause the state to incur any present or future funding obligation.

Any director may waive all or any portion of his or her compensation under this section as to any month or months during his or her term of office, by a written waiver filed with the district as provided in this section. The waiver, to be effective, must be filed any time after the director's election and before the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

The compensation provided in this section shall be in addition to any reimbursement for expenses paid to such directors by the school district.

[1987 c 307 § 2. Formerly RCW 28A.315.540, 28A.57.327.]

Notes:

Intent--1987 c 307: "The legislature declares it is the policy of the state to:

(1) Ensure, for the sake of educational excellence, that the electorate has the broadest possible field in which to choose qualified candidates for its school boards;

(2) Ensure that the opportunity to serve on school boards be open to all, regardless of financial circumstances; and

(3) Ensure that the time-consuming and demanding service as directors not be limited to those able or willing to make substantial personal and financial sacrifices." [1987 c 307 § 1.]

Effective date--1987 c 307: "This act shall take effect on September 1, 1987." [1987 c 307 § 3.]

PROVISIONS RELATING TO CERTAIN DISTRICTS

RCW 28A.343.600 Certain first class districts--Staggered terms.

Any first class school district having a board of directors of five members as provided in *RCW 28A.315.450 and which elects directors for a term of six years under the provisions of RCW 29.13.060 shall cause the office of at least one director and no more than two directors to be up for election at each regular school district election held hereafter and, except as provided in **RCW 28A.315.680, any first class school district having a board of directors of seven members as provided in *RCW 28A.315.450 shall cause the office of two directors and no more than three directors to be up for election at each regular school district election held hereafter.

[1990 c 33 § 318; 1969 c 131 § 11; 1969 ex.s. c 223 § 28A.57.336. Prior: 1959 c 268 § 13. Formerly RCW 28A.315.570, 28A.57.336, 28.57.430.]

Notes:

Reviser's note: *(1) RCW 28A.315.450 was recodified as RCW 28A.343.300 pursuant to 1999 c 315 § 804.

**(2) RCW 28A.315.680 was recodified as RCW 28A.343.670 pursuant to 1999 c 315 § 805.

RCW 28A.343.610 First class districts having city with population of 400,000 people or more--Directors' terms.

After July 1, 1979, the election of directors of any first class school district having within its boundaries a city with a population of four hundred thousand people or more, shall be to four year terms. The initial four year terms required by this section shall commence upon the expiration of terms in existence at July 1, 1979. Nothing in chapter 183, Laws of 1979 ex. sess. shall affect the term of office of any incumbent director of any such first class school district.

[1991 c 363 § 21; 1979 ex.s. c 183 § 10. Formerly RCW 28A.315.460, 28A.57.313.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Effective date--Severability--1979 ex.s. c 183: See notes following RCW 28A.343.020.

Directors--Number and terms of in new first class district having city with population of 400,000 people or more: RCW 28A.343.650.

RCW 28A.343.620 First class districts containing no former first class district--Number and terms of directors.

Upon the establishment of a new school district of the first class as provided for in *RCW 28A.315.580 containing no former first class district, the directors of the old school districts who reside within the limits of the new district shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. If fewer than five such directors reside in such new district, they shall become directors of said district and the educational service district board shall appoint the number of additional directors to constitute a board of five directors for the district. Vacancies, once such a board has been reconstituted, shall not be filled unless the number of remaining board members is less than five, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all the powers and authority conferred by law upon boards of directors of first class school districts until the next regular school election in the district at which election their successors shall be elected and qualified. At such election no more than five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years: PROVIDED, That if such first class district is in a county with a population of two hundred ten thousand or more and contains a city of the first class, two directors shall be elected for a term of three years and three directors shall be elected for a term of six years.

[1991 c 363 § 24; 1990 c 33 § 320; 1980 c 35 § 3; 1979 ex.s. c 126 § 6; 1975 1st ex.s. c 275 § 102; 1971 c 67 § 3. Formerly RCW 28A.315.600, 28A.57.355.]

Notes:

***Reviser's note:** RCW 28A.315.580 was recodified as RCW 28A.343.020 pursuant to 1999 c 315 § 806.
Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.
Severability--1980 c 35: See note following RCW 28A.343.300.
Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

RCW 28A.343.630 First class districts containing only one former first class district--Number and terms of directors.

Upon the establishment of a new school district of the first class as provided for in *RCW 28A.315.580 containing only one former first class district, the directors of the former first class district and two directors representative of former second class districts selected by a majority of the board members of former second class districts shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. Vacancies, once such a board has been reconstituted, shall not be filled unless the number of remaining board members is less than five, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all the powers and authority conferred by law upon boards of directors of first class school districts until the next regular school election in the district at which election their successors shall be elected and qualified. At such election no more than five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years: PROVIDED, That if such first class district is in a county with a population of two hundred ten thousand or more and contains a city of the first class, two directors shall be elected for a term of three years and three directors shall be elected for a term of six years.

[1991 c 363 § 25; 1990 c 33 § 321; 1980 c 35 § 4; 1979 ex.s. c 126 § 7; 1975-'76 2nd ex.s. c 15 § 6. Prior: 1975 1st ex.s. c 275 § 103; 1975 c 43 § 10; 1971 c 67 § 4. Formerly RCW 28A.315.610, 28A.57.356.]

Notes:

***Reviser's note:** RCW 28A.315.580 was recodified as RCW 28A.343.020 pursuant to 1999 c 315 § 806.
Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.
Severability--1980 c 35: See note following RCW 28A.343.300.
Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).
Effective date--Severability--1975 c 43: See notes following RCW 28A.535.050.

RCW 28A.343.640 First class districts containing more than one former first class district--Number and terms of directors.

Upon the establishment of a new school district of the first class as provided for in *RCW 28A.315.580 containing more than one former first class district, the directors of the largest former first class district and three directors representative of the other former first class

districts selected by a majority of the board members of the former first class districts and two directors representative of former second class districts selected by a majority of the board members of former second class districts shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. Vacancies once such a board has been reconstituted shall not be filled unless the number of remaining board members is less than seven, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all of the powers and authority conferred by law upon boards of first class districts until the next regular school election and until their successors are elected and qualified. At such election other than districts electing directors for six-year terms as provided in RCW 29.13.060, as now or hereafter amended, five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years. At such election for districts electing directors for six years other than a district having within its boundaries a city with a population of four hundred thousand people or more and electing directors for six year terms, five directors shall be elected either at large or by director districts, as the case may be, one for a term of two years, two for a term of four years, and two for a term of six years.

[1991 c 363 § 26; 1990 c 33 § 322; 1980 c 35 § 5; 1980 c 47 § 2. Prior: 1979 ex.s. c 183 § 4; 1979 ex.s. c 126 § 8; 1975-'76 2nd ex.s. c 15 § 7; prior: 1975 1st ex.s. c 275 § 104; 1975 c 43 § 11; 1973 2nd ex.s. c 21 § 10; 1973 c 19 § 1; 1971 c 67 § 5. Formerly RCW 28A.315.620, 28A.57.357.]

Notes:

***Reviser's note:** RCW 28A.315.580 was recodified as RCW 28A.343.020 pursuant to 1999 c 315 § 806.

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Severability--1980 c 35: See note following RCW 28A.343.300.

Severability--1980 c 47: See note following RCW 28A.343.300.

Effective date--Severability--1979 ex.s. c 183: See notes following RCW 28A.343.020.

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

Effective date--Severability--1975 c 43: See notes following RCW 28A.535.050.

RCW 28A.343.650 New first class district having city with population of 400,000 people or more--Number and terms of directors.

Upon the establishment of a new school district of the first class having within its boundaries a city with a population of four hundred thousand people or more, the directors of the largest former first class district and three directors representative of the other former first class districts selected by a majority of the board members of the former first class districts and two directors representative of former second class districts selected by a majority of the board members of former second class districts shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all the powers and duties conferred by law upon boards of first class districts, until the next regular school election and until their successors are elected and

qualified. Such duties shall include establishment of new director districts as provided for in *RCW 28A.315.670. At the next regular school election seven directors shall be elected by director districts, two for a term of two years, two for a term of four years and three for a term of six years. Thereafter their terms shall be as provided in *RCW 28A.315.460.

Vacancies once such a board has been reconstituted shall not be filled unless the number of remaining board members is less than seven, and such vacancies shall be filled in the manner otherwise provided by law.

[1991 c 363 § 27; 1990 c 33 § 323; 1980 c 35 § 6; 1980 c 47 § 3. Prior: 1979 ex.s. c 183 § 5; 1979 ex.s. c 126 § 9; 1975-'76 2nd ex.s. c 15 § 8; prior: 1975 1st ex.s. c 275 § 105; 1975 c 43 § 12; 1973 2nd ex.s. c 21 § 4; 1971 c 67 § 6. Formerly RCW 28A.315.630, 28A.57.358.]

Notes:

***Reviser's note:** RCW 28A.315.670 and 28A.315.460 were recodified as RCW 28A.343.660 and 28A.343.610, respectively, pursuant to 1999 c 315 § 805.

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Severability--1980 c 35: See note following RCW 28A.343.300.

Severability--1980 c 47: See note following RCW 28A.343.300.

Effective date--Severability--1979 ex.s. c 183: See notes following RCW 28A.343.020.

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

Effective date--Severability--1975 c 43: See notes following RCW 28A.535.050.

Directors--First class districts having city with population of 400,000 people or more--Terms: RCW 28A.343.610.

RCW 28A.343.660 First class districts having city with population of 400,000 people or more--Boundaries of director districts--Candidate eligibility--Declaration of candidacy--Primary limited to district voters--Terms of directors.

Notwithstanding any other provision of law, any school district of the first class having within its boundaries a city with a population of four hundred thousand people or more shall be divided into seven director districts. The boundaries of such director districts shall be established by the members of the school board, such boundaries to be established so that each such district shall comply, as nearly as practicable, with the criteria established in RCW 29.70.100. Boundaries of such director districts shall be adjusted by the school board following the procedure established in RCW 29.70.100 after each federal decennial census if population change shows the need thereof to comply with the criteria of RCW 29.70.100. No person shall be eligible for the position of school director in any such director district unless such person resides in the particular director district. Residents in the particular director district desiring to be a candidate for school director shall file their declarations of candidacy for such director district and for the position of director in that district and shall be voted upon, in any primary required to be held for the position under Title 29 RCW, by the registered voters of that particular director district. In the general election, each position shall be voted upon by all the registered voters in the school district. The order of the names of candidates shall appear on the primary and general election ballots as required for nonpartisan positions under Title 29 RCW. Except as provided in *RCW 28A.315.680, every such director so elected in school districts divided into seven director districts shall serve for a term of four years as otherwise provided in *RCW 28A.315.460.

[1991 c 363 § 28; 1991 c 288 §§ 5, 6. Prior: 1990 c 59 § 99; 1990 c 33 § 327; 1979 ex.s. c 183 § 6; 1973 2nd ex.s. c 21 § 5; 1969 c 131 § 9. Formerly RCW 28A.315.670, 28A.57.425.]

Notes:

Reviser's note: *(1) RCW 28A.315.680 and 28A.315.460 were recodified as RCW 28A.343.670 and 28A.343.610, respectively, pursuant to 1999 c 315 § 805.

(2) This section was amended by 1991 c 288 §§ 5 and 6 and by 1991 c 363 § 28, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective dates--1991 c 363 §§ 28, 29, 33, 47, and 131: "(1) Sections 28, 29, 33, and 131 of this act shall take effect July 1, 1992.

(2) Section 47 of this act shall take effect July 1, 1993." [1991 c 363 § 165.]

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Effective date--1991 c 288 §§ 6 and 8: "Sections 6 and 8 of this act shall take effect July 1, 1992." [1991 c 288 § 12.]

Expiration date--1991 c 288 §§ 5 and 7: "Sections 5 and 7 of this act shall expire July 1, 1992." [1991 c 288 § 11.]

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Effective date--Severability--1979 ex.s. c 183: See notes following RCW 28A.343.020.

RCW 28A.343.670 First class districts having city with population of 400,000 people or more--Initial director district boundaries--Appointments to fill vacancies for new director districts--Director district numbers.

The school boards of any school district of the first class having within its boundaries a city with a population of four hundred thousand people or more shall establish the director district boundaries. Appointment of a board member to fill any vacancy existing for a new director district prior to the next regular school election shall be by the school board. Prior to the next regular election in the school district and the filing of declarations of candidacy therefor, the incumbent school board shall designate said director districts by number. Directors appointed to fill vacancies as above provided shall be subject to election, one for a six-year term, and one for a two-year term and thereafter the term of their respective successors shall be for four years. The term of office of incumbent members of the board of such district shall not be affected by *RCW 28A.315.450, 28A.315.460, 28A.315.570, 28A.315.670, and 28A.315.680.

[1995 c 335 § 106. Prior: 1991 c 363 § 29; 1991 c 288 §§ 7, 8; prior: 1990 c 59 § 72; 1990 c 33 § 328; 1983 c 3 § 36; 1979 ex.s. c 183 § 7; 1973 2nd ex.s. c 21 § 6; 1969 c 131 § 10. Formerly RCW 28A.315.680, 28A.57.435.]

Notes:

***Reviser's note:** RCW 28A.315.450, 28A.315.460, 28A.315.570, 28A.315.670, and 28A.315.680 were recodified as RCW 28A.343.300, 28A.343.610, 28A.343.600, 28A.343.660, and 28A.343.670, respectively, pursuant to 1999 c 315 §§ 804 and 805.

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

Effective dates--1991 c 363 §§ 28, 29, 33, 47, and 131: See note following RCW 28A.343.660.

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Effective date--1991 c 288 §§ 6 and 8: See note following RCW 28A.343.660.

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Effective date--Severability--1979 ex.s. c 183: See notes following RCW 28A.343.020.

RCW 28A.343.680 New second class districts--Number and terms of directors.

Upon the establishment of a new school district of the second class, the directors of the old school districts who reside within the limits of the new district shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. If fewer than five such directors reside in any such new second class school district, they shall become directors of said district, and the educational service district board shall appoint the number of additional directors required to constitute a board of five directors for the new second class district. Vacancies once such a board has been reconstituted shall not be filled unless the number of remaining board members is less than five in a second class district, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all the powers and authority conferred by law upon boards of directors of other districts of the same class. Each initial director shall hold office until his or her successor is elected and qualified: PROVIDED, That the election of the successor shall be held during the second district general election after the initial directors have assumed office. At such election, no more than five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years. Directors thereafter elected and qualified shall serve such terms as provided for in *RCW 28A.315.450.

[1990 c 33 § 316; 1980 c 35 § 2; 1979 ex.s. c 126 § 5; 1975-'76 2nd ex.s. c 15 § 5. Prior: 1975 1st ex.s. c 275 § 101; 1975 c 43 § 7; 1971 c 67 § 1; 1969 ex.s. c 176 § 137; 1969 ex.s. c 223 § 28A.57.328; prior: 1959 c 268 § 7, part; 1947 c 266 § 24, part; Rem. Supp. 1947 § 4693-43, part. Formerly RCW 28A.315.550, 28A.57.328, 28.57.350, part.]

Notes:

***Reviser's note:** RCW 28A.315.450 was recodified as RCW 28A.343.300 pursuant to 1999 c 315 § 804.

Severability--1980 c 35: See note following RCW 28A.343.300.

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

Effective date--Severability--1975 c 43: See notes following RCW 28A.535.050.

Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

Chapter 28A.345 RCW
WASHINGTON STATE SCHOOL DIRECTORS' ASSOCIATION

Sections

28A.345.010 Association created.
28A.345.020 Membership.
28A.345.030 Powers of association.
28A.345.040 Coordination of policies--Report.
28A.345.050 Association dues--Payment.
28A.345.060 Audit of staff classifications and employees' salaries--Contract with department of personnel--Copies.
28A.345.902 Effective date--1983 c 187.

Notes:
Motor vehicle transportation services--Washington state school directors' association defined as state agency for purposes of: RCW 43.19.560.

RCW 28A.345.010 Association created.

The public necessity for the coordination of programs and procedures pertaining to policymaking and to control and management among the school districts of the state is hereby recognized, and in the furtherance of such coordination there is hereby created for said purpose an agency of the state to be known as the Washington state school directors' association, hereinafter designated as the school directors' association.

[1969 ex.s. c 223 § 28A.61.010. Prior: 1947 c 169 § 1; Rem. Supp. 1947 § 4709-20. Formerly RCW 28A.61.010, 28.58.320.]

RCW 28A.345.020 Membership.

The membership of the school directors' association shall comprise the members of the boards of directors of the school districts of the state.

[1969 ex.s. c 223 § 28A.61.020. Prior: 1947 c 169 § 2; Rem. Supp. 1947 § 4709-21. Formerly RCW 28A.61.020, 28.58.330.]

RCW 28A.345.030 Powers of association.

The school directors' association shall have the power:

(1) To prepare and adopt, amend and repeal a constitution and rules and regulations, and bylaws for its own organization including county or regional units and for its government and guidance: PROVIDED, That action taken with respect thereto is consistent with the provisions of this chapter or with other provisions of law;

(2) To arrange for and call such meetings of the association or of the officers and committees thereof as are deemed essential to the performance of its duties;

(3) To provide for the compensation of members of the board of directors in accordance with RCW 43.03.240, and for payment of travel and subsistence expenses incurred by members and/or officers of the association and association staff while engaged in the performance of duties under direction of the association in the manner provided by RCW 28A.320.050;

(4) To employ an executive director and other staff and pay such employees out of the funds of the association;

(5) To conduct studies and disseminate information therefrom relative to increased efficiency in local school board administration;

(6) To buy, lease, sell, or exchange such personal and real property as necessary for the efficient operation of the association and to borrow money, issue deeds of trust or other evidence of indebtedness, or enter into contracts for the purchase, lease, remodeling, or equipping of

office facilities or the acquisition of sites for such facilities;

(7) To purchase liability insurance for school directors, which insurance may indemnify said directors against any or all liabilities for personal or bodily injuries and property damage arising from their acts or omissions while performing or while in good faith purporting to perform their official duties as school directors;

(8) To provide advice and assistance to local boards to promote their primary duty of representing the public interest;

(9) Upon request by a local school district board(s) of directors, to make available on a cost reimbursable contract basis (a) specialized services, (b) research information, and (c) consultants to advise and assist district board(s) in particular problem areas: PROVIDED, That such services, information, and consultants are not already available from other state agencies, educational service districts, or from the information and research services authorized by RCW 28A.320.110.

[1991 c 66 § 1; 1990 c 33 § 372; 1989 c 325 § 1; 1983 c 187 § 1; 1979 c 151 § 13; 1974 ex.s. c 101 § 1; 1969 ex.s. c 184 § 4; 1969 ex.s. c 223 § 28A.61.030. Prior: 1947 c 169 § 3; Rem. Supp. 1947 § 4709-22. Formerly RCW 28A.61.030, 28.58.340.]

Notes:

Effective date--1989 c 325: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 30, 1989." [1989 c 325 § 3.]

RCW 28A.345.040 Coordination of policies--Report.

It shall be the duty of the school directors' association (1) to take such action as the association deems advisable to effect a coordination of policymaking, control, and management of the school districts of the state; and (2) to prepare and submit to the superintendent of public instruction annually, and oftener if deemed advisable by the association, reports and recommendations respecting the aforesaid matters and any other matters which in the judgment of the association pertain to an increase in the efficiency of the common school system.

[1969 ex.s. c 223 § 28A.61.040. Prior: 1947 c 169 § 4; Rem. Supp. 1947 § 4709-23. Formerly RCW 28A.61.040, 28.58.350.]

RCW 28A.345.050 Association dues--Payment.

The school directors' association may establish a graduated schedule of dues for members of the association based upon the number of certificated personnel in each district. Dues shall be established for the directors of each district as a group. The total of all dues assessed shall not exceed twenty-seven cents for each one thousand dollars of the state-wide total of all school districts' general fund receipts. The board of directors of a school district shall make provision for payment out of the general fund of the district of the dues of association members resident in the district, which payment shall be made in the manner provided by law for the payment of other claims against the general fund of the district. The dues for each school district shall be due and payable on the first day of January of each year.

[1983 c 187 § 2; 1969 c 125 § 2; 1969 ex.s. c 223 § 28A.61.050. Prior: 1967 ex.s. c 8 § 76; 1965 c 103 § 1; 1957 c 281 § 1; 1953 c 226 § 1; 1947 c 169 § 5; Rem. Supp. 1947 § 4709-24. Formerly RCW 28A.61.050, 28.58.360.]

RCW 28A.345.060 Audit of staff classifications and employees' salaries--Contract with department of personnel--Copies.

The association shall contract with the department of personnel for the department of personnel to audit in odd-numbered years the association's staff classifications and employees' salaries. The association shall give copies of the audit reports to the office of financial management and the committees of each house of the legislature dealing with common schools.

[1986 c 158 § 3; 1983 c 187 § 4. Formerly RCW 28A.61.070.]

RCW 28A.345.902 Effective date--1983 c 187.

This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1983.

[1983 c 187 § 8. Formerly RCW 28A.61.910.]

Chapter 28A.350 RCW
SCHOOL DISTRICT WARRANTS--AUDITOR'S DUTIES

Sections

28A.350.010 Registering warrants--All districts.
28A.350.020 Registering warrants--Second class districts.
28A.350.030 Auditing accounts--All districts.
28A.350.040 Auditor to draw and issue warrants--Second class districts.
28A.350.050 Teacher must qualify before warrant drawn and issued or registered--All districts.
28A.350.060 Liability of auditor for warrants exceeding budget--All districts.
28A.350.070 Orders for warrants not transferable--Second class districts.

RCW 28A.350.010 Registering warrants--All districts.

The county auditor shall register in the auditor's own office, and present to the treasurer for registration in the office of the county treasurer, all warrants of first class districts, and all warrants of second class districts electing to draw and issue their own warrants under RCW 28A.330.230 received from school district superintendents or district secretaries before delivery of the same to claimants.

[1990 c 33 § 373; 1975 c 43 § 27; 1973 c 111 § 2; 1969 ex.s. c 223 § 28A.66.010. Prior: 1911 c 78 § 1, part; RRS § 4864. Formerly RCW 28A.66.010, 28.66.010.]

Notes:

Effective date--Severability--1975 c 43: See notes following RCW 28A.535.050.
Severability--1973 c 111: See note following RCW 28A.330.230.

RCW 28A.350.020 Registering warrants--Second class districts.

The county auditor shall cause all school warrants of second class districts issued by the auditor to be registered in the treasurer's office and shall retain the vouchers on file in the auditor's office.

[1990 c 33 § 374; 1975 c 43 § 28; 1969 ex.s. c 223 § 28A.66.020. Prior: 1911 c 78 § 1, part; RRS § 4863. Formerly RCW 28A.66.020, 28.66.020.]

Notes:

Effective date--Severability--1975 c 43: See notes following RCW 28A.535.050.

RCW 28A.350.030 Auditing accounts--All districts.

The county auditors of the several counties of this state shall audit all accounts of the several school districts of their respective counties, the same as other accounts are audited with the other departments of the county.

[1969 ex.s. c 223 § 28A.66.030. Prior: 1909 c 97 p 308 § 2; RRS § 4858. Formerly RCW 28A.66.030, 28.66.030.]

RCW 28A.350.040 Auditor to draw and issue warrants--Second class districts.

The county auditor shall draw and issue warrants for the payment of all salaries, expenses and accounts against second class districts, except those who draw and issue their own warrants pursuant to RCW 28A.330.230 upon the written order of the majority of the members of the school board of each district.

[1990 c 33 § 375; 1975 c 43 § 29; 1973 c 111 § 3; 1969 ex.s. c 223 § 28A.66.040. Prior: 1909 c 97 p 308 § 3; RRS § 4859. Formerly RCW 28A.66.040, 28.66.040.]

Notes:

Effective date--Severability--1975 c 43: See notes following RCW 28A.535.050.
Severability--1973 c 111: See note following RCW 28A.330.230.

RCW 28A.350.050 Teacher must qualify before warrant drawn and issued or registered--All districts.

No warrant shall be drawn and issued or registered by the county auditor for the payment of any teacher who is not qualified within the meaning of the law of this state.

[1973 c 72 § 1; 1971 c 48 § 45; 1969 ex.s. c 223 § 28A.66.050. Prior: 1909 c 97 p 308 § 4; RRS § 4860. Formerly RCW 28A.66.050, 28.66.050.]

Notes:

Severability--1971 c 48: See note following RCW 28A.305.040.

RCW 28A.350.060 Liability of auditor for warrants exceeding budget--All districts.

Any county auditor issuing or causing to be issued a district warrant for any sum in excess of total disbursements of a district's annual budget shall be personally liable therefor, and shall reimburse the district in double the amount of any such sum.

[1975-'76 2nd ex.s. c 118 § 31; 1969 ex.s. c 223 § 28A.66.070. Prior: 1959 c 216 § 22; prior: 1933 c 28 § 2, part; 1909 c 97 p 288 § 9, part; 1897 c 118 § 46, part; 1893 c 107 § 3, part; RRS § 4784, part. Formerly RCW 28A.66.070, 28.66.070.]

Notes:

Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

RCW 28A.350.070 Orders for warrants not transferable--Second class districts.

An order for a warrant issued by any board of directors of second class school districts shall not be transferable, and the county auditor shall issue no warrant except to individuals or firms designated in original district orders.

[1975 c 43 § 30; 1969 ex.s. c 223 § 28A.66.080. Prior: 1959 c 216 § 23; prior: 1933 c 28 § 2, part; 1909 c 97 p 288 § 9, part; 1897 c 118 § 46, part; 1893 c 107 § 3, part; RRS § 4784, part. Formerly RCW 28A.66.080, 28.66.080.]

Notes:

Effective date--Severability--1975 c 43: See notes following RCW 28A.535.050.

Chapter 28A.400 RCW
EMPLOYEES

Sections

SUPERINTENDENTS

28A.400.010 Employment of superintendent--Superintendent's qualifications, general powers, term, contract renewal.
28A.400.020 Directors' and superintendents' signatures filed with auditor.
28A.400.030 Superintendent's duties.

PRINCIPALS

28A.400.100 Principals and vice principals--Employment of--Qualifications--Duties.
28A.400.110 Principal to assure appropriate student discipline--Building discipline standards--Classes to improve classroom management skills.

SALARY AND COMPENSATION

28A.400.200 Salaries and compensation for employees--Minimum amounts--Limitations--Supplemental contracts.
28A.400.205 Cost-of-living increases for employees.

28A.400.206 Cost-of-living increases--Duty of state.
28A.400.210 Employee attendance incentive program--Remuneration or benefit plan for unused sick leave.
28A.400.212 Employee attendance incentive program--Effect of early retirement.
28A.400.220 Employee salary or compensation--Limitations respecting.
28A.400.230 Deposit of cumulative total of earnings of group of employees--Authorized--Conditions.
28A.400.240 Deferred compensation plan for school district or educational service district employees--Limitations.
28A.400.250 Tax deferred annuities.
28A.400.260 Pension benefits or annuity benefits for certain classifications of employees--Procedure.
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HIRING AND DISCHARGE

28A.400.300 Hiring and discharging of employees--Seniority and leave benefits, transfers between school districts.
28A.400.303 Record checks for employees.
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28A.400.340 Notice of discharge to contain notice of right to appeal if available.

INSURANCE

28A.400.350 Liability, life, health, health care, accident, disability, and salary insurance authorized--When required--Premiums.
28A.400.360 Liability insurance for officials and employees authorized.
28A.400.370 Mandatory insurance protection for employees.
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28A.400.391 Insurance for retired and disabled employees--Application--Rules.
28A.400.395 Insurance for retired employees and their dependents--Method of payment of premium.
28A.400.400 District contributions to the public employees' and retirees' insurance account.
28A.400.410 Payment to the public employees' and retirees' insurance account.

NOTES:
Educational employment relations act: Chapter 41.59 RCW.

SUPERINTENDENTS

RCW 28A.400.010 Employment of superintendent--Superintendent's qualifications, general powers, term, contract renewal.

In all districts the board of directors shall elect a superintendent who shall have such qualification as the local school board alone shall determine. The superintendent shall have supervision over the several departments of the schools thereof and carry out such other powers

and duties as prescribed by law. Notwithstanding the provisions of RCW 28A.400.300(1), the board may contract with such superintendent for a term not to exceed three years when deemed in the best interest of the district. The right to renew a contract of employment with any school superintendent shall rest solely with the discretion of the school board employing such school superintendent. Regarding such renewal of contracts of school superintendents the provisions of RCW 28A.405.210, 28A.405.240, and 28A.645.010 shall be inapplicable.

[1990 c 33 § 376; 1985 c 7 § 94; 1975-'76 2nd ex.s. c 114 § 10; 1975-'76 2nd ex.s. c 15 § 10. Prior: 1975 1st ex.s. c 254 § 2; 1975-'76 1st ex.s. c 137 § 1; 1969 ex.s. c 223 § 28A.58.137; prior: (i) 1909 c 97 p 300 § 11; RRS § 4821. Formerly RCW 28.63.060. (ii) 1909 c 97 p 302 § 8; RRS § 4830. Formerly RCW 28.63.062. (iii) 1909 c 97 p 302 § 9; RRS § 4831. Formerly RCW 28.63.064. (iv) 1909 c 97 p 290 § 4, part; RRS § 4793, part. Formerly RCW 28A.58.137, 28.62.040, part.]

Notes:

Savings--1975-'76 2nd ex.s. c 114: "Nothing in this 1976 amendatory act shall be construed to annul or to modify or to preclude the continuation of any lawful agreement entered into prior to the effective date of this 1976 amendatory act." [1975-'76 2nd ex.s. c 114 § 11.]

Severability--1975-'76 2nd ex.s. c 114: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 114 § 12.]

Reimbursement of expenses of directors, other school representatives, and superintendent candidates--Advancing anticipated expenses: RCW 28A.320.050.

RCW 28A.400.020 Directors' and superintendents' signatures filed with auditor.

Every school district director and school district superintendent, on assuming the duties of his or her office, shall place his or her signature, certified to by some school district official, on file in the office of the county auditor.

[1990 c 33 § 377; 1969 ex.s. c 223 § 28A.58.140. Prior: 1909 c 97 p 289 § 12; RRS § 4787; prior: 1897 c 118 § 61; 1890 p 380 § 70. Formerly RCW 28A.58.140, 28.58.140.]

RCW 28A.400.030 Superintendent's duties.

In addition to such other duties as a district school board shall prescribe the school district superintendent shall:

(1) Attend all meetings of the board of directors and cause to have made a record as to the proceedings thereof.

(2) Keep such records and reports and in such form as the district board of directors require or as otherwise required by law or rule or regulation of higher administrative agencies and turn the same over to his or her successor.

(3) Keep accurate and detailed accounts of all receipts and expenditures of school money. At each annual school meeting the superintendent must present his or her record book of board proceedings for public inspection, and shall make a statement of the financial condition of the district and such record book must always be open for public inspection.

(4) Give such notice of all annual or special elections as otherwise required by law; also

give notice of the regular and special meetings of the board of directors.

(5) Sign all orders for warrants ordered to be issued by the board of directors.

(6) Carry out all orders of the board of directors made at any regular or special meeting.

[1991 c 116 § 14; 1990 c 33 § 378; 1983 c 56 § 8; 1977 ex.s. c 80 § 30; 1975-'76 2nd ex.s. c 118 § 30; 1975 1st ex.s. c 275 § 110; 1971 c 48 § 30; 1969 ex.s. c 223 § 28A.58.150. Prior: 1909 c 97 p 304 § 2; RRS § 4842; prior: 1907 c 163 § 3; 1899 c 142 § 10; 1897 c 118 § 49; 1893 c 107 § 5; 1891 c 127 § 12; 1890 p 367 § 34; Code 1881 §§ 3194, 3195, 3196, 3197; 1873 p 428 §§ 10, 11, 12, 13. Formerly RCW 28A.58.150, 28.58.150.]

Notes:

Severability--1983 c 56: See note following RCW 28A.195.010.

Purpose--Intent--Severability--1977 ex.s. c 80: See notes following RCW 4.16.190.

Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

Severability--1971 c 48: See note following RCW 28A.305.040.

PRINCIPALS

RCW 28A.400.100 Principals and vice principals--Employment of--Qualifications--Duties.

School districts may employ public school principals and/or vice principals to supervise the operation and management of the school to which they are assigned. Such persons shall hold valid teacher and administrative certificates. In addition to such other duties as shall be prescribed by law and by the job description adopted by the board of directors, each principal shall:

(1) Assume administrative authority, responsibility and instructional leadership, under the supervision of the school district superintendent, and in accordance with the policies of the school district board of directors, for the planning, management, supervision and evaluation of the educational program of the attendance area for which he or she is responsible.

(2) Submit recommendations to the school district superintendent regarding appointment, assignment, promotion, transfer and dismissal of all personnel assigned to the attendance area for which he or she is responsible.

(3) Submit recommendations to the school district superintendent regarding the fiscal needs to maintain and improve the instructional program of the attendance area for which he or she is responsible.

(4) Assume administrative authority and responsibility for the supervision, counseling and discipline of pupils in the attendance area for which he or she is responsible.

[1977 ex.s. c 272 § 1. Formerly RCW 28A.58.160.]

Notes:

Severability--1977 ex.s. c 272: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 272 § 2.]

RCW 28A.400.110 Principal to assure appropriate student discipline--Building discipline standards--Classes to improve classroom management skills.

Within each school the school principal shall determine that appropriate student discipline is established and enforced. In order to assist the principal in carrying out the intent of this section, the principal and the certificated employees in a school building shall confer at least annually in order to develop and/or review building disciplinary standards and uniform enforcement of those standards. Such building standards shall be consistent with the provisions of RCW 28A.600.020(3).

School principals and certificated employees shall also confer annually, to establish criteria for determining when certificated employees must complete classes to improve classroom management skills.

[1997 c 266 § 12; 1990 c 33 § 379; 1980 c 171 § 2; 1975-'76 2nd ex.s. c 97 § 3. Formerly RCW 28A.58.201.]

Notes:

Findings--Intent--Severability--1997 c 266: See notes following RCW 28A.600.455.

SALARY AND COMPENSATION

RCW 28A.400.200 Salaries and compensation for employees--Minimum amounts--Limitations--Supplemental contracts.

(1) Every school district board of directors shall fix, alter, allow, and order paid salaries and compensation for all district employees in conformance with this section.

(2)(a) Salaries for certificated instructional staff shall not be less than the salary provided in the appropriations act in the state-wide salary allocation schedule for an employee with a baccalaureate degree and zero years of service; and

(b) Salaries for certificated instructional staff with a masters degree shall not be less than the salary provided in the appropriations act in the state-wide salary allocation schedule for an employee with a masters degree and zero years of service;

(3)(a) The actual average salary paid to basic education and special education certificated instructional staff shall not exceed the district's average basic education and special education program certificated instructional staff salary used for the state basic education allocations for that school year as determined pursuant to RCW 28A.150.410.

(b) Fringe benefit contributions for basic education and special education certificated instructional staff shall be included as salary under (a) of this subsection only to the extent that the district's actual average benefit contribution exceeds the amount of the insurance benefits allocation provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable. For purposes of this section, fringe benefits shall not include payment for unused leave for illness or injury under RCW 28A.400.210; employer contributions for old age survivors insurance, workers' compensation, unemployment compensation, and retirement benefits under the Washington state retirement system; or employer contributions for health benefits in excess of the insurance benefits allocation provided

per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable. A school district may not use state funds to provide employer contributions for such excess health benefits.

(c) Salary and benefits for certificated instructional staff in programs other than basic education and special education shall be consistent with the salary and benefits paid to certificated instructional staff in the basic education and special education programs.

(4) Salaries and benefits for certificated instructional staff may exceed the limitations in subsection (3) of this section only by separate contract for additional time, additional responsibilities, or incentives. Supplemental contracts shall not cause the state to incur any present or future funding obligation. Supplemental contracts shall be subject to the collective bargaining provisions of chapter 41.59 RCW and the provisions of RCW 28A.405.240, shall not exceed one year, and if not renewed shall not constitute adverse change in accordance with RCW 28A.405.300 through 28A.405.380. No district may enter into a supplemental contract under this subsection for the provision of services which are a part of the basic education program required by Article IX, section 3 of the state Constitution.

(5) Employee benefit plans offered by any district shall comply with RCW 28A.400.350 and 28A.400.275 and 28A.400.280.

[1997 c 141 § 2; 1993 c 492 § 225. Prior: 1990 1st ex.s. c 11 § 2; 1990 c 33 § 381; 1987 1st ex.s. c 2 § 205. Formerly RCW 28A.58.0951.]

Notes:

Findings--Intent--1993 c 492: See notes following RCW 43.20.050.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

Intent--1990 1st ex.s. c 11: "The legislature recognizes the rising costs of health insurance premiums for school employees, and the increasing need to ensure effective use of state benefit dollars to obtain basic coverage for employees and their dependents. In school districts that do not pool benefit allocations among employees, increases in premium rates create particular hardships for employees with families. For many of these employees, the increases translate directly into larger payroll deductions simply to maintain basic benefits.

The goal of this act is to provide access for school employees to basic coverage, including coverage for dependents, while minimizing employees' out-of-pocket premium costs. Unnecessary utilization of medical services can contribute to rising health insurance costs. Therefore, the legislature intends to encourage plans that promote appropriate utilization without creating major barriers to access to care. The legislature also intends that school districts pool state benefit allocations so as to eliminate major differences in out-of-pocket premium expenses for employees who do and do not need coverage for dependents." [1990 1st ex.s. c 11 § 1.]

Intent--Severability--Effective date--1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

RCW 28A.400.205 Cost-of-living increases for employees.

(1) School district employees shall be provided an annual salary cost-of-living increase in accordance with this section.

(a) The cost-of-living increase shall be calculated by applying the rate of the yearly increase in the cost-of-living index to any state-funded salary base used in state funding formulas for teachers and other school district employees. Beginning with the 2001-02 school year, and for each subsequent school year, each school district shall be provided a cost-of-living allocation

sufficient to grant this cost-of-living increase for the salaries, including mandatory salary-related benefits, of all employees of the district.

(b) A school district shall distribute its cost-of-living allocation for salaries and salary-related benefits in accordance with the district's salary schedules, collective bargaining agreements, and compensation policies. No later than the end of the school year, each school district shall certify to the superintendent of public instruction that it has spent funds provided for cost-of-living increases on salaries and salary-related benefits.

(c) Any funded cost-of-living increase shall be included in the salary base used to determine cost-of-living increases for all school employees in subsequent years. For teachers and other certificated instructional staff, the rate of the annual cost-of-living increase funded for certificated instructional staff shall be applied to the base salary used with the statewide salary allocation schedule established under RCW 28A.150.410 and to any other salary models used to recognize school district personnel costs.

(d) Beginning with the 2001-02 school year, the state shall fully fund the cost-of-living increase in this section as part of its obligation to meet the basic education requirements under Article IX of the Washington Constitution.

(2) For the purposes of this section, "cost-of-living index" means, for any school year, the previous calendar year's annual average consumer price index, using the official current base, compiled by the bureau of labor statistics, United States department of labor for the state of Washington. If the bureau of labor statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the cost-of-living index in this section.

[2001 c 4 § 2 (Initiative Measure No. 732, approved November 7, 2000).]

NOTES:

Severability--2001 c 4 (Initiative Measure No. 732): See note following RCW 28A.400.206.

RCW 28A.400.206 Cost-of-living increases--Duty of state.

The Washington Constitution establishes "the paramount duty of the state to make ample provision for the education of all children." Providing quality education for all children in Washington requires well-qualified and experienced teachers and other school employees. However, salaries for educators have not kept up with the increased cost-of-living in the state. The failure to keep up with inflation threatens Washington's ability to compete with other states to attract first-rate teachers to Washington classrooms and to keep well-qualified educators from leaving for other professions. The state must provide a fair and reasonable cost-of-living increase to help ensure that the state attracts and keeps the best teachers and school employees for the children of Washington.

[2001 c 4 § 1 (Initiative Measure No. 732, approved November 7, 2000).]

NOTES:

Severability--2001 c 4 (Initiative Measure No. 732): "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons

or circumstances is not affected." [2001 c 4 § 5 (Initiative Measure No. 732, approved November 7, 2000).]

RCW 28A.400.210 Employee attendance incentive program--Remuneration or benefit plan for unused sick leave.

Every school district board of directors may, in accordance with chapters 41.56 and 41.59 RCW, establish an attendance incentive program for all certificated and classified employees in the following manner, including covering persons who were employed during the 1982-'83 school year:

(1) In January of the year following any year in which a minimum of sixty days of leave for illness or injury is accrued, and each January thereafter, any eligible employee may exercise an option to receive remuneration for unused leave for illness or injury accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued leave for illness or injury in excess of sixty days. Leave for illness or injury for which compensation has been received shall be deducted from accrued leave for illness or injury at the rate of four days for every one day's monetary compensation. No employee may receive compensation under this section for any portion of leave for illness or injury accumulated at a rate in excess of one day per month.

(2) Except as provided in RCW 28A.400.212, at the time of separation from school district employment an eligible employee or the employee's estate shall receive remuneration at a rate equal to one day's current monetary compensation of the employee for each four full days accrued leave for illness or injury. For purposes of this subsection, "eligible employee" means (a) employees who separate from employment due to retirement or death; (b) employees who separate from employment and who are at least age fifty-five and have at least ten years of service under the teachers' retirement system plan 3 as defined in RCW 41.32.010(40), or under the Washington school employees' retirement system plan 3 as defined in *RCW 41.35.010(31); or (c) employees who separate from employment and who are at least age fifty-five and have at least fifteen years of service under the teachers' retirement system plan 2 as defined in RCW 41.32.010(39), under the Washington school employees' retirement system plan 2 as defined in *RCW 41.35.010(30), or under the public employees' retirement system plan 2 as defined in RCW 41.40.010(34).

(3) In lieu of remuneration for unused leave for illness or injury as provided in subsections (1) and (2) of this section, a school district board of directors may, with equivalent funds, provide eligible employees a benefit plan that provides reimbursement for medical expenses. Any benefit plan adopted after July 28, 1991, shall require, as a condition of participation under the plan, that the employee sign an agreement with the district to hold the district harmless should the United States government find that the district or the employee is in debt to the United States as a result of the employee not paying income taxes due on the equivalent funds placed into the plan, or as a result of the district not withholding or deducting any tax, assessment, or other payment on such funds as required under federal law.

Moneys or benefits received under this section shall not be included for the purposes of computing a retirement allowance under any public retirement system in this state.

The superintendent of public instruction in its administration hereof, shall promulgate

uniform rules and regulations to carry out the purposes of this section.

Should the legislature revoke any benefits granted under this section, no affected employee shall be entitled thereafter to receive such benefits as a matter of contractual right.

[2000 c 231 § 1; 1997 c 13 § 9; 1992 c 234 § 12; 1991 c 92 § 2; 1989 c 69 § 2; 1983 c 275 § 2. Formerly RCW 28A.58.096.]

NOTES:

***Reviser's note:** RCW 41.35.010 was amended by 2001 c 180 § 3, changing subsections (30) and (31) to subsections (29) and (30), respectively.

Intent--Construction--1983 c 275: "This act is intended to effectuate the legislature's intent in the original enactment of chapter 182, Laws of 1980 and constitutes a readoption of the relevant portions of that law. This act shall be construed as being in effect since June 12, 1980." [1983 c 275 § 5.]

RCW 28A.400.212 Employee attendance incentive program--Effect of early retirement.

An employee of a school district that has established an attendance incentive program under RCW 28A.400.210 who retires under section 1 or 3, chapter 234, Laws of 1992, section 1 or 3, chapter 86, Laws of 1993, or section 4 or 6, chapter 519, Laws of 1993, shall receive, at the time of his or her separation from school district employment, not less than one-half of the remuneration for accrued leave for illness or injury payable to him or her under the district's incentive program. The school district board of directors may, at its discretion, pay the remainder of such an employee's remuneration for accrued leave for illness or injury after the time of the employee's separation from school district employment, but the employee or the employee's estate is entitled to receive the remainder of the remuneration no later than the date the employee would have been eligible to retire under the provisions of RCW 41.40.180 or 41.32.480 had the employee continued to work for the district until eligible to retire, or three years following the date of the employee's separation from school district employment, whichever occurs first. A district exercising its discretion under this section to pay the remainder of the remuneration after the time of the employee's separation from school district employment shall establish a policy and procedure for paying the remaining remuneration that applies to all affected employees equally and without discrimination. Any remuneration paid shall be based on the number of days of leave the employee had accrued and the compensation the employee received at the time he or she retired under section 1 or 3, chapter 234, Laws of 1992, section 1 or 3, chapter 86, Laws of 1993, or section 4 or 6, chapter 519, Laws of 1993.

[1993 c 519 § 14; 1993 c 86 § 8; 1992 c 234 § 13.]

Notes:

Reviser's note: This section was amended by 1993 c 86 § 8 and by 1993 c 519 § 14, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Part headings not law--1993 c 519: "Part headings as used in this act do not constitute any part of the law." [1993 c 519 § 24.]

Effective date--1993 c 519: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 18, 1993]." [1993 c 519 § 25.]

Effective date--1993 c 86: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 21, 1993]." [1993 c 86 § 9.]

RCW 28A.400.220 Employee salary or compensation--Limitations respecting.

(1) No school district board of directors or administrators may:

(a) Increase an employee's salary or compensation to include a payment in lieu of providing a fringe benefit; or

(b) Allow any payment to an employee which is partially or fully conditioned on the termination or retirement of the employee, except as provided in subsection (2) of this section.

(2) A school district board of directors may compensate an employee for termination of the employee's contract in accordance with the termination provisions of the contract. If no such provisions exist the compensation must be reasonable based on the proportion of the uncompleted contract. Compensation received under this subsection shall not be included for the purposes of computing a retirement allowance under any public retirement system in this state.

(3) Provisions of any contract in force on March 27, 1982, which conflict with the requirements of this section shall continue in effect until contract expiration. After expiration, any new contract including any renewal, extension, amendment or modification of an existing contract executed between the parties shall be consistent with this section.

[1989 c 11 § 5; 1982 1st ex.s. c 10 § 1. Formerly RCW 28A.58.098.]

Notes:

Severability--1989 c 11: See note following RCW 9A.56.220.

Severability--1982 1st ex.s. c 10: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 10 § 3.]

RCW 28A.400.230 Deposit of cumulative total of earnings of group of employees--Authorized--Conditions.

Any school district authorized to draw and issue their own warrants may deposit the cumulative total of the net earnings of any group of employees in one or more banks within the state such group or groups may designate, to be credited to the individuals composing such groups, by a single warrant to each bank so designated or by other commercially acceptable methods: PROVIDED, That any such collective authorization shall be made in writing by a minimum of twenty-five employees or ten percent of the employees, whichever is less.

[1973 c 111 § 5. Formerly RCW 28A.58.730.]

Notes:

Severability--1973 c 111: See note following RCW 28A.330.230.

RCW 28A.400.240 Deferred compensation plan for school district or educational service district employees--Limitations.

In addition to any other powers and duties, any school district or educational service district may contract with any classified or certificated employee to defer a portion of that employee's income, which deferred portion shall in no event exceed the appropriate internal revenue service exclusion allowance for such plans, and shall subsequently with the consent of the employee, deposit or invest in a credit union, savings and loan association, bank, mutual savings bank, or purchase life insurance, shares of an investment company, or a fixed and/or variable annuity contract, for the purpose of funding a deferred compensation program for the employee, from any life underwriter or registered representative duly licensed by this state who represents an insurance company or an investment company licensed to contract business in this state. In no event shall the total investments or payments, and the employee's nondeferred income for any year exceed the total annual salary, or compensation under the existing salary schedule or classification plan applicable to such employee in such year. Any income deferred under such a plan shall continue to be included as regular compensation, for the purpose of computing the retirement and pension benefits earned by any employee, but any sum so deducted shall not be included in the computation of any taxes withheld on behalf of any such employee.

[2001 c 266 § 1; 1975 1st ex.s. c 205 § 1; 1974 ex.s. c 11 § 1. Formerly RCW 28A.58.740.]

RCW 28A.400.250 Tax deferred annuities.

The board of directors of any school district, the Washington state teachers' retirement system, the superintendent of public instruction, and educational service district superintendents are authorized to provide and pay for tax deferred annuities for their respective employees in lieu of a portion of salary or wages as authorized under the provisions of 26 U.S.C., section 403(b), as amended by Public Law 87-370, 75 Stat. 796, as now or hereafter amended. The superintendent of public instruction and educational service district superintendents, if eligible, may also be provided with such annuities.

At the request of at least five employees, the employees' employer shall arrange for the purchase of tax deferred annuity contracts which meet the requirements of 26 U.S.C., section 403(b), as now or hereafter amended, for the employees from any company the employees may choose that is authorized to do business in this state through a Washington-licensed insurance agent that the employees may select. Payroll deductions shall be made in accordance with the arrangements for the purpose of paying the entire premium due and to become due under the contracts. Employees' rights under the annuity contract are nonforfeitable except for the failure to pay premiums.

The board of directors of any school district, the Washington state teachers' retirement system, the superintendent of public instruction, and educational service district superintendents shall not restrict, except as provided in this section, employees' right to select the tax deferred annuity of their choice or the agent, broker, or company licensed by the state of Washington through which the tax deferred annuity is placed or purchased, and shall not place limitations on the time or place that the employees make the selection.

The board of directors of any school district, the Washington state teachers' retirement system, the superintendent of public instruction, and educational service district superintendents may each adopt rules regulating the sale of tax deferred annuities which: (1) Prohibit solicitation

of employees for the purposes of selling tax deferred annuities on school premises during normal school hours; (2) only permit the solicitation of tax deferred annuities by agents, brokers, and companies licensed by the state of Washington; and (3) require participating companies to execute reasonable agreements protecting the respective employers from any liability attendant to procuring tax deferred annuities.

[1984 c 228 § 1; 1975 1st ex.s. c 275 § 113; 1971 c 48 § 31; 1969 c 97 § 2; 1969 ex.s. c 223 § 28A.58.560. Prior: 1965 c 54 § 1, part. Formerly RCW 28A.58.560, 28.02.120, part.]

Notes:

Severability--1971 c 48: See note following RCW 28A.305.040.

RCW 28A.400.260 Pension benefits or annuity benefits for certain classifications of employees--Procedure.

Notwithstanding any other provision of law, any school district shall have the authority to provide for all employees within an employment classification pension benefits or annuity benefits as may already be established and in effect by other employers of a similar classification of employees, and payment therefor may be made by making contributions to such pension plans or funds already established and in effect by the other employers and in which the school district is permitted to participate for such particular classifications of its employees by the trustees or other persons responsible for the administration of such established plans or funds.

Notwithstanding provisions of RCW 41.40.023(4), the coverage under such private plan shall not exclude such employees from simultaneous coverage under the Washington public employees' retirement system.

[1972 ex.s. c 27 § 1. Formerly RCW 28A.58.565.]

RCW 28A.400.270 Employee benefit--Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28A.400.275 and 28A.400.280.

(1) "School district employee benefit plan" means the overall plan used by the district for distributing fringe benefit subsidies to employees, including the method of determining employee coverage and the amount of employer contributions, as well as the characteristics of benefit providers and the specific benefits or coverage offered. It shall not include coverage offered to district employees for which there is no contribution from public funds.

(2) "Fringe benefit" does not include liability coverage, old-age survivors' insurance, workers' compensation, unemployment compensation, retirement benefits under the Washington state retirement system, or payment for unused leave for illness or injury under RCW 28A.400.210.

(3) "Basic benefits" are determined through local bargaining and are limited to medical, dental, vision, group term life, and group long-term disability insurance coverage.

(4) "Benefit providers" include insurers, third party claims administrators, direct

providers of employee fringe benefits, health maintenance organizations, health care service contractors, and the Washington state health care authority or any plan offered by the authority.

(5) "Group term life insurance coverage" means term life insurance coverage provided for, at a minimum, all full-time employees in a bargaining unit or all full-time nonbargaining group employees.

(6) "Group long-term disability insurance coverage" means long-term disability insurance coverage provided for, at a minimum, all full-time employees in a bargaining unit or all full-time nonbargaining group employees.

[1990 1st ex.s. c 11 § 4.]

Notes:

Intent--1990 1st ex.s. c 11: See note following RCW 28A.400.200.

RCW 28A.400.275 Employee benefits--Contracts.

(1) Any contract for employee benefits executed after April 13, 1990, between a school district and a benefit provider or employee bargaining unit is null and void unless it contains an agreement to abide by state laws relating to school district employee benefits. The term of the contract may not exceed one year.

(2) School districts shall annually submit to the Washington state health care authority summary descriptions of all benefits offered under the district's employee benefit plan. The districts shall also submit data to the health care authority specifying the total number of employees and, for each employee, types of coverage or benefits received including numbers of covered dependents, the number of eligible dependents, the amount of the district's contribution, additional premium costs paid by the employee through payroll deductions, and the age and sex of the employee and each dependent. The plan descriptions and the data shall be submitted in a format and according to a schedule established by the health care authority.

(3) Any benefit provider offering a benefit plan by contract with a school district under subsection (1) of this section shall agree to make available to the school district the benefit plan descriptions and, where available, the demographic information on plan subscribers that the district is required to report to the Washington state health care authority under this section.

(4) This section shall not apply to benefit plans offered in the 1989-90 school year.

[1990 1st ex.s. c 11 § 5.]

Notes:

Intent--1990 1st ex.s. c 11: See note following RCW 28A.400.200.

RCW 28A.400.280 Employee benefits--Employer contributions.

(1) Except as provided in subsection (2) of this section, school districts may provide employer fringe benefit contributions after October 1, 1990, only for basic benefits. However, school districts may continue payments under contracts with employees or benefit providers in effect on April 13, 1990, until the contract expires.

(2) School districts may provide employer contributions after October 1, 1990, for optional benefit plans, in addition to basic benefits, only for employees included in pooling arrangements under this subsection. Optional benefit plans may not include employee beneficiary accounts that can be liquidated by the employee on termination of employment. Optional benefit plans may be offered only if:

(a) The school district pools benefit allocations among employees using a pooling arrangement that includes at least one employee bargaining unit and/or all nonbargaining group employees;

(b) Each full-time employee included in the pooling arrangement is offered basic benefits, including coverage for dependents, without a payroll deduction for premium charges;

(c) Each full-time employee included in the pooling arrangement, regardless of the number of dependents receiving basic coverage, receives the same additional employer contribution for other coverage or optional benefits; and

(d) For part-time employees included in the pooling arrangement, participation in optional benefit plans shall be governed by the same eligibility criteria and/or proration of employer contributions used for allocations for basic benefits.

(3) Savings accruing to school districts due to limitations on benefit options under this section shall be pooled and made available by the districts to reduce out-of-pocket premium expenses for employees needing basic coverage for dependents. School districts are not intended to divert state benefit allocations for other purposes.

[1990 1st ex.s. c 11 § 6.]

Notes:

Intent--1990 1st ex.s. c 11: See note following RCW 28A.400.200.

RCW 28A.400.285 Contracts for services performed by classified employees.

(1) When a school district or educational service district enters into a contract for services that had been previously performed by classified school employees, the contract shall contain a specific clause requiring the contractor to provide for persons performing such services under the contract, health benefits that are similar to those provided for school employees who would otherwise perform the work, but in no case are such health benefits required to be greater than the benefits provided for basic health care services under chapter 70.47 RCW.

(2) Decisions to enter into contracts for services by a school district or educational service district may only be made: (a) After the affected district has conducted a feasibility study determining the potential costs and benefits, including the impact on district employees who would otherwise perform the work, that would result from contracting for the services; (b) after the decision to contract for the services has been reviewed and approved by the superintendent of public instruction; and (c) subject to any applicable requirements for collective bargaining. The factors to be considered in the feasibility study shall be developed in consultation with representatives of the affected employees and may include both long-term and short-term effects of the proposal to contract for services.

(3) This section applies only if a contract is for services performed by classified school employees on or after July 25, 1993.

(4) This section does not apply to:

(a) Temporary, nonongoing, or nonrecurring service contracts; or

(b) Contracts for services previously performed by employees in director/supervisor, professional, and technical positions.

(5) For the purposes of subsection (4) of this section:

(a) "Director/supervisor position" means a position in which an employee directs staff members and manages a function, a program, or a support service.

(b) "Professional position" means a position for which an employee is required to have a high degree of knowledge and skills acquired through a baccalaureate degree or its equivalent.

(c) "Technical position" means a position for which an employee is required to have a combination of knowledge and skills that can be obtained through approximately two years of posthigh school education, such as from a community or technical college, or by on-the-job training.

[1997 c 267 § 2; 1993 c 349 § 1.]

HIRING AND DISCHARGE

RCW 28A.400.300 Hiring and discharging of employees--Seniority and leave benefits, transfers between school districts.

Every board of directors, unless otherwise specially provided by law, shall:

(1) Employ for not more than one year, and for sufficient cause discharge all certificated and classified employees;

(2) Adopt written policies granting leaves to persons under contracts of employment with the school district(s) in positions requiring either certification or classified qualifications, including but not limited to leaves for attendance at official or private institutes and conferences and sabbatical leaves for employees in positions requiring certification qualification, and leaves for illness, injury, bereavement and, emergencies for both certificated and classified employees, and with such compensation as the board of directors prescribe: PROVIDED, That the board of directors shall adopt written policies granting to such persons annual leave with compensation for illness, injury and emergencies as follows:

(a) For such persons under contract with the school district for a full year, at least ten days;

(b) For such persons under contract with the school district as part time employees, at least that portion of ten days as the total number of days contracted for bears to one hundred eighty days;

(c) For certificated and classified employees, annual leave with compensation for illness, injury, and emergencies shall be granted and accrue at a rate not to exceed twelve days per year; provisions of any contract in force on June 12, 1980, which conflict with requirements of this

subsection shall continue in effect until contract expiration; after expiration, any new contract executed between the parties shall be consistent with this subsection;

(d) Compensation for leave for illness or injury actually taken shall be the same as the compensation such person would have received had such person not taken the leave provided in this proviso;

(e) Leave provided in this proviso not taken shall accumulate from year to year up to a maximum of one hundred eighty days for the purposes of RCW 28A.400.210 and 28A.400.220, and for leave purposes up to a maximum of the number of contract days agreed to in a given contract, but not greater than one year. Such accumulated time may be taken at any time during the school year or up to twelve days per year may be used for the purpose of payments for unused sick leave.

(f) Sick leave heretofore accumulated under section 1, chapter 195, Laws of 1959 (former RCW 28.58.430) and sick leave accumulated under administrative practice of school districts prior to the effective date of section 1, chapter 195, Laws of 1959 (former RCW 28.58.430) is hereby declared valid, and shall be added to leave for illness or injury accumulated under this proviso;

(g) Any leave for injury or illness accumulated up to a maximum of forty-five days shall be creditable as service rendered for the purpose of determining the time at which an employee is eligible to retire, if such leave is taken it may not be compensated under the provisions of RCW 28A.400.210 and 28A.310.490;

(h) Accumulated leave under this proviso shall be transferred to and from one district to another, the office of superintendent of public instruction and offices of educational service district superintendents and boards, to and from such districts and such offices;

(i) Leave accumulated by a person in a district prior to leaving said district may, under rules and regulations of the board, be granted to such person when the person returns to the employment of the district.

When any certificated or classified employee leaves one school district within the state and commences employment with another school district within the state, the employee shall retain the same seniority, leave benefits and other benefits that the employee had in his or her previous position: PROVIDED, That classified employees who transfer between districts after July 28, 1985, shall not retain any seniority rights other than longevity when leaving one school district and beginning employment with another. If the school district to which the person transfers has a different system for computing seniority, leave benefits, and other benefits, then the employee shall be granted the same seniority, leave benefits and other benefits as a person in that district who has similar occupational status and total years of service.

[1997 c 13 § 10; 1990 c 33 § 382. Prior: 1985 c 210 § 1; 1985 c 46 § 1; 1983 c 275 § 3. Formerly RCW 28A.58.099.]

Notes:

Intent--Construction--1983 c 275: See note following RCW 28A.400.210.

RCW 28A.400.303 Record checks for employees.

School districts, educational service districts, the state school for the deaf, the state school for the blind, and their contractors hiring employees who will have regularly scheduled unsupervised access to children shall require a record check through the Washington state patrol criminal identification system under RCW 43.43.830 through 43.43.834, 10.97.030, and 10.97.050 and through the federal bureau of investigation before hiring an employee. The record check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card. The requesting entity shall provide a copy of the record report to the applicant. When necessary, applicants may be employed on a conditional basis pending completion of the investigation. If the applicant has had a record check within the previous two years, the district, the state school for the deaf, the state school for the blind, or contractor may waive the requirement. The district, pursuant to chapter 41.59 or 41.56 RCW, the state school for the deaf, the state school for the blind, or contractor hiring the employee shall determine who shall pay costs associated with the record check.

[2001 c 296 § 3; 1992 c 159 § 2.]

NOTES:

Intent--2001 c 296: See note following RCW 9.96A.060.

Findings--1992 c 159: "The legislature finds that additional safeguards are necessary to ensure the safety of Washington's school children. The legislature further finds that the results from state patrol record checks are more complete when fingerprints of individuals are provided, and that information from the federal bureau of investigation also is necessary to obtain information on out-of-state criminal records. The legislature further finds that confidentiality safeguards in state law are in place to ensure that the rights of applicants for certification or jobs and newly hired employees are protected." [1992 c 159 § 1.]

Criminal history record information--School volunteers: RCW 28A.320.155.

RCW 28A.400.305 Record check information--Access--Rules.

The superintendent of public instruction shall adopt rules as necessary under chapter 34.05 RCW on record check information. The rules shall include, but not be limited to the following:

(1) Written procedures providing a school district, state school for the deaf, or state school for the blind employee or applicant for certification or employment access to and review of information obtained based on the record check required under RCW 28A.400.303; and

(2) Written procedures limiting access to the superintendent of public instruction record check data base to only those individuals processing record check information at the office of the superintendent of public instruction, the appropriate school district or districts, the state school for the deaf, the state school for the blind, and the appropriate educational service district or districts.

[2001 c 296 § 4; 1996 c 126 § 5.]

NOTES:

Intent--2001 c 296: See note following RCW 9.96A.060.

Effective date--1996 c 126: "This act is necessary for the immediate preservation of the public peace,

health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 21, 1996]." [1996 c 126 § 7.]

RCW 28A.400.306 Fingerprints accepted by the state patrol--Fingerprints forwarded to the federal bureau of investigation--Conditions.

The state patrol shall accept fingerprints obtained under this chapter only if it can ensure that the patrol will not retain a record of the fingerprints after the check is complete. It shall not forward fingerprints obtained under this chapter to the federal bureau of investigation unless it can ensure that the federal bureau of investigation will not retain a record of the fingerprints after the check is complete.

[1995 c 335 § 504; 1992 c 159 § 9.]

Notes:

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

Findings--1992 c 159: See note following RCW 28A.400.303.

RCW 28A.400.310 Law against discrimination applicable to districts' employment practices.

The provisions of chapter 49.60 RCW as now or hereafter amended shall be applicable to the employment of any certificated or classified employee by any school district organized in this state.

[1997 c 13 § 11; 1969 ex.s. c 223 § 28A.02.050. Prior: (i) 1937 c 52 § 1; RRS § 4693-1. Formerly RCW 28.02.050. (ii) 1937 c 52 § 2; RRS § 4693-2. Formerly RCW 28A.02.050, 28.02.051.]

RCW 28A.400.315 Employment contracts.

Employment contracts entered into between an employer and a superintendent, or administrator as defined in RCW 28A.405.230, under RCW 28A.400.010, 28A.400.300, or 28A.405.210:

(1) Shall end no later than June 30th of the calendar year that the contract expires except that, a contract entered into after June 30th of a given year may expire during that same calendar year; and

(2) Shall not be revised or entered into retroactively.

[1990 c 8 § 6.]

Notes:

Findings--1990 c 8: See note following RCW 41.50.065.

RCW 28A.400.320 Crimes against children--Mandatory termination of classified employees--Appeal.

(1) The school district board of directors shall immediately terminate the employment of any classified employee who has contact with children during the course of his or her employment upon a guilty plea or conviction of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32

or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction.

(2) The employee shall have a right of appeal under chapter 28A.645 RCW including any right of appeal under a collective bargaining agreement.

[1990 c 33 § 383; 1989 c 320 § 3. Formerly RCW 28A.58.1001.]

Notes:

Severability--1989 c 320: See note following RCW 28A.410.090.

Crimes against children--Notification of conviction or guilty plea of school employee: RCW 43.43.845.

RCW 28A.400.330 Crimes against children--Contractor employees--Termination of contract.

The school district board of directors shall include in any contract for services with an entity or individual other than an employee of the school district a provision requiring the contractor to prohibit any employee of the contractor from working at a public school who has contact with children at a public school during the course of his or her employment and who has pled guilty to or been convicted of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction. The contract shall also contain a provision that any failure to comply with this section shall be grounds for the school district immediately terminating the contract.

[1989 c 320 § 4. Formerly RCW 28A.58.1002.]

Notes:

Severability--1989 c 320: See note following RCW 28A.410.090.

RCW 28A.400.340 Notice of discharge to contain notice of right to appeal if available.

Any notice of discharge given to a classified or certificated employee, if that employee has a right to appeal the discharge, shall contain notice of that right, notice that a description of the appeal process is available, and how the description of the appeal process may be obtained.

[1991 c 102 § 1.]

INSURANCE

RCW 28A.400.350 Liability, life, health, health care, accident, disability, and salary

insurance authorized--When required--Premiums.

(1) The board of directors of any of the state's school districts or educational service districts may make available liability, life, health, health care, accident, disability and salary protection or insurance or any one of, or a combination of the enumerated types of insurance, or any other type of insurance or protection, for the members of the boards of directors, the students, and employees of the school district or educational service district, and their dependents. Such coverage may be provided by contracts with private carriers, with the state health care authority after July 1, 1990, pursuant to the approval of the authority administrator, or through self-insurance or self-funding pursuant to chapter 48.62 RCW, or in any other manner authorized by law.

(2) Whenever funds are available for these purposes the board of directors of the school district or educational service district may contribute all or a part of the cost of such protection or insurance for the employees of their respective school districts or educational service districts and their dependents. The premiums on such liability insurance shall be borne by the school district or educational service district.

After October 1, 1990, school districts may not contribute to any employee protection or insurance other than liability insurance unless the district's employee benefit plan conforms to RCW 28A.400.275 and 28A.400.280.

(3) For school board members, educational service district board members, and students, the premiums due on such protection or insurance shall be borne by the assenting school board member, educational service district board member, or student. The school district or educational service district may contribute all or part of the costs, including the premiums, of life, health, health care, accident or disability insurance which shall be offered to all students participating in interschool activities on the behalf of or as representative of their school, school district, or educational service district. The school district board of directors and the educational service district board may require any student participating in extracurricular interschool activities to, as a condition of participation, document evidence of insurance or purchase insurance that will provide adequate coverage, as determined by the school district board of directors or the educational service district board, for medical expenses incurred as a result of injury sustained while participating in the extracurricular activity. In establishing such a requirement, the district shall adopt regulations for waiving or reducing the premiums of such coverage as may be offered through the school district or educational service district to students participating in extracurricular activities, for those students whose families, by reason of their low income, would have difficulty paying the entire amount of such insurance premiums. The district board shall adopt regulations for waiving or reducing the insurance coverage requirements for low-income students in order to assure such students are not prohibited from participating in extracurricular interschool activities.

(4) All contracts for insurance or protection written to take advantage of the provisions of this section shall provide that the beneficiaries of such contracts may utilize on an equal participation basis the services of those practitioners licensed pursuant to chapters 18.22, 18.25, 18.53, 18.57, and 18.71 RCW.

[2001 c 266 § 2. Prior: 1995 1st sp.s. c 6 § 18; 1995 c 126 § 1; 1993 c 492 § 226; prior: 1990 1st ex.s. c 11 § 3; 1990 c 74 § 1; 1988 c 107 § 16; 1985 c 277 § 8; 1977 ex.s. c 255 § 1; 1973 1st ex.s. c 9 § 1; 1971 ex.s. c 269 § 2; 1971 c 8 § 3; 1969 ex.s. c 237 § 3; 1969 ex.s. c 223 § 28A.58.420; prior: 1967 c 135 § 2, part; 1959 c 187 § 1, part. Formerly RCW 28A.58.420, 28.76.410, part.]

NOTES:

Effective date--1995 1st sp.s. c 6: See note following RCW 28A.400.410.

Findings--Intent--1993 c 492: See notes following RCW 43.72.005.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

Intent--1990 1st ex.s. c 11: See note following RCW 28A.400.200.

Implementation--Effective dates--1988 c 107: See RCW 41.05.901.

Retrospective application--1985 c 277: See note following RCW 48.01.050.

Severability--1971 ex.s. c 269: "If any provision of this 1971 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 269 § 4.]

Hospitalization and medical insurance authorized: RCW 41.04.180.

Operation of student transportation program responsibility of local district--Scope--Transporting of elderly--Insurance: RCW 28A.160.010.

Retirement allowance deductions for health care benefit plans: RCW 41.04.235.

RCW 28A.400.360 Liability insurance for officials and employees authorized.

The board of directors of each school district may purchase liability insurance with such limits as they may deem reasonable for the purpose of protecting their officials and employees against liability for personal or bodily injuries and property damage arising from their acts or omissions while performing or in good faith purporting to perform their official duties.

[1973 c 125 § 1. Formerly RCW 28A.58.423.]

RCW 28A.400.370 Mandatory insurance protection for employees.

Notwithstanding any other provision of law, after August 9, 1971 boards of directors of all school districts shall provide their employees with insurance protection covering those employees while engaged in the maintenance of order and discipline and the protection of school personnel and students and the property thereof when that is deemed necessary by such employees. Such insurance protection must include as a minimum, liability insurance covering injury to persons and property, and insurance protecting those employees from loss or damage of their personal property incurred while so engaged.

[1971 ex.s. c 269 § 1. Formerly RCW 28A.58.425.]

Notes:

Severability--1971 ex.s. c 269: See note following RCW 28A.400.350.

RCW 28A.400.380 Leave sharing program.

Every school district board of directors and educational service district superintendent

may, in accordance with RCW 41.04.650 through 41.04.665, establish and administer a leave sharing program for their certificated and classified employees. For employees of school districts and educational service districts, the superintendent of public instruction shall adopt standards: (1) Establishing appropriate parameters for the program which are consistent with the provisions of RCW 41.04.650 through 41.04.665; and (2) establishing procedures to ensure that the program does not significantly increase the cost of providing leave.

[1997 c 13 § 12; 1990 c 23 § 4; 1989 c 93 § 6. Formerly RCW 28A.58.0991.]

Notes:

Severability--1989 c 93: See note following RCW 41.04.650.

RCW 28A.400.391 Insurance for retired and disabled employees--Application--Rules.

(1) Every group disability insurance policy, health care service contract, health maintenance agreement, and health and welfare benefit plan obtained or created to provide benefits to employees of school districts and their dependents shall contain provisions that permit retired and disabled employees to continue medical, dental, or vision coverage under the group policy, contract, agreement, or plan until September 30, 1993, or until the employee becomes eligible for federal medicare coverage, whichever occurs first. The terms and conditions for election and maintenance of such continued coverage shall conform to the standards established under the federal consolidated omnibus budget reconciliation act of 1985, as amended. The period of continued coverage provided under this section shall run concurrently with any period of coverage guaranteed under the federal consolidated omnibus budget reconciliation act of 1985, as amended.

(2) This section applies to:

(a) School district employees who retired or lost insurance coverage due to disability after July 28, 1991;

(b) School district employees who retired or lost insurance coverage due to disability within the eighteen-month period ending on July 28, 1991; and

(c) School district employees who retired or lost insurance coverage due to disability prior to January 28, 1990, and who were covered by their employing district's insurance plan on January 1, 1991.

(3) For the purposes of this section "retired employee" means an employee who separates from district service and is eligible at the time of separation from service to receive, immediately following separation from service, a retirement allowance under chapter 41.32 or 41.40 RCW.

(4) The superintendent of public instruction shall adopt administrative rules to implement this section.

[1993 c 386 § 2; 1992 c 152 § 1.]

Notes:

Intent--1993 c 386: "It is the legislature's intent to increase access to health insurance for retired and disabled school employees and also to improve equity between state employees and school employees by providing for the reduction of health insurance premiums charged to retired school employees through a subsidy charged

against health insurance allocations for active employees. It is further the legislature's intent to improve the cost-effectiveness of state-purchased health care by managing programs for public employees, in this case retired school employees, through the state health care authority." [1993 c 386 § 1.]

Effective date--1993 c 386 §§ 1, 2, 4-6, 8-10, and 12-16: "Sections 1, 2, 4 through 6, 8 through 10, and 12 through 16 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 15, 1993]." [1993 c 386 § 18.]

RCW 28A.400.395 Insurance for retired employees and their dependents--Method of payment of premium.

A group disability insurance policy, health care service contract, health maintenance agreement, or health and welfare benefit plan that provides benefits to retired school district employees and eligible dependents shall not require the beneficiary to make payment by monthly deduction from the beneficiary's state retirement allowance if the payment exceeds the retirement allowance. In such cases, the payment may be made directly by the individual beneficiary.

[1992 c 152 § 3.]

RCW 28A.400.400 District contributions to the public employees' and retirees' insurance account.

Notes:

Reviser's note: RCW 28A.400.400 was amended by 1994 c 153 § 11 without reference to its repeal by 1994 c 153 § 15, effective October 1, 1995. It has been decodified for publication purposes pursuant to RCW 1.12.025.

RCW 28A.400.410 Payment to the public employees' and retirees' insurance account.

(1) In a manner prescribed by the state health care authority, school districts and educational service districts shall remit to the health care authority for deposit in the public employees' and retirees' insurance account established in RCW 41.05.120 the amount specified for remittance in the omnibus appropriations act.

(2) The remittance requirements specified in this section shall not apply to employees of a school district or educational service district who receive insurance benefits through contracts with the health care authority.

[1995 1st sp.s. c 6 § 1.]

Notes:

Effective date--1995 1st sp.s. c 6: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 1st sp.s. c 6 § 23.]

Chapter 28A.405 RCW
CERTIFICATED EMPLOYEES

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QUALIFICATIONS

RCW 28A.405.030 Must teach morality and patriotism.

It shall be the duty of all teachers to endeavor to impress on the minds of their pupils the principles of morality, truth, justice, temperance, humanity and patriotism; to teach them to avoid idleness, profanity and falsehood; to instruct them in the principles of free government, and to train them up to the true comprehension of the rights, duty and dignity of American citizenship.

[1969 ex.s. c 223 § 28A.67.110. Prior: 1909 c 97 p 308 § 8; RRS § 4855; prior: 1897 c 118 § 58; 1890 p 371 § 42; 1886 p 19 § 50; Code 1881 § 3203. Formerly RCW 28A.67.110, 28.67.110.]

RCW 28A.405.040 Disqualification for failure to emphasize patriotism.

No person, whose certificate or permit authorizing him or her to teach in the common schools of this state has been revoked due to his or her failure to endeavor to impress on the minds of his or her pupils the principles of patriotism, or to train them up to the true comprehension of the rights, duty and dignity of American citizenship, shall be permitted to teach in any common school in this state.

[1990 c 33 § 384; 1969 ex.s. c 223 § 28A.67.030. Prior: 1919 c 38 § 2; RRS § 4846. Formerly RCW 28A.67.030, 28.67.030.]

RCW 28A.405.050 Noncompliance with RCW 28A.405.040--Penalties.

Any person teaching in any school in violation of RCW 28A.405.040, and any school director knowingly permitting any person to teach in any school in violation of RCW 28A.405.040, shall be guilty of a misdemeanor.

[1991 c 115 § 1; 1990 c 33 § 385; 1969 ex.s. c 223 § 28A.67.035. Prior: 1919 c 38 § 3; RRS § 4847. Formerly RCW 28A.67.035, 28.67.035, 28.67.120.]

RCW 28A.405.060 Course of study and regulations--Enforcement--Withholding salary warrant for failure.

Certificated employees shall faithfully enforce in the common schools the course of study and regulations prescribed, whether regulations of the district, the superintendent of public instruction, or the state board of education, and shall furnish promptly all information relating to the common schools which may be requested by the educational service district superintendent.

Any certificated employee who wilfully refuses or neglects to enforce the course of study or the rules and regulations as above in this section required, shall not be allowed by the directors any warrant for salary due until said person shall have complied with said requirements.

[1975 1st ex.s. c 275 § 132; 1971 c 48 § 49; 1969 ex.s. c 223 § 28A.67.060. Prior: (i) 1909 c 97 p 307 § 4; RRS § 4850; prior: 1899 c 142 § 11; 1897 c 118 § 54; 1886 p 18 § 47. Formerly RCW 28.67.060. (ii) 1909 c 97 p 360 § 8; RRS § 5051; prior: 1903 c 156 § 8; 1897 c 118 § 166. Formerly RCW 28A.67.060, 28.87.150.]

RCW 28A.405.070 Job sharing.

Effective December 31, 1995, school and educational service districts shall have a policy on the sharing of jobs by district employees.

[1995 c 335 § 701; 1989 c 206 § 1. Formerly RCW 28A.58.580.]

Notes:

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

CRITERIA FOR EVALUATION AND MODEL PROGRAMS

RCW 28A.405.100 Minimum criteria for the evaluation of certificated employees, including administrators--Procedure--Scope--Penalty.

(1) The superintendent of public instruction shall establish and may amend from time to time minimum criteria for the evaluation of the professional performance capabilities and development of certificated classroom teachers and certificated support personnel. For classroom teachers the criteria shall be developed in the following categories: Instructional skill; classroom management, professional preparation and scholarship; effort toward improvement when needed; the handling of student discipline and attendant problems; and interest in teaching pupils and knowledge of subject matter.

Every board of directors shall, in accordance with procedure provided in RCW 41.59.010 through 41.59.170, 41.59.910 and 41.59.920, establish evaluative criteria and procedures for all certificated classroom teachers and certificated support personnel. The evaluative criteria must contain as a minimum the criteria established by the superintendent of public instruction pursuant to this section and must be prepared within six months following adoption of the superintendent of public instruction's minimum criteria. The district must certify to the superintendent of public instruction that evaluative criteria have been so prepared by the district.

Except as provided in subsection (5) of this section, it shall be the responsibility of a principal or his or her designee to evaluate all certificated personnel in his or her school. During each school year all classroom teachers and certificated support personnel, hereinafter referred to as "employees" in this section, shall be observed for the purposes of evaluation at least twice in the performance of their assigned duties. Total observation time for each employee for each school year shall be not less than sixty minutes. Following each observation, or series of observations, the principal or other evaluator shall promptly document the results of the observation in writing, and shall provide the employee with a copy thereof within three days after such report is prepared. New employees shall be observed at least once for a total observation time of thirty minutes during the first ninety calendar days of their employment period.

At any time after October 15th, an employee whose work is judged unsatisfactory based on district evaluation criteria shall be notified in writing of the specific areas of deficiencies along with a reasonable program for improvement. During the period of probation, the employee may not be transferred from the supervision of the original evaluator. Improvement of performance or probable cause for nonrenewal must occur and be documented by the original evaluator before any consideration of a request for transfer or reassignment as contemplated by either the individual or the school district. A probationary period of sixty school days shall be established. The establishment of a probationary period does not adversely affect the contract status of an employee within the meaning of RCW 28A.405.300. The purpose of the probationary period is to give the employee opportunity to demonstrate improvements in his or her areas of deficiency. The establishment of the probationary period and the giving of the notice to the employee of deficiency shall be by the school district superintendent and need not be submitted to the board of directors for approval. During the probationary period the evaluator shall meet with the employee at least twice monthly to supervise and make a written evaluation of the progress, if any, made by the employee. The evaluator may authorize one additional certificated employee to evaluate the probationer and to aid the employee in improving his or her areas of deficiency; such additional certificated employee shall be immune from any civil liability that might otherwise be incurred or imposed with regard to the good faith performance of such evaluation. The probationer may be removed from probation if he or she has demonstrated improvement to the satisfaction of the principal in those areas specifically detailed in his or her initial notice of deficiency and subsequently detailed in his or her improvement program. Lack of necessary improvement during the established probationary period, as specifically documented in writing with notification to the probationer and shall constitute grounds for a finding of probable cause under RCW 28A.405.300 or 28A.405.210.

Immediately following the completion of a probationary period that does not produce performance changes detailed in the initial notice of deficiencies and improvement program, the employee may be removed from his or her assignment and placed into an alternative assignment for the remainder of the school year. This reassignment may not displace another employee nor may it adversely affect the probationary employee's compensation or benefits for the remainder of the employee's contract year. If such reassignment is not possible, the district may, at its option, place the employee on paid leave for the balance of the contract term.

(2) Every board of directors shall establish evaluative criteria and procedures for all superintendents, principals, and other administrators. It shall be the responsibility of the district superintendent or his or her designee to evaluate all administrators. Such evaluation shall be based on the administrative position job description. Such criteria, when applicable, shall include at least the following categories: Knowledge of, experience in, and training in recognizing good professional performance, capabilities and development; school administration and management; school finance; professional preparation and scholarship; effort toward improvement when needed; interest in pupils, employees, patrons and subjects taught in school; leadership; and ability and performance of evaluation of school personnel.

(3) Each certificated employee shall have the opportunity for confidential conferences with his or her immediate supervisor on no less than two occasions in each school year. Such confidential conference shall have as its sole purpose the aiding of the administrator in his or her assessment of the employee's professional performance.

(4) The failure of any evaluator to evaluate or supervise or cause the evaluation or supervision of certificated employees or administrators in accordance with this section, as now or hereafter amended, when it is his or her specific assigned or delegated responsibility to do so, shall be sufficient cause for the nonrenewal of any such evaluator's contract under RCW 28A.405.210, or the discharge of such evaluator under RCW 28A.405.300.

(5) After an employee has four years of satisfactory evaluations under subsection (1) of this section, a school district may use a short form of evaluation, a locally bargained evaluation emphasizing professional growth, an evaluation under subsection (1) of this section, or any combination thereof. The short form of evaluation shall include either a thirty minute observation during the school year with a written summary or a final annual written evaluation based on the criteria in subsection (1) of this section and based on at least two observation periods during the school year totaling at least sixty minutes without a written summary of such observations being prepared. However, the evaluation process set forth in subsection (1) of this section shall be followed at least once every three years unless this time is extended by a local school district under the bargaining process set forth in chapter 41.59 RCW. The employee or evaluator may require that the evaluation process set forth in subsection (1) of this section be conducted in any given school year. No evaluation other than the evaluation authorized under subsection (1) of this section may be used as a basis for determining that an employee's work is unsatisfactory under subsection (1) of this section or as probable cause for the nonrenewal of an employee's contract under RCW 28A.405.210 unless an evaluation process developed under chapter 41.59 RCW determines otherwise.

[1997 c 278 § 1; 1994 c 115 § 1; 1990 c 33 § 386; 1985 c 420 § 6; 1975-'76 2nd ex.s. c 114 § 3; 1975 1st ex.s. c 288 § 22; 1969 ex.s. c 34 § 22. Formerly RCW 28A.67.065.]

Notes:

Effective date--1994 c 115: "This act shall take effect September 1, 1994." [1994 c 115 § 2.]

Severability--1985 c 420: See note following RCW 28A.405.110.

Savings--Severability--1975-'76 2nd ex.s. c 114: See notes following RCW 28A.400.010.

Effective date--1975 1st ex.s. c 288: See RCW 41.59.940.

Severability--1975 1st ex.s. c 288: See RCW 41.59.950.

Construction of chapter--Employee's rights preserved: See RCW 41.59.920.

Construction of chapter--Employer's responsibilities and rights preserved: See RCW 41.59.930.

Criteria used for evaluation of staff members to be included in guide: RCW 28A.150.230.

RCW 28A.405.100 not applicable to contract renewal of school superintendent: RCW 28A.400.010.

RCW 28A.405.110 Evaluations--Legislative findings.

The legislature recognizes the importance of teachers in the educational system. Teachers are the fundamental element in assuring a quality education for the state's and the nation's children. Teachers, through their direct contact with children, have a great impact on the development of the child. The legislature finds that this important role of the teacher requires an assurance that teachers are as successful as possible in attaining the goal of a well-educated society. The legislature finds, therefore, that the evaluation of those persons seeking to enter the teaching profession is no less important than the evaluation of those persons currently teaching. The evaluation of persons seeking teaching credentials should be strenuous while making accommodations uniquely appropriate to the applicants. Strenuous teacher training and preparation should be complemented by examinations of prospective teachers prior to candidates being granted official certification by the state board of education. Teacher preparation program entrance evaluations, teacher training, teacher preparation program exit examinations, official certification, in-service training, and ongoing evaluations of individual progress and professional growth are all part of developing and maintaining a strong precertification and postcertification professional education system.

The legislature further finds that an evaluation system for teachers has the following elements, goals, and objectives: (1) An evaluation system must be meaningful, helpful, and objective; (2) an evaluation system must encourage improvements in teaching skills, techniques, and abilities by identifying areas needing improvement; (3) an evaluation system must provide a mechanism to make meaningful distinctions among teachers and to acknowledge, recognize, and encourage superior teaching performance; and (4) an evaluation system must encourage respect in the evaluation process by the persons conducting the evaluations and the persons subject to the evaluations through recognizing the importance of objective standards and minimizing subjectivity.

[1985 c 420 § 1. Formerly RCW 28A.67.205.]

Notes:

Contingency--Effective date--1985 c 420: "If specific funding for the purposes of this act, referencing

this act by bill number, is not provided by the legislature by July 1, 1987, sections 1 through 5 and 7 through 10 of this act shall be null and void. This act shall be of no effect unless such specific funding is so provided. If such funding is so provided, this act shall take effect when the legislation providing the funding takes effect." [1985 c 420 § 11.]

Reviser's note: (1) 1985 ex.s. c 6 § 501 provides specific funding for the purposes of this act.

(2) 1985 ex.s. c 6 took effect June 27, 1985.

Severability--1985 c 420: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 420 § 12.]

RCW 28A.405.120 Training for evaluators.

School districts shall require each administrator, each principal, or other supervisory personnel who has responsibility for evaluating classroom teachers to have training in evaluation procedures.

[1995 c 335 § 401; 1985 c 420 § 3. Formerly RCW 28A.67.210.]

NOTES:

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

Contingency--Effective date--Severability--1985 c 420: See notes following RCW 28A.405.110.

RCW 28A.405.130 Training in evaluation procedures required.

No administrator, principal, or other supervisory personnel may evaluate a teacher without having received training in evaluation procedures.

[1985 c 420 § 4. Formerly RCW 28A.67.215.]

Notes:

Effective date--1985 c 420 § 4: "Section 4 of this act shall take effect September 1, 1986." [1985 c 420 § 10.]

Contingency--Effective date--Severability--1985 c 420: See notes following RCW 28A.405.110.

RCW 28A.405.140 Assistance for teacher may be required after evaluation.

After an evaluation conducted pursuant to RCW 28A.405.100, the principal or the evaluator may require the teacher to take in-service training provided by the district in the area of teaching skills needing improvement, and may require the teacher to have a mentor for purposes of achieving such improvement.

[1993 c 336 § 403; 1990 c 33 § 387; 1985 c 420 § 5. Formerly RCW 28A.67.220.]

Notes:

Findings--Intent--Part headings not law--1993 c 336: See notes following RCW 28A.150.210.

Findings--1993 c 336: See note following RCW 28A.150.210.

Contingency--Effective date--Severability--1985 c 420: See notes following RCW 28A.405.110.

CONDITIONS AND CONTRACTS OF EMPLOYMENT

RCW 28A.405.200 Annual salary schedules as basis for salaries of certificated employees.

Every school district by action of its board of directors shall adopt annual salary schedules and reproduce the same by printing, mimeographing or other reasonable method, which shall be the basis for salaries for all certificated employees in the district.

[1969 ex.s. c 283 § 1. Formerly RCW 28A.67.066, 28.67.066.]

Notes:

Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28A.405.210 Conditions and contracts of employment--Determination of probable cause for nonrenewal of contracts--Nonrenewal due to enrollment decline or revenue loss--Notice--Opportunity for hearing.

No teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with a school district, hereinafter referred to as "employee", shall be employed except by written order of a majority of the directors of the district at a regular or special meeting thereof, nor unless he or she is the holder of an effective teacher's certificate or other certificate required by law or the state board of education for the position for which the employee is employed.

The board shall make with each employee employed by it a written contract, which shall be in conformity with the laws of this state, and except as otherwise provided by law, limited to a term of not more than one year. Every such contract shall be made in duplicate, one copy to be retained by the school district superintendent or secretary and one copy to be delivered to the employee. No contract shall be offered by any board for the employment of any employee who has previously signed an employment contract for that same term in another school district of the state of Washington unless such employee shall have been released from his or her obligations under such previous contract by the board of directors of the school district to which he or she was obligated. Any contract signed in violation of this provision shall be void.

In the event it is determined that there is probable cause or causes that the employment contract of an employee should not be renewed by the district for the next ensuing term such employee shall be notified in writing on or before May 15th preceding the commencement of such term of that determination, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 1st, which notification shall specify the cause or causes for nonrenewal of contract. Such determination of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notice shall be served upon the employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, chair or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for hearing pursuant to RCW 28A.405.310 to determine whether there is sufficient cause or causes for nonrenewal of contract: PROVIDED, That any employee receiving notice of nonrenewal of contract due to an enrollment decline or loss of revenue may, in his or her request for a hearing,

stipulate that initiation of the arrangements for a hearing officer as provided for by RCW 28A.405.310(4) shall occur within ten days following July 15 rather than the day that the employee submits the request for a hearing. If any such notification or opportunity for hearing is not timely given, the employee entitled thereto shall be conclusively presumed to have been reemployed by the district for the next ensuing term upon contractual terms identical with those which would have prevailed if his or her employment had actually been renewed by the board of directors for such ensuing term.

This section shall not be applicable to "provisional employees" as so designated in RCW 28A.405.220; transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.405.230 shall not be construed as a nonrenewal of contract for the purposes of this section.

[1996 c 201 § 1; 1990 c 33 § 390. Prior: 1983 c 83 § 1; 1983 c 56 § 11; 1975-'76 2nd ex.s. c 114 § 4; 1975 1st ex.s. c 275 § 133; 1973 c 49 § 2; 1970 ex.s. c 15 § 16; prior: 1969 ex.s. c 176 § 143; 1969 ex.s. c 34 § 12; 1969 ex.s. c 15 § 2; 1969 ex.s. c 223 § 28A.67.070; prior: 1961 c 241 § 1; 1955 c 68 § 3; prior: (i) 1909 c 97 p 307 § 5; 1897 c 118 § 55; 1891 c 127 § 14; 1890 p 369 § 37; 1886 p 18 § 47; Code 1881 § 3200; RRS § 4851. (ii) 1943 c 52 § 1, part; 1941 c 179 § 1, part; 1939 c 131 § 1, part; 1925 ex.s. c 57 § 1, part; 1919 c 89 § 3, part; 1915 c 44 § 1, part; 1909 c 97 p 285 § 2, part; 1907 c 240 § 5, part; 1903 c 104 § 17, part; 1901 c 41 § 3, part; 1897 c 118 § 40, part; 1890 p 364 § 26, part; Rem. Supp. 1943 § 4776, part. Formerly RCW 28A.67.070, 28.67.070.]

Notes:

Severability--1983 c 56: See note following RCW 28A.195.010.

Savings--Severability--1975-'76 2nd ex.s. c 114: See notes following RCW 28A.400.010.

Severability--1970 ex.s. c 15: See note following RCW 28A.230.160.

Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

Minimum criteria for the evaluation of certificated employees, including administrators--Procedure--Scope--Penalty: RCW 28A.405.100.

School superintendent--RCW 28A.405.210 not applicable to contract renewal: RCW 28A.400.010.

RCW 28A.405.220 Conditions and contracts of employment--Nonrenewal of provisional employees--Notice--Procedure.

Notwithstanding the provisions of RCW 28A.405.210, every person employed by a school district in a teaching or other nonsupervisory certificated position shall be subject to nonrenewal of employment contract as provided in this section during the first two years of employment by such district, unless the employee has previously completed at least two years of certificated employment in another school district in the state of Washington, in which case the employee shall be subject to nonrenewal of employment contract pursuant to this section during the first year of employment with the new district. Employees as defined in this section shall hereinafter be referred to as "provisional employees".

In the event the superintendent of the school district determines that the employment contract of any provisional employee should not be renewed by the district for the next ensuing term such provisional employee shall be notified thereof in writing on or before May 15th preceding the commencement of such school term, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 1st, which notification shall state the reason or reasons for such determination. Such notice shall be served

upon the provisional employee personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein. The determination of the superintendent shall be subject to the evaluation requirements of RCW 28A.405.100.

Every such provisional employee so notified, at his or her request made in writing and filed with the superintendent of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the superintendent for the purpose of requesting the superintendent to reconsider his or her decision. Such meeting shall be held no later than ten days following the receipt of such request, and the provisional employee shall be given written notice of the date, time and place of meeting at least three days prior thereto. At such meeting the provisional employee shall be given the opportunity to refute any facts upon which the superintendent's determination was based and to make any argument in support of his or her request for reconsideration.

Within ten days following the meeting with the provisional employee, the superintendent shall either reinstate the provisional employee or shall submit to the school district board of directors for consideration at its next regular meeting a written report recommending that the employment contract of the provisional employee be nonrenewed and stating the reason or reasons therefor. A copy of such report shall be delivered to the provisional employee at least three days prior to the scheduled meeting of the board of directors. In taking action upon the recommendation of the superintendent, the board of directors shall consider any written communication which the provisional employee may file with the secretary of the board at any time prior to that meeting.

The board of directors shall notify the provisional employee in writing of its final decision within ten days following the meeting at which the superintendent's recommendation was considered. The decision of the board of directors to nonrenew the contract of a provisional employee shall be final and not subject to appeal.

This section applies to any person employed by a school district in a teaching or other nonsupervisory certificated position after June 25, 1976. This section provides the exclusive means for nonrenewing the employment contract of a provisional employee and no other provision of law shall be applicable thereto, including, without limitation, RCW 28A.405.210 and chapter 28A.645 RCW.

[1996 c 201 § 2; 1992 c 141 § 103; 1990 c 33 § 391; 1975-'76 2nd ex.s. c 114 § 1. Formerly RCW 28A.67.072.]

Notes:

Effective date--1992 c 141 § 103: "Section 103 of this act shall take effect July 1, 1992." [1992 c 141 § 105.]

Findings--Part headings--Severability--1992 c 141: See notes following RCW 28A.410.040.

Savings--Severability--1975-'76 2nd ex.s. c 114: See notes following RCW 28A.400.010.

RCW 28A.405.230 Conditions and contracts of employment--Transfer of administrator to subordinate certificated position--Notice--Procedure.

Any certificated employee of a school district employed as an assistant superintendent, director, principal, assistant principal, coordinator, or in any other supervisory or administrative

position, hereinafter in this section referred to as "administrator", shall be subject to transfer, at the expiration of the term of his or her employment contract, to any subordinate certificated position within the school district. "Subordinate certificated position" as used in this section, shall mean any administrative or nonadministrative certificated position for which the annual compensation is less than the position currently held by the administrator.

Every superintendent determining that the best interests of the school district would be served by transferring any administrator to a subordinate certificated position shall notify that administrator in writing on or before May 15th preceding the commencement of such school term of that determination, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 1st, which notification shall state the reason or reasons for the transfer, and shall identify the subordinate certificated position to which the administrator will be transferred. Such notice shall be served upon the administrator personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein.

Every such administrator so notified, at his or her request made in writing and filed with the president or chair, or secretary of the board of directors of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the board of directors in an executive session thereof for the purpose of requesting the board to reconsider the decision of the superintendent. Such board, upon receipt of such request, shall schedule the meeting for no later than the next regularly scheduled meeting of the board, and shall notify the administrator in writing of the date, time and place of the meeting at least three days prior thereto. At such meeting the administrator shall be given the opportunity to refute any facts upon which the determination was based and to make any argument in support of his or her request for reconsideration. The administrator and the board may invite their respective legal counsel to be present and to participate at the meeting. The board shall notify the administrator in writing of its final decision within ten days following its meeting with the administrator. No appeal to the courts shall lie from the final decision of the board of directors to transfer an administrator to a subordinate certificated position: PROVIDED, That in the case of principals such transfer shall be made at the expiration of the contract year and only during the first three consecutive school years of employment as a principal by a school district; except that if any such principal has been previously employed as a principal by another school district in the state of Washington for three or more consecutive school years the provisions of this section shall apply only to the first full school year of such employment.

This section applies to any person employed as an administrator by a school district on June 25, 1976 and to all persons so employed at any time thereafter. This section provides the exclusive means for transferring an administrator to a subordinate certificated position at the expiration of the term of his or her employment contract.

[1996 c 201 § 3; 1990 c 33 § 392; 1975-'76 2nd ex.s. c 114 § 9. Formerly RCW 28A.67.073.]

Notes:

Savings--Severability--1975-'76 2nd ex.s. c 114: See notes following RCW 28A.400.010.

RCW 28A.405.240 Conditions and contracts of employment--Supplemental contracts, when--Continuing contract provisions not applicable to.

No certificated employee shall be required to perform duties not described in the contract unless a new or supplemental contract is made, except that in an unexpected emergency the board of directors or school district administration may require the employee to perform other reasonable duties on a temporary basis.

No supplemental contract shall be subject to the continuing contract provisions of this title.

[1990 c 33 § 393; 1985 c 341 § 15; 1969 ex.s. c 283 § 2. Formerly RCW 28A.67.074, 28.67.074.]

Notes:

Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28A.405.240 not applicable to contract renewal of school superintendent: RCW 28A.400.010.

RCW 28A.405.250 Certificated employees, applicants for certificated position, not to be discriminated against--Right to inspect personnel file.

The board of directors of any school district, its employees or agents shall not discriminate in any way against any applicant for a certificated position or any certificated employee

(1) On account of his or her membership in any lawful organization, or

(2) For the orderly exercise during off-school hours of any rights guaranteed under the law to citizens generally, or

(3) For family relationship, except where covered by chapter 42.23 RCW.

The school district personnel file on any certificated employee in the possession of the district, its employees, or agents shall not be withheld at any time from the inspection of that employee.

[1990 c 33 § 394; 1969 ex.s. c 34 § 21. Formerly RCW 28A.58.445.]

Notes:

Code of ethics for municipal officers--Contract interests: Chapter 42.23 RCW.

HIRING AND DISCHARGE

RCW 28A.405.300 Adverse change in contract status of certificated employee--Determination of probable cause--Notice--Opportunity for hearing.

In the event it is determined that there is probable cause or causes for a teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with the school district, hereinafter referred to as "employee", to be discharged or otherwise adversely affected in his or her contract status, such employee shall be notified in writing of that decision, which notification shall specify the probable cause or causes for such action. Such

determinations of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notices shall be served upon that employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, chair of the board or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for a hearing pursuant to RCW 28A.405.310 to determine whether or not there is sufficient cause or causes for his or her discharge or other adverse action against his or her contract status.

In the event any such notice or opportunity for hearing is not timely given, or in the event cause for discharge or other adverse action is not established by a preponderance of the evidence at the hearing, such employee shall not be discharged or otherwise adversely affected in his or her contract status for the causes stated in the original notice for the duration of his or her contract.

If such employee does not request a hearing as provided herein, such employee may be discharged or otherwise adversely affected as provided in the notice served upon the employee.

Transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.405.230 shall not be construed as a discharge or other adverse action against contract status for the purposes of this section.

[1990 c 33 § 395; 1975-'76 2nd ex.s. c 114 § 2; 1973 c 49 § 1; 1969 ex.s. c 34 § 13; 1969 ex.s. c 223 § 28A.58.450. Prior: 1961 c 241 § 2. Formerly RCW 28A.58.450, 28.58.450.]

Notes:

Savings--Severability-1975-'76 2nd ex.s. c 114: See notes following RCW 28A.400.010.

Minimum criteria for the evaluation of certificated employees, including administrators--Procedure--Scope--Penalty: RCW 28A.405.100.

RCW 28A.405.300 not applicable to contract renewal of school superintendent: RCW 28A.400.010.

Transfer of administrator to subordinate certificated position--Procedure: RCW 28A.405.230.

RCW 28A.405.310 Adverse change in contract status of certificated employee, including nonrenewal of contract--Hearings--Procedure.

(1) Any employee receiving a notice of probable cause for discharge or adverse effect in contract status pursuant to RCW 28A.405.300, or any employee, with the exception of provisional employees as defined in RCW 28A.405.220, receiving a notice of probable cause for nonrenewal of contract pursuant to RCW 28A.405.210, shall be granted the opportunity for a hearing pursuant to this section.

(2) In any request for a hearing pursuant to RCW 28A.405.300 or 28A.405.210, the employee may request either an open or closed hearing. The hearing shall be open or closed as requested by the employee, but if the employee fails to make such a request, the hearing officer may determine whether the hearing shall be open or closed.

(3) The employee may engage counsel who shall be entitled to represent the employee at the prehearing conference held pursuant to subsection (5) of this section and at all subsequent

proceedings pursuant to this section. At the hearing provided for by this section, the employee may produce such witnesses as he or she may desire.

(4) In the event that an employee requests a hearing pursuant to RCW 28A.405.300 or 28A.405.210, a hearing officer shall be appointed in the following manner: Within fifteen days following the receipt of any such request the board of directors of the district or its designee and the employee or employee's designee shall each appoint one nominee. The two nominees shall jointly appoint a hearing officer who shall be a member in good standing of the Washington state bar association or a person adhering to the arbitration standards established by the public employment relations commission and listed on its current roster of arbitrators. Should said nominees fail to agree as to who should be appointed as the hearing officer, either the board of directors or the employee, upon appropriate notice to the other party, may apply to the presiding judge of the superior court for the county in which the district is located for the appointment of such hearing officer, whereupon such presiding judge shall have the duty to appoint a hearing officer who shall, in the judgment of such presiding judge, be qualified to fairly and impartially discharge his or her duties. Nothing herein shall preclude the board of directors and the employee from stipulating as to the identity of the hearing officer in which event the foregoing procedures for the selection of the hearing officer shall be inapplicable. The district shall pay all fees and expenses of any hearing officer selected pursuant to this subsection.

(5) Within five days following the selection of a hearing officer pursuant to subsection (4) of this section, the hearing officer shall schedule a prehearing conference to be held within such five day period, unless the board of directors and employee agree on another date convenient with the hearing officer. The employee shall be given written notice of the date, time, and place of such prehearing conference at least three days prior to the date established for such conference.

(6) The hearing officer shall preside at any prehearing conference scheduled pursuant to subsection (5) of this section and in connection therewith shall:

(a) Issue such subpoenas or subpoenas duces tecum as either party may request at that time or thereafter; and

(b) Authorize the taking of prehearing depositions at the request of either party at that time or thereafter; and

(c) Provide for such additional methods of discovery as may be authorized by the civil rules applicable in the superior courts of the state of Washington; and

(d) Establish the date for the commencement of the hearing, to be within ten days following the date of the prehearing conference, unless the employee requests a continuance, in which event the hearing officer shall give due consideration to such request.

(7) The hearing officer shall preside at any hearing and in connection therewith shall:

(a) Make rulings as to the admissibility of evidence pursuant to the rules of evidence applicable in the superior court of the state of Washington.

(b) Make other appropriate rulings of law and procedure.

(c) Within ten days following the conclusion of the hearing transmit in writing to the board and to the employee, findings of fact and conclusions of law and final decision. If the final decision is in favor of the employee, the employee shall be restored to his or her employment

position and shall be awarded reasonable attorneys' fees.

(8) Any final decision by the hearing officer to nonrenew the employment contract of the employee, or to discharge the employee, or to take other action adverse to the employee's contract status, as the case may be, shall be based solely upon the cause or causes specified in the notice of probable cause to the employee and shall be established by a preponderance of the evidence at the hearing to be sufficient cause or causes for such action.

(9) All subpoenas and prehearing discovery orders shall be enforceable by and subject to the contempt and other equity powers of the superior court of the county in which the school district is located upon petition of any aggrieved party.

(10) A complete record shall be made of the hearing and all orders and rulings of the hearing officer and school board.

[1990 c 33 § 396; 1987 c 375 § 1; 1977 ex.s. c 7 § 1; 1975-'76 2nd ex.s. c 114 § 5. Formerly RCW 28A.58.455.]

Notes:

Severability--1977 ex.s. c 7: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 7 § 2.]

Savings--Severability--1975-'76 2nd ex.s. c 114: See notes following RCW 28A.400.010.

RCW 28A.405.320 Adverse change in contract status of certificated employee, including nonrenewal of contract--Appeal from--Notice--Service--Filing--Contents.

Any teacher, principal, supervisor, superintendent, or other certificated employee, desiring to appeal from any action or failure to act upon the part of a school board relating to the discharge or other action adversely affecting his or her contract status, or failure to renew that employee's contract for the next ensuing term, within thirty days after his or her receipt of such decision or order, may serve upon the chair of the school board and file with the clerk of the superior court in the county in which the school district is located a notice of appeal which shall set forth also in a clear and concise manner the errors complained of.

[1990 c 33 § 397; 1969 ex.s. c 34 § 14; 1969 ex.s. c 223 § 28A.58.460. Prior: 1961 c 241 § 3. Formerly RCW 28A.58.460, 28.58.460.]

Notes:

RCW 28A.405.320 not applicable to contract renewal of school superintendent: RCW 28A.400.010.

RCW 28A.405.330 Adverse change in contract status of certificated employee, including nonrenewal of contract--Appeal from--Certification and filing with court of transcript.

The clerk of the superior court, within ten days of receipt of the notice of appeal shall notify in writing the chair of the school board of the taking of the appeal, and within twenty days thereafter the school board shall at its expense file the complete transcript of the evidence and the papers and exhibits relating to the decision complained of, all properly certified to be correct.

[1990 c 33 § 398; 1969 ex.s. c 223 § 28A.58.470. Prior: 1961 c 241 § 4. Formerly RCW 28A.58.470, 28.58.470.]

Notes:

RCW 28A.405.330 not applicable to contract renewal of school superintendent: RCW 28A.400.010.

RCW 28A.405.340 Adverse change in contract status of certificated employee, including nonrenewal of contract--Appeal from--Scope.

Any appeal to the superior court by an employee shall be heard by the superior court without a jury. Such appeal shall be heard expeditiously. The superior court's review shall be confined to the verbatim transcript of the hearing and the papers and exhibits admitted into evidence at the hearing, except that in cases of alleged irregularities in procedure not shown in the transcript or exhibits and in cases of alleged abridgment of the employee's constitutional free speech rights, the court may take additional testimony on the alleged procedural irregularities or abridgment of free speech rights. The court shall hear oral argument and receive written briefs offered by the parties.

The court may affirm the decision of the board or hearing officer or remand the case for further proceedings; or it may reverse the decision if the substantial rights of the employee may have been prejudiced because the decision was:

(1) In violation of constitutional provisions; or

(2) In excess of the statutory authority or jurisdiction of the board or hearing officer; or

(3) Made upon unlawful procedure; or

(4) Affected by other error of law; or

(5) Clearly erroneous in view of the entire record as submitted and the public policy contained in the act of the legislature authorizing the decision or order; or

(6) Arbitrary or capricious.

[1975-'76 2nd ex.s. c 114 § 6; 1969 ex.s. c 34 § 15; 1969 ex.s. c 223 § 28A.58.480. Prior: 1961 c 241 § 5. Formerly RCW 28A.58.480, 28.58.480.]

Notes:

Savings--Severability--1975-'76 2nd ex.s. c 114: See notes following RCW 28A.400.010.

RCW 28A.405.340 not applicable to contract renewal of school superintendent: RCW 28A.400.010.

RCW 28A.405.350 Adverse change in contract status of certificated employee, including nonrenewal of contract--Appeal from--Costs, attorney's fee and damages.

If the court enters judgment for the employee, and if the court finds that the probable cause determination was made in bad faith or upon insufficient legal grounds, the court in its discretion may award to the employee a reasonable attorneys' fee for the preparation and trial of his or her appeal, together with his or her taxable costs in the superior court. If the court enters judgment for the employee, in addition to ordering the school board to reinstate or issue a new contract to the employee, the court may award damages for loss of compensation incurred by the employee by reason of the action of the school district.

[1990 c 33 § 399; 1975-'76 2nd ex.s. c 114 § 7; 1969 ex.s. c 34 § 16; 1969 ex.s. c 223 § 28A.58.490. Prior: 1961 c 241 § 6. Formerly RCW 28A.58.490, 28.58.490.]

Notes:

Savings--Severability--1975-'76 2nd ex.s. c 114: See notes following RCW 28A.400.010.

RCW 28A.405.350 not applicable to contract renewal of school superintendent: RCW 28A.400.010.

RCW 28A.405.360 Adverse change in contract status of certificated employee, including nonrenewal of contract--Appellate review.

Either party to the proceedings in the superior court may seek appellate review of the decision as any other civil action.

[1988 c 202 § 26; 1971 c 81 § 71; 1969 ex.s. c 223 § 28A.58.500. Prior: 1961 c 241 § 7. Formerly RCW 28A.58.500, 28.58.500.]

Notes:

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 28A.405.360 not applicable to contract renewal of school superintendent: RCW 28A.400.010.

RCW 28A.405.370 Adverse change in contract status of certificated employee, including nonrenewal of contract--Appeal from--Other statutes not applicable.

The provisions of chapter 28A.645 RCW shall not be applicable to RCW 28A.405.300 through 28A.405.360.

[1990 c 33 § 400; 1969 ex.s. c 223 § 28A.58.510. Prior: 1961 c 241 § 8. Formerly RCW 28A.58.510, 28.58.510.]

Notes:

RCW 28A.405.370 not applicable to contract renewal of school superintendents: RCW 28A.400.010.

RCW 28A.405.380 Adverse change in contract status of certificated employee, including nonrenewal of contract--Appeal from--Direct judicial appeal, when.

In the event that an employee, with the exception of a provisional employee as defined in RCW 28A.405.220, receives a notice of probable cause pursuant to RCW 28A.405.300 or 28A.405.210 stating that by reason of a lack of sufficient funds or loss of levy election the employment contract of such employee should not be renewed for the next ensuing school term or that the same should be adversely affected, the employee may appeal any said probable cause determination directly to the superior court of the county in which the school district is located. Such appeal shall be perfected by serving upon the secretary of the school board and filing with the clerk of the superior court a notice of appeal within ten days after receiving the probable cause notice. The notice of appeal shall set forth in a clear and concise manner the action appealed from. The superior court shall determine whether or not there was sufficient cause for the action as specified in the probable cause notice, which cause must be proven by a preponderance of the evidence, and shall base its determination solely upon the cause or causes stated in the notice of the employee. The appeal provided in this section shall be tried as an ordinary civil action: PROVIDED, That the board of directors' determination of priorities for the

expenditure of funds shall be subject to superior court review pursuant to the standards set forth in RCW 28A.405.340: PROVIDED FURTHER, That the provisions of RCW 28A.405.350 and 28A.405.360 shall be applicable thereto.

[1990 c 33 § 401; 1975-'76 2nd ex.s. c 114 § 8; 1973 c 49 § 3; 1969 ex.s. c 34 § 18. Formerly RCW 28A.58.515.]

Notes:

Savings--Severability--1975-'76 2nd ex.s. c 114: See notes following RCW 28A.400.010.

RCW 28A.405.380 not applicable to contract renewal of school superintendent: RCW 28A.400.010.

SALARY AND COMPENSATION

RCW 28A.405.400 Payroll deductions authorized for employees.

In addition to other deductions permitted by law, any person authorized to disburse funds in payment of salaries or wages to employees of school districts, upon written request of at least ten percent of the employees, shall make deductions as they authorize, subject to the limitations of district equipment or personnel. Any person authorized to disburse funds shall not be required to make other deductions for employees if fewer than ten percent of the employees make the request for the same payee. Moneys so deducted shall be paid or applied monthly by the school district for the purposes specified by the employee. The employer may not derive any financial benefit from such deductions. A deduction authorized before July 28, 1991, shall be subject to the law in effect at the time the deduction was authorized.

[1991 c 116 § 18; 1972 ex.s. c 39 § 1. Formerly RCW 28A.67.095.]

RCW 28A.405.410 Payroll deductions authorized for certificated employees--Savings.

Nothing in RCW 28A.405.400 shall be construed to annul or modify any lawful agreement heretofore entered into between any school district and any representative of its employees or other existing lawful agreements and obligations in effect on May 23, 1972.

[1990 c 33 § 402; 1972 ex.s. c 39 § 2. Formerly RCW 28A.67.096.]

MISCELLANEOUS PROVISIONS

RCW 28A.405.460 Lunch period for certificated employees.

All certificated employees of school districts shall be allowed a reasonable lunch period of not less than thirty continuous minutes per day during the regular school lunch periods and during which they shall have no assigned duties: PROVIDED, That local districts may work out other arrangements with the consent of all affected parties.

[1995 c 335 § 702; 1991 c 116 § 15; 1969 ex.s. c 223 § 28A.58.275. Prior: 1965 c 18 § 1. Formerly RCW 28A.58.275, 28.58.275.]

Notes:

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

RCW 28A.405.465 Use of classified personnel to supervise in noninstructional activities.

Any school district may employ classified personnel to supervise school children in noninstructional activities, and in instructional activities while under the supervision of a certificated employee.

[1997 c 13 § 13; 1991 c 116 § 16.]

TERMINATION OF CERTIFICATED STAFF

RCW 28A.405.470 Crimes against children--Mandatory termination of certified employees--Appeal.

The school district shall immediately terminate the employment of any person whose certificate or permit authorized under chapter 28A.405 or 28A.410 RCW is subject to revocation under RCW 28A.410.090(2) upon a guilty plea or conviction of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction. Employment shall remain terminated unless the employee successfully prevails on appeal. This section shall only apply to employees holding a certificate or permit who have contact with children during the course of their employment.

[1990 c 33 § 405; 1989 c 320 § 5. Formerly RCW 28A.58.1003.]

Notes:

Severability--1989 c 320: See note following RCW 28A.410.090.

RCW 28A.405.900 Certain certificated employees exempt from chapter provisions.

Certificated employees subject to the provisions of RCW 28A.310.250, *28A.405.010 through 28A.405.240, 28A.405.400 through 28A.405.410, 28A.415.250, and 28A.405.900 shall not include those certificated employees hired to replace certificated employees who have been granted sabbatical, regular, or other leave by school districts, and shall not include retirees hired for postretirement employment under the provisions of chapter 10, Laws of 2001 2nd sp. sess.

It is not the intention of the legislature that this section apply to any regularly hired certificated employee or that the legal or constitutional rights of such employee be limited, abridged, or abrogated.

[2001 2nd sp.s. c 10 § 2; 1990 c 33 § 404; 1972 ex.s. c 142 § 3. Formerly RCW 28A.67.900.]

NOTES:

***Reviser's note:** RCW 28A.405.010 was recodified as RCW 28A.410.025 pursuant to 1995 c 335 § 305.

Effective dates--2001 2nd sp.s. c 10: See note following RCW 41.40.037.

Chapter 28A.410 RCW
CERTIFICATION

Sections

28A.410.010 Certification--State board duty--Rules and regulations--Record check--Lapsed certificates--Superintendent of public instruction as administrator.
28A.410.020 Requirements for admission to teacher preparation programs--Rules.
28A.410.025 Qualifications--Certificate or permit required.
28A.410.032 Qualifications--Teachers of visually impaired--Rules.
28A.410.035 Qualifications--Coursework on issues of abuse.
28A.410.040 Initial-level certificates.
28A.410.050 Baccalaureate and masters degree equivalency requirements for vocational instructors--Rules.
28A.410.060 Fee for certification--Disposition.
28A.410.070 Registration of certificates.
28A.410.080 School year--For certification or qualification purposes.
28A.410.090 Revocation or suspension of certificate or permit to teach--Investigation by superintendent of public instruction--Mandatory revocation for crimes against children.
28A.410.095 Violation or noncompliance--Investigatory powers of superintendent of public instruction--Court orders--Contempt.
28A.410.100 Revocation of authority to teach--Hearings and appeals.
28A.410.105 Certificate or permit suspension--Nonpayment or default on educational loan or scholarship.
28A.410.106 Certificate or permit suspension--Noncompliance with support order--Reissuance.
28A.410.110 Limitation on reinstatement after revocation--Reinstatement prohibited for crimes against children.
28A.410.120 Professional certification not to be required of superintendents, deputy or assistant superintendents.
28A.410.200 Washington professional educator standards board--Creation--Membership--Executive director.
28A.410.210 Washington professional educator standards board--Powers and duties.
28A.410.220 Washington professional educator standards board--Basic skills assessment--Assessment of subject knowledge--Administration of section--Rule-making authority.
28A.410.230 Washington professional educator standards board--Review of proposed assessments before implementation.
28A.410.240 Washington professional educator standards board--Reports.

RCW 28A.410.010 Certification--State board duty--Rules and regulations--Record check--Lapsed certificates--Superintendent of public instruction as administrator.

The state board of education shall establish, publish, and enforce rules and regulations determining eligibility for and certification of personnel employed in the common schools of this state, including certification for emergency or temporary, substitute or provisional duty and under such certificates or permits as the board shall deem proper or as otherwise prescribed by law. The rules shall require that the initial application for certification shall require a record check of the applicant through the Washington state patrol criminal identification system and through the federal bureau of investigation at the applicant's expense. The record check shall

include a fingerprint check using a complete Washington state criminal identification fingerprint card. The superintendent of public instruction may waive the record check for any applicant who has had a record check within the two years before application. The rules shall permit a holder of a lapsed certificate but not a revoked or suspended certificate to be employed on a conditional basis by a school district with the requirement that the holder must complete any certificate renewal requirements established by the state board of education within two years of initial reemployment.

In establishing rules pertaining to the qualifications of instructors of American sign language the state board shall consult with the national association of the deaf, "sign instructors guidance network" (s.i.g.n.), and the Washington state association of the deaf for evaluation and certification of sign language instructors.

The superintendent of public instruction shall act as the administrator of any such rules and regulations and have the power to issue any certificates or permits and revoke the same in accordance with board rules and regulations.

[2001 c 263 § 1. Prior: 1992 c 159 § 3; 1992 c 60 § 2; prior: 1988 c 172 § 3; 1988 c 97 § 1; 1987 c 486 § 8; 1975-'76 2nd ex.s. c 92 § 2; 1969 ex.s. c 223 § 28A.70.005. Formerly RCW 28A.70.005.]

NOTES:

Findings--1992 c 159: See note following RCW 28A.400.303.

Severability--1988 c 97: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 97 § 3.]

Severability--1975-'76 2nd ex.s. c 92: See note following RCW 28A.305.130.

RCW 28A.410.020 Requirements for admission to teacher preparation programs--Rules. *(Effective until September 1, 2002.)*

(1) No person may be admitted to a professional teacher preparation program within Washington state without first demonstrating by one of the following options that he or she is competent in the basic skills required for oral and written communication, reading, and computation:

(a) Successful completion of an examination in the basic skills required for oral and written communication, reading, and computation; or

(b) Completion of a baccalaureate degree program; or

(c) Completion of a graduate degree program; or

(d) Completion of two or more years of college level course work and demonstrated basic skills competency through college level course work and a written essay; or

(e) Earning a combined score of more than the state-wide median score for the prior school year scored by all persons taking tests of general achievement selected by the state board of education.

(2) The state board of education shall adopt rules to implement this section.

[1996 c 309 § 1; 1991 c 116 § 20; 1988 c 251 § 4; 1987 c 525 § 202. Formerly RCW 28A.04.122.]

Notes:

Intent--1987 c 525 §§ 201-233: "The legislature intends to enhance the education of the state's youth by improving the quality of teaching. The legislature intends to establish a framework for teacher and principal preparation programs and to recognize teaching as a profession.

The legislature finds that the quality of teacher preparation programs is enhanced when a planned, sequenced approach is used that provides for the application of practice to academic course work.

The legislature supports better integration of the elements of teacher preparation programs including knowledge of subject matter, teaching methods, and actual teaching experiences.

The legislature finds that establishing: (1) A teaching internship program; (2) a post-baccalaureate program resulting in a masters degree; (3) stronger requirements for earning principal credentials; and (4) a review of the preparation standards for school principals and educational staff associates are appropriate next steps in enhancing the quality of educational personnel in Washington." [1987 c 525 § 201.]

Short title--1987 c 525 §§ 202-233: "Sections 202 through 233 of this act shall be known as the professional educator excellence act of 1987." [1987 c 525 § 234.]

RCW 28A.410.025 Qualifications--Certificate or permit required.

No person shall be accounted as a qualified teacher within the meaning of the school law who is not the holder of a valid teacher's certificate or permit issued by lawful authority of this state.

[1969 ex.s. c 223 § 28A.67.010. Prior: 1909 c 97 p 306 § 1; RRS § 4844; prior: 1907 c 240 § 6; 1897 c 118 § 51; 1891 c 127 § 14; 1890 p 369 § 37; 1886 p 18 § 47; 1873 p 430 § 15. Formerly RCW 28A.405.010, 28A.67.010, 28.67.010.]

RCW 28A.410.032 Qualifications--Teachers of visually impaired--Rules.

Teachers of visually impaired students shall be qualified according to rules adopted by the state board of education.

[1996 c 135 § 4.]

Notes:

Reviser's note: 1996 c 135 directed that this section be added to chapter 28A.405 RCW. However, the code reviser has determined that it is more appropriate to codify this section as part of chapter 28A.410 RCW.

Findings--1996 c 135: See note following RCW 28A.155.105.

RCW 28A.410.035 Qualifications--Coursework on issues of abuse.

To receive initial certification as a teacher in this state after August 31, 1991, an applicant shall have successfully completed a course on issues of abuse. The content of the course shall discuss the identification of physical, emotional, sexual, and substance abuse, information on the impact of abuse on the behavior and learning abilities of students, discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are the victims of abuse, and methods for teaching students about abuse of all types and their prevention.

[1990 c 90 § 1. Formerly RCW 28A.405.025.]

RCW 28A.410.040 Initial-level certificates.

The state board of education shall adopt rules providing that, except as provided in this section, all individuals qualifying for an initial-level teaching certificate after August 31, 1992, shall possess a baccalaureate degree in the arts, sciences, and/or humanities and have fulfilled the requirements for teacher certification pursuant to RCW 28A.305.130 (1) and (2). However, candidates for grades preschool through eight certificates shall have fulfilled the requirements for a major as part of their baccalaureate degree. If the major is in early childhood education, elementary education, or special education, the candidate must have at least thirty quarter hours or twenty semester hours in one academic field.

[1992 c 141 § 101; 1990 c 33 § 406. Prior: 1989 c 402 § 1; 1989 c 29 § 1; 1987 c 525 § 212. Formerly RCW 28A.70.040.]

NOTES:

Findings--1992 c 141: "The legislature finds that the educational needs of students when they leave the public school system has [have] increased dramatically in the past two decades. If young people are to prosper in our democracy and if our nation is to grow economically, it is imperative that the overall level of learning achieved by students be significantly increased.

To achieve this higher level of learning, the legislature finds that the state of Washington needs to develop a performance-based school system. Instead of maintaining burdensome state accountability laws and rules that dictate educational offerings, the state needs to hold schools accountable for their performance based on what their students learn.

The legislature further finds moving toward a performance-based accountability system will require repealing state laws and rules that inhibit the freedom of school boards and professional educators to carry out their work, and also will require that significantly more decisions be made at the school district and school building levels. In addition, it will be necessary to set high expectations for students, to identify what is expected of all students, and to develop a rigorous academic assessment system to determine if these expectations have been achieved.

The legislature further finds that the governor's council on education reform and funding will, by December 1992, identify broad student learning goals. Subject to decisions made by the 1993 legislature, the legislature finds that it is critical that an organization be established to continue the council's work in identifying necessary student skills and knowledge, to develop student assessment and school accountability systems, and to take other steps necessary to develop a performance-based education system.

The legislature further finds that there is a need for high quality professional development as the state implements a performance-based system. Professional development must be available to schools and school districts to maintain quality control and to assure access to proven research on effective teaching." [1992 c 141 § 1.]

Part headings--1992 c 141: "Part headings as used in this act constitute no part of the law." [1992 c 141 § 601.]

Severability--1992 c 141: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1992 c 141 § 602.]

Intent--1987 c 525 §§ 201-233: "The legislature intends to enhance the education of the state's youth by improving the quality of teaching. The legislature intends to establish a framework for teacher and principal preparation programs and to recognize teaching as a profession.

The legislature finds that the quality of teacher preparation programs is enhanced when a planned, sequenced approach is used that provides for the application of practice to academic course work.

The legislature supports better integration of the elements of teacher preparation programs including knowledge of subject matter, teaching methods, and actual teaching experiences.

The legislature finds that establishing: (1) A teaching internship program; (2) a post-baccalaureate program resulting in a masters degree; (3) stronger requirements for earning principal credentials; and (4) a review of the preparation standards for school principals and educational staff associates are appropriate next steps in enhancing the quality of educational personnel in Washington." [1987 c 525 § 201.]

Short title--1987 c 525 §§ 202-233: "Sections 202 through 233 of this act shall be known as the professional educator excellence act of 1987." [1987 c 525 § 234.]

Severability--1987 c 525: See note following RCW 28A.300.050.

RCW 28A.410.050 Baccalaureate and masters degree equivalency requirements for vocational instructors--Rules.

The state board of education shall develop and adopt rules establishing baccalaureate and masters degree equivalency standards for vocational instructors performing instructional duties and acquiring certification after August 31, 1992.

[1992 c 141 § 102; 1989 c 29 § 2; 1987 c 525 § 215. Formerly RCW 28A.70.042.]

NOTES:

Findings--Part headings--Severability--1992 c 141: See notes following RCW 28A.410.040.

Intent--Short title--1987 c 525 §§ 202-233: See notes following RCW 28A.410.040.

Severability--1987 c 525: See note following RCW 28A.300.050.

RCW 28A.410.060 Fee for certification--Disposition.

The fee for any certificate, or any renewal thereof, issued by the authority of the state of Washington, and authorizing the holder to teach or perform other professional duties in the public schools of the state shall be not less than one dollar or such reasonable fee therefor as the state board of education by rule or regulation shall deem necessary therefor. The fee must accompany the application and cannot be refunded unless the application is withdrawn before it is finally considered. The educational service district superintendent, or other official authorized to receive such fee, shall within thirty days transmit the same to the treasurer of the county in which the office of the educational service district superintendent is located, to be by him or her placed to the credit of said school district or educational service district: PROVIDED, That if any school district collecting fees for the certification of professional staff does not hold a professional training institute separate from the educational service district then all such moneys shall be placed to the credit of the educational service district.

Such fees shall be used solely for the purpose of precertification professional preparation, program evaluation, and professional in-service training programs in accord with rules and regulations of the state board of education herein authorized.

[1990 c 33 § 407; 1975-'76 2nd ex.s. c 92 § 3; 1975-'76 2nd ex.s. c 15 § 17. Prior: 1975 1st ex.s. c 275 § 134; 1975 1st ex.s. c 192 § 1; 1969 ex.s. c 176 § 144; 1969 ex.s. c 223 § 28A.70.110; prior: 1965 c 139 § 20; 1909 c 97 p 336 § 3; RRS § 4968; prior: 1897 c 118 § 142. Formerly RCW 28A.70.110, 28.70.110, 28.70.120.]

Notes:

Severability--1975-'76 2nd ex.s. c 92: See note following RCW 28A.305.130.

Severability--1975 1st ex.s. c 192: "If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 192 § 3.]

Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.410.070 Registration of certificates.

All certificates issued by the superintendent of public instruction shall be valid and entitle the holder thereof to employment in any school district of the state upon being registered by the school district if designated to do so by the school district, which fact shall be evidenced on the certificate in the words, "Registered for use in . . . . . district," together with the date of registry, and an official signature of the person registering the same: PROVIDED, That a copy of the original certificate duly certified by the superintendent of public instruction may be used for the purpose of registry and endorsement in lieu of the original.

[1983 c 56 § 12; 1975-'76 2nd ex.s. c 92 § 4; 1975 1st ex.s. c 275 § 135; 1971 c 48 § 50; 1969 ex.s. c 223 § 28A.70.130. Prior: 1909 c 97 p 338 § 11; RRS § 4976; prior: 1897 c 118 § 147. Formerly RCW 28A.70.130, 28.70.130.]

Notes:

Severability--1983 c 56: See note following RCW 28A.195.010.
Severability--1975-'76 2nd ex.s. c 92: See note following RCW 28A.305.130.
Severability--1971 c 48: See note following RCW 28A.305.040.

RCW 28A.410.080 School year--For certification or qualification purposes.

The school year for all matters pertaining to teacher certification or for computing experience in teaching shall consist of not fewer than one hundred eighty school days.

[1969 ex.s. c 223 § 28A.01.025. Prior: 1909 c 97 p 262 § 3, part; RRS § 4687, part; prior: 1903 c 104 § 22, part. Formerly RCW 28A.01.025, 28.01.010, part.]

RCW 28A.410.090 Revocation or suspension of certificate or permit to teach--Investigation by superintendent of public instruction--Mandatory revocation for crimes against children.

(1) Any certificate or permit authorized under the provisions of this chapter, chapter 28A.405 RCW, or rules promulgated thereunder may be revoked or suspended by the authority authorized to grant the same based upon a criminal records report authorized by law, or upon the complaint of any school district superintendent, educational service district superintendent, or private school administrator for immorality, violation of written contract, unprofessional conduct, intemperance, or crime against the law of the state.

If the superintendent of public instruction has reasonable cause to believe that an alleged violation of this chapter or rules adopted under it has occurred, but no complaint has been filed pursuant to this chapter, and that a school district superintendent, educational service district superintendent, or private school administrator has sufficient notice of the alleged violation and opportunity to file a complaint, the superintendent of public instruction may cause an investigation to be made of the alleged violation, together with such other matters that may be disclosed in the course of the investigation related to certificated personnel.

(2) Any such certificate or permit authorized under this chapter or chapter 28A.405 RCW shall be revoked by the authority authorized to grant the certificate upon a guilty plea or the conviction of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (excepting motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction. The person whose certificate is in question shall be given an opportunity to be heard. Mandatory permanent revocation upon a guilty plea or the conviction of felony crimes specified under this subsection shall apply to such convictions or guilty pleas which occur after July 23, 1989. Revocation of any certificate or permit authorized under this chapter or chapter 28A.405 RCW for a guilty plea or criminal conviction occurring prior to July 23, 1989, shall be subject to the provisions of subsection (1) of this section.

[1996 c 126 § 2; 1992 c 159 § 4; 1990 c 33 § 408; 1989 c 320 § 1; 1975 1st ex.s. c 275 § 137; 1974 ex.s. c 55 § 2; 1971 c 48 § 51; 1969 ex.s. c 223 § 28A.70.160. Prior: 1909 c 97 p 345 § 1; RRS § 4992; prior: 1897 c 118 § 148. Formerly RCW 28A.70.160, 28.70.160.]

Notes:

Effective date--1996 c 126: See note following RCW 28A.400.305.

Findings--1992 c 159: See note following RCW 28A.400.303.

Severability--1989 c 320: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 320 § 7.]

Severability--1971 c 48: See note following RCW 28A.305.040.

Crimes against children--Notification of conviction or guilty plea of school employee: RCW 43.43.845.

RCW 28A.410.095 Violation or noncompliance--Investigatory powers of superintendent of public instruction--Court orders--Contempt.

(1) The superintendent of public instruction may initiate and conduct investigations as may be reasonably necessary to establish the existence of any alleged violations of or noncompliance with this chapter or any rules adopted under it. For the purpose of any investigation or proceeding under this chapter, the superintendent or any officer designated by the superintendent may administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records that the superintendent deems relevant and material to the inquiry.

(2) If any person fails to obey a subpoena or obeys a subpoena but refuses to give evidence, any court of competent jurisdiction, upon application by the superintendent, may issue to that person an order requiring him or her to appear before the court and to show cause why he or she should not be compelled to obey the subpoena, and give evidence material to the matter under investigation. The failure to obey an order of the court may be punishable as contempt.

[1992 c 159 § 5.]

Notes:

Findings--1992 c 159: See note following RCW 28A.400.303.

RCW 28A.410.100 Revocation of authority to teach--Hearings and appeals.

Any teacher whose certificate to teach has been questioned under RCW 28A.410.090 shall have a right to be heard by the issuing authority before his or her certificate is revoked. Any teacher whose certificate to teach has been revoked shall have a right of appeal to the state board of education if notice of appeal is given by written affidavit to the board within thirty days after the certificate is revoked.

An appeal to the state board of education within the time specified shall operate as a stay of revocation proceedings until the next regular or special meeting of said board and until the board's decision has been rendered.

[1992 c 159 § 6; 1990 c 33 § 409; 1975 1st ex.s. c 275 § 138; 1971 c 48 § 52; 1969 ex.s. c 223 § 28A.70.170. Prior: 1909 c 97 p 346 § 3; RRS § 4994. Formerly RCW 28A.70.170, 28.70.170.]

Notes:

Findings--1992 c 159: See note following RCW 28A.400.303.

Severability--1971 c 48: See note following RCW 28A.305.040.

RCW 28A.410.105 Certificate or permit suspension--Nonpayment or default on educational loan or scholarship.

The authorizing authority shall suspend the certificate or permit of any person who has been certified by a lending agency and reported to the authorizing authority for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's certificate or permit shall not be reissued until the person provides the authorizing authority a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for certification or permit during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the authorizing authority may impose.

[1996 c 293 § 27.]

Notes:

Severability--1996 c 293: See note following RCW 18.04.420.

RCW 28A.410.106 Certificate or permit suspension--Noncompliance with support order--Reissuance.

Any certificate or permit authorized under this chapter or chapter 28A.405 RCW shall be suspended by the authority authorized to grant the certificate or permit if the department of social and health services certifies that the person is not in compliance with a support order or a *residential or visitation order as provided in RCW 74.20A.320. If the person continues to meet other requirements for reinstatement during the suspension, reissuance of the certificate or permit shall be automatic after the person provides the authority a release issued by the department of social and health services stating that the person is in compliance with the order.

[1997 c 58 § 842.]

Notes:

***Reviser's note:** 1997 c 58 § 887 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for noncompliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective dates--Intent--1997 c 58: See notes following RCW 74.20A.320.

RCW 28A.410.110 Limitation on reinstatement after revocation--Reinstatement prohibited for crimes against children.

In case any certificate or permit authorized under this chapter or chapter 28A.405 RCW is revoked, the holder shall not be eligible to receive another certificate or permit for a period of twelve months after the date of revocation. However, if the certificate or permit authorized under this chapter or chapter 28A.405 RCW was revoked because of a guilty plea or the conviction of a felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction, the certificate or permit shall not be reinstated.

[1990 c 33 § 410; 1989 c 320 § 2; 1969 ex.s. c 223 § 28A.70.180. Prior: 1909 c 97 p 346 § 2; RRS § 4993. Formerly RCW 28A.70.180, 28.70.180.]

Notes:

Severability--1989 c 320: See note following RCW 28A.410.090.

RCW 28A.410.120 Professional certification not to be required of superintendents, deputy or assistant superintendents.

Notwithstanding any other provision of this title, the state board of education or superintendent of public instruction shall not require any professional certification or other qualifications of any person elected superintendent of a local school district by that district's board of directors, or any person hired in any manner to fill a position designated as, or which is,

in fact, deputy superintendent, or assistant superintendent.

[1990 c 33 § 411; 1975 1st ex.s. c 254 § 3. Formerly RCW 28A.02.260.]

Notes:

Severability--1975 1st ex.s. c 254: "If any provision of this 1975 amendatory act, or its application to any person or circumstances is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 254 § 4.]

RCW 28A.410.200 Washington professional educator standards board--Creation--Membership--Executive director.

(1) The Washington professional educator standards board is created, consisting of nineteen members to be appointed by the governor to four-year terms and the superintendent of public instruction, who shall be an ex officio, nonvoting member. No person may serve as a member of the board for more than two consecutive full terms. The governor shall annually appoint the chair of the board from among the teachers and principals on the board. No board member may serve as chair for more than two consecutive years.

(2) Seven of the members shall be public school teachers, one shall be a private school teacher, three shall represent higher education educator preparation programs, four shall be school administrators, two shall be educational staff associates, one shall be a parent, and one shall be a member of the public.

(3) Public school teachers appointed to the board must:

(a) Have at least three years of teaching experience in a Washington public school;

(b) Be currently certificated and actively employed in a teaching position; and

(c) Include one teacher currently teaching at the elementary school level, one at the middle school level, one at the high school level, and one vocationally certificated.

(4) Private school teachers appointed to the board must:

(a) Have at least three years of teaching experience in a Washington approved private school; and

(b) Be currently certificated and actively employed in a teaching position in an approved private school.

(5) Appointees from higher education educator preparation programs must include two representatives from institutions of higher education as defined in RCW 28B.10.016 and one representative from an institution of higher education as defined in RCW 28B.07.020(4).

(6) School administrators appointed to the board must:

(a) Have at least three years of administrative experience in a Washington public school district;

(b) Be currently certificated and actively employed in a school administrator position; and

(c) Include two public school principals, one Washington approved private school principal, and one superintendent.

(7) Educational staff associates appointed to the board must:

(a) Have at least three years of educational staff associate experience in a Washington

public school district; and

(b) Be currently certificated and actively employed in an educational staff associate position.

(8) Each major caucus of the house of representatives and the senate shall submit a list of at least one public school teacher. In making the public school teacher appointments, the governor shall select one nominee from each list provided by each caucus. The governor shall appoint the remaining members of the board from a list of qualified nominees submitted to the governor by organizations representative of the constituencies of the board, from applications from other qualified individuals, or from both nominees and applicants.

(9) All appointments to the board made by the governor shall be subject to confirmation by the senate.

(10) The governor shall appoint the members of the initial board no later than June 1, 2000.

(11) In appointing board members, the governor shall consider the diversity of the population of the state.

(12) Each member of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.

(13) The governor may remove a member of the board for neglect of duty, misconduct, malfeasance or misfeasance in office, or for incompetency or unprofessional conduct as defined in chapter 18.130 RCW. In such a case, the governor shall file with the secretary of state a statement of the causes for and the order of removal from office, and the secretary of state shall send a certified copy of the statement of causes and order of removal to the last known post office address of the member.

(14) If a vacancy occurs on the board, the governor shall appoint a replacement member from the nominees as specified in subsection (8) of this section to fill the remainder of the unexpired term. When filling a vacancy of a member nominated by a major caucus of the legislature, the governor shall select the new member from a list of at least one name submitted by the same caucus that provided the list from which the retiring member was appointed.

(15) Members of the board shall hire an executive director and an administrative assistant to reside in the office of the superintendent of public instruction for administrative purposes only.

[2000 c 39 § 102.]

Notes:

Findings--2000 c 39: "The legislature finds and declares:

(1) Creation of a public body whose focus is educator quality would be likely to bring greater focus and attention to the profession;

(2) Professional educator standards boards are consumer protection boards, establishing assessment policies to ensure the public that its new practitioners have the knowledge to be competent;

(3) The highest possible standards for all educators are essential in ensuring attainment of high academic standards by all students;

(4) Teacher assessment for certification can guard against admission to the teaching profession of persons

who have not demonstrated that they are knowledgeable in the subjects they will be assigned to teach; and

(5) Teacher assessment for certification should be implemented as an additional element to the system of teacher preparation and certification." [2000 c 39 § 101.]

Part headings and section captions not law--2000 c 39: "Part headings and section captions used in this act are not any part of the law." [2000 c 39 § 301.]

RCW 28A.410.210 Washington professional educator standards board--Powers and duties.

The Washington professional educator standards board shall:

(1) Serve as an advisory body to the superintendent of public instruction and as the sole advisory body to the state board of education on issues related to educator recruitment, hiring, preparation, certification including high quality alternative routes to certification, mentoring and support, professional growth, retention, governance, prospective teacher pedagogy assessment, prospective principal assessment, educator evaluation including but not limited to peer evaluation, and revocation and suspension of licensure;

(2) Submit annual reports and recommendations, beginning December 1, 2000, to the governor, the education and fiscal committees of the legislature, the state board of education, and the superintendent of public instruction concerning duties and activities within the board's advisory capacity. The Washington professional educator standards board shall submit a separate report by December 1, 2000, to the governor, the education and fiscal committees of the legislature, the state board of education, and the superintendent of public instruction providing recommendations for at least two high quality alternative routes to teacher certification. In its deliberations, the board shall consider at least one route that permits persons with substantial subject matter expertise to achieve residency certification through an on-the-job training program provided by a school district; and

(3) Establish the prospective teacher assessment system for basic skills and subject knowledge that shall be required to obtain residency certification pursuant to RCW 28A.410.220 through 28A.410.240.

[2000 c 39 § 103.]

Notes:

Findings--Part headings and section captions not law--2000 c 39: See notes following RCW 28A.410.200.

RCW 28A.410.220 Washington professional educator standards board--Basic skills assessment--Assessment of subject knowledge--Administration of section--Rule-making authority.

(1)(a) Beginning not later than September 1, 2001, the Washington professional educator standards board shall make available and pilot a means of assessing an applicant's knowledge in the basic skills. For the purposes of this section, "basic skills" means the subjects of at least reading, writing, and mathematics. Beginning September 1, 2002, except as provided in (c) of this subsection and subsection (3) of this section, passing this assessment shall be required for admission to approved teacher preparation programs and for persons from out-of-state applying for a Washington state residency teaching certificate.

(b) On an individual student basis, approved teacher preparation programs may admit into their programs a candidate who has not achieved the minimum basic skills assessment score established by the Washington professional educator standards board. Individuals so admitted may not receive residency certification without passing the basic skills assessment under this section.

(c) The Washington professional educator standards board may establish criteria to ensure that persons from out-of-state who are applying for residency certification and persons applying to master's degree level teacher preparation programs can demonstrate to the board's satisfaction that they have the requisite basic skills based upon having completed another basic skills assessment acceptable to the Washington professional educator standards board or by some other alternative approved by the Washington professional educator standards board.

(2) Beginning not later than September 1, 2002, the Washington professional educator standards board shall provide for the initial piloting and implementation of a means of assessing an applicant's knowledge in the subjects for which the applicant has applied for an endorsement to his or her residency or professional teaching certificate. The assessment of subject knowledge shall not include instructional methodology. Beginning September 1, 2003, passing this assessment shall be required to receive an endorsement for certification purposes.

(3) The Washington professional educator standards board may permit exceptions from the assessment requirements under subsections (1) and (2) of this section on a case-by-case basis.

(4) The Washington professional educator standards board shall provide for reasonable accommodations for individuals who are required to take the assessments in subsection (1) or (2) of this section if the individuals have learning or other disabilities.

(5) With the exception of applicants exempt from the requirements of subsections (1) and (2) of this section, an applicant must achieve a minimum assessment score or scores established by the Washington professional educator standards board on each of the assessments under subsections (1) and (2) of this section.

(6) The Washington professional educator standards board and superintendent of public instruction, as determined by the Washington professional educator standards board, may contract with one or more third parties for:

(a) The development, purchase, administration, scoring, and reporting of scores of the assessments established by the Washington professional educator standards board under subsections (1) and (2) of this section;

(b) Related clerical and administrative activities; or

(c) Any combination of the purposes in this subsection.

(7) Applicants for admission to a Washington teacher preparation program and applicants for residency and professional certificates who are required to successfully complete one or more of the assessments under subsections (1) and (2) of this section, and who are charged a fee for the assessment by a third party contracted with under subsection (6) of this section, shall pay the fee charged by the contractor directly to the contractor. Such fees shall be reasonably related to the actual costs of the contractor in providing the assessment.

(8) The superintendent of public instruction is responsible for supervision and providing

support services to administer this section.

(9) The Washington professional educator standards board shall collaboratively select or develop and implement the assessments and minimum assessment scores required under this section with the superintendent of public instruction and shall provide opportunities for representatives of other interested educational organizations to participate in the selection or development and implementation of such assessments in a manner deemed appropriate by the Washington professional educator standards board.

(10) The Washington professional educator standards board shall adopt rules under chapter 34.05 RCW that are reasonably necessary for the effective and efficient implementation of this section.

[2000 c 39 § 201.]

Notes:

Findings--Part headings and section captions not law--2000 c 39: See notes following RCW 28A.410.200.

RCW 28A.410.230 Washington professional educator standards board--Review of proposed assessments before implementation.

The Washington professional educator standards board shall report the proposed assessments to the legislative education committees for review and comment prior to implementing the assessments by contractual agreement with the selected vendor or vendors.

[2000 c 39 § 202.]

Notes:

Findings--Part headings and section captions not law--2000 c 39: See notes following RCW 28A.410.200.

RCW 28A.410.240 Washington professional educator standards board--Reports.

(1) By December 1, 2003, and annually thereafter, the Washington professional educator standards board shall prepare a report that includes the following information:

(a) The range of scores on the basic skills assessment under RCW 28A.410.220(1) for persons who passed the assessment and were admitted to a Washington preparation program; and

(b) The range of scores on the subject assessments under RCW 28A.410.220(2) for persons who passed the assessments and earned an endorsement.

(2) The information under subsection (1) of this section shall be reported for the individual public and private colleges and universities in Washington, as well as reported on an aggregate basis. The report shall also include results disaggregated demographically. The report shall include information on the number and percentage of candidates exempted from assessments, demographic information on candidates exempted, institutions attended and endorsements sought by exempted candidates, and reasons for exclusion from the required assessments. The report shall be made available through the state library, on the website of the office of superintendent of public instruction, and placed on the legislative alert list.

[2000 c 39 § 203.]

Notes:

Findings--Part headings and section captions not law--2000 c 39: See notes following RCW 28A.410.200.

Chapter 28A.415 RCW
INSTITUTES, WORKSHOPS, AND TRAINING

(Formerly: Teachers' institutes, workshops, and other in-service training)

Sections

28A.415.010 Center for improvement of teaching--Improvement of teaching coordinating council--Teachers' institutes and workshops.
28A.415.020 Credit on salary schedule for approved in-service training, continuing education, and internship.
28A.415.023 Credit on salary schedule for approved in-service training, continuing education, or internship--Course content--Rules.
28A.415.025 Internship clock hours--Rules.
28A.415.030 In-Service Training Act of 1977--Purpose.
28A.415.040 In-Service Training Act of 1977--Administration of funds--Rules--Requirements for local districts--In-service training task force.
28A.415.060 Credits for educational staff associates to fulfill continuing education requirements.
28A.415.100 Student teaching centers--Legislative recognition--Intent.
28A.415.105 Definitions.
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28A.415.200 Minority teacher recruitment program--Intent.
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28A.415.250 Teacher assistance program--Provision for mentor teachers.
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28A.415.270 Principal internship support program.
28A.415.280 Superintendent and program administrator internship support program.
28A.415.300 Rules.
28A.415.310 Paraprofessional training program.
28A.415.330 Professional development institutes--Managing disruptive students.

RCW 28A.415.010 Center for improvement of teaching--Improvement of teaching coordinating council--Teachers' institutes and workshops.

It shall be the responsibility of each educational service district board to establish a center for the improvement of teaching. The center shall administer, coordinate, and act as fiscal agent for such programs related to the recruitment and training of certificated and classified K-12 education personnel as may be delegated to the center by the superintendent of public instruction under RCW 28A.310.470, or the state board of education under RCW 28A.310.480. To assist in

these activities, each educational service district board shall establish an improvement of teaching coordinating council to include, at a minimum, representatives as specified in RCW 28A.415.040. An existing in-service training task force, established pursuant to RCW 28A.415.040, may serve as the improvement of teaching coordinating council. The educational service district board shall ensure coordination of programs established pursuant to RCW 28A.415.030, 28A.410.060, and 28A.415.250.

The educational service district board may arrange each year for the holding of one or more teachers' institutes and/or workshops for professional staff preparation and in-service training in such manner and at such time as the board believes will be of benefit to the teachers and other professional staff of school districts within the educational service district and shall comply with rules and regulations of the state board of education pursuant to RCW 28A.410.060 or the superintendent of public instruction or state board of education pursuant to RCW 28A.415.250. The board may provide such additional means of teacher and other professional staff preparation and in-service training as it may deem necessary or appropriate and there shall be a proper charge against the educational service district general expense fund when approved by the educational service district board.

Educational service district boards of contiguous educational service districts, by mutual arrangements, may hold joint institutes and/or workshops, the expenses to be shared in proportion to the numbers of certificated personnel as shown by the last annual reports of the educational service districts holding such joint institutes or workshops.

In local school districts employing more than one hundred teachers and other professional staff, the school district superintendent may hold a teachers' institute of one or more days in such district, said institute when so held by the school district superintendent to be in all respects governed by the provisions of this title and state board of education rules and regulations relating to teachers' institutes held by educational service district superintendents.

[1991 c 285 § 1; 1990 c 33 § 414; 1975-'76 2nd ex.s. c 15 § 18. Prior: 1975 1st ex.s. c 275 § 139; 1975 1st ex.s. c 192 § 2; 1971 ex.s. c 282 § 31; 1969 ex.s. c 176 § 146; 1969 ex.s. c 223 § 28A.71.100; prior: 1965 c 139 § 21. Formerly RCW 28A.71.100, 28.71.100.]

NOTES:

Severability--1975 1st ex.s. c 192: See note following RCW 28A.410.060.

Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.

Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

Transitional bilingual instruction program--In-service training: RCW 28A.180.040(5).

RCW 28A.415.020 Credit on salary schedule for approved in-service training, continuing education, and internship.

(1) Certificated personnel shall receive for each ten clock hours of approved in-service training attended the equivalent of a one credit college quarter course on the salary schedule developed by the legislative evaluation and accountability program committee.

(2) Certificated personnel shall receive for each ten clock hours of approved continuing education earned, as continuing education is defined by rule adopted by the state board of education, the equivalent of a one credit college quarter course on the salary schedule developed

by the legislative evaluation and accountability program committee.

(3) Certificated personnel shall receive for each forty clock hours of participation in an approved internship with a business, an industry, or government, as an internship is defined by rule of the state board of education in accordance with RCW 28A.415.025, the equivalent of a one credit college quarter course on the salary schedule developed by the legislative evaluation and accountability program committee.

(4) An approved in-service training program shall be a program approved by a school district board of directors, which meet standards adopted by the state board of education, and the development of said program has been participated in by an in-service training task force whose membership is the same as provided under RCW 28A.415.040, or a program offered by an education agency approved to provide in-service for the purposes of continuing education as provided for under rules adopted by the state board of education, or both.

(5) Clock hours eligible for application to the salary schedule developed by the legislative evaluation and accountability program committee as described in subsections (1) and (2) of this section, shall be those hours acquired after August 31, 1987. Clock hours eligible for application to the salary schedule as described in subsection (3) of this section shall be those hours acquired after December 31, 1995.

[1995 c 284 § 2; 1990 c 33 § 415; 1987 c 519 § 1. Formerly RCW 28A.71.110.]

Notes:

Findings--1995 c 284: "The legislature finds that if students are to succeed in an increasingly competitive economy, they will need to be taught by teachers who are aware of the technological innovations and changes that are occurring throughout business, industry, and government. Having teachers who are more aware of these changes will lead to improvements in curriculum and instruction, thereby making public schools more relevant to the future career and personal needs of our students." [1995 c 284 § 1.]

RCW 28A.415.023 Credit on salary schedule for approved in-service training, continuing education, or internship--Course content--Rules.

(1) Credits earned by certificated instructional staff after September 1, 1995, shall be eligible for application to the salary schedule developed by the legislative evaluation and accountability program committee only if the course content:

(a) Is consistent with a school-based plan for mastery of student learning goals as referenced in *RCW 28A.320.205, the annual school performance report, for the school in which the individual is assigned;

(b) Pertains to the individual's current assignment or expected assignment for the subsequent school year;

(c) Is necessary to obtain an endorsement as prescribed by the state board of education;

(d) Is specifically required to obtain advanced levels of certification; or

(e) Is included in a college or university degree program that pertains to the individual's current assignment, or potential future assignment, as a certified instructional staff.

(2) For the purpose of this section, "credits" mean college quarter hour credits and equivalent credits for approved in-service, approved continuing education, or approved internship hours computed in accordance with RCW 28A.415.020.

(3) The superintendent of public instruction shall adopt rules and standards consistent with the limits established by this section for certificated instructional staff.

[1997 c 90 § 1.]

Notes:

***Reviser's note:** RCW 28A.320.205 was recodified as RCW 28A.655.110 pursuant to 1999 c 388 § 607.

RCW 28A.415.025 Internship clock hours--Rules.

The state board of education shall establish rules for awarding clock hours for participation of certificated personnel in internships with business, industry, or government. To receive clock hours for an internship, the individual must demonstrate that the internship will provide beneficial skills and knowledge in an area directly related to his or her current assignment, or to his or her assignment for the following school year. An individual may not receive more than the equivalent of two college quarter credits for internships during a calendar-year period. The total number of credits for internships that an individual may earn to advance on the salary schedule developed by the legislative evaluation and accountability program committee or its successor agency is limited to the equivalent of fifteen college quarter credits.

[1995 c 284 § 3.]

Notes:

Findings--1995 c 284: See note following RCW 28A.415.020.

RCW 28A.415.030 In-Service Training Act of 1977--Purpose.

In order to provide for the improvement of the instructional process in the public schools and maintain and improve the skills of public school certificated and classified personnel, there is hereby adopted an act to be known as the "In-Service Training Act of 1977".

[1977 ex.s. c 189 § 1. Formerly RCW 28A.71.200.]

Notes:

Severability--1977 ex.s. c 189: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 189 § 4.]

RCW 28A.415.040 In-Service Training Act of 1977--Administration of funds--Rules--Requirements for local districts--In-service training task force.

The superintendent of public instruction is hereby empowered to administer funds now or hereafter appropriated for the conduct of in-service training programs for public school certificated and classified personnel and to supervise the conduct of such programs. The superintendent of public instruction shall adopt rules in accordance with chapter 34.05 RCW that provide for the allocation of such funds to public school district or educational service district applicants on such conditions and for such training programs as he or she deems to be in the best interest of the public school system: PROVIDED, That each district requesting such funds shall

have:

(1) Conducted a district needs assessment, including plans developed at the building level, to be reviewed and updated at least every two years, of certificated and classified personnel to determine identified strengths and weakness of personnel that would be strengthened by such in-service training program;

(2) Demonstrate that the plans are consistent with the goals of basic education;

(3) Established an in-service training task force and demonstrated to the superintendent of public instruction that the task force has participated in identifying in-service training needs and goals; and

(4) Demonstrated to the superintendent of public instruction its intention to implement the recommendations of the needs assessment and thereafter the progress it has made in providing in-service training as identified in the needs assessment.

The task force required by this section shall be composed of representatives from the ranks of administrators, building principals, teachers, classified and support personnel employed by the applicant school district or educational service district, from the public, and from an institution(s) of higher education, in such numbers as shall be established by the school district board of directors or educational service district board of directors.

[1987 c 525 § 301; 1985 c 214 § 1; 1979 c 149 § 10; 1977 ex.s. c 189 § 2. Formerly RCW 28A.71.210.]

Notes:

Severability--1987 c 525: See note following RCW 28A.630.100.

Severability--1979 c 149: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 c 149 § 11.]

Severability--1977 ex.s. c 189: See note following RCW 28A.300.050.

RCW 28A.415.060 Credits for educational staff associates to fulfill continuing education requirements.

The state board of education rules for continuing education shall provide that educational staff associates may use credits or clock hours that satisfy the continuing education requirements for their state professional licensure, if any, to fulfill the continuing education requirements established by the state board of education.

[1991 c 155 § 1.]

RCW 28A.415.100 Student teaching centers--Legislative recognition--Intent.

(1) The legislature recognizes that:

(a) Strong teacher preparation programs are vital to the success of the state's entire education system;

(b) Clinical field experiences, particularly student teaching, are critical to the developmental preparation of teacher candidates and to the success of teacher preparation programs;

(c) Schools, school districts, educational service districts, and institutions of higher education benefit mutually from cooperative relationships that provide teacher candidates with appropriate, necessary, and successful student teaching experiences that establish continuity between the theory and practice of teaching;

(d) Positive student teaching experiences result from the careful match between cooperating teachers and student teachers;

(e) Teacher candidates should have student teaching opportunities and other field experiences that are reflective of the diversity existing among schools and school districts state-wide; and

(f) School districts state-wide should have access to student teachers.

(2) Therefore, in support of quality, professional, research-based training of prospective teachers, it is the intent of the legislature to continue its support of evolving partnerships among schools, school districts, educational service districts, community colleges, and colleges and universities, that are:

(a) Benefiting the teaching profession;

(b) Enhancing the ability of all new teachers to assume initial teaching responsibilities with greater confidence and a higher level of training;

(c) Providing important and positive mentoring opportunities for experienced teachers; and

(d) Strengthening cooperation and communication between the precollegiate and collegiate sectors of the state education system.

[1991 c 258 § 1.]

RCW 28A.415.105 Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28A.415.125 through 28A.415.140.

(1) "Cooperating organizations" means that at least one school district, one college or university, and one educational service district are involved jointly with the development of a student teaching center.

(2) "Cooperating teacher" means a teacher who holds a continuing certificate and supervises and coaches a student teacher.

(3) "Field experience" means opportunities for observation, tutoring, microteaching, extended practicums, and clinical and laboratory experiences which do not fall within the meaning of student teaching.

(4) "School setting" means a classroom in a public, common school in the state of Washington.

(5) "Student teacher" means a candidate for initial teacher certification who is in a state board of education-approved, or regionally or nationally accredited teacher preparation program in a school setting as part of the field-based component of their preparation program.

(6) "Student teaching" means the full quarter or semester in a school setting during which the student teacher observes the cooperating teacher, participates in instructional activities, and

assumes both part-time and full-time teaching responsibilities under the supervision of the cooperating teacher.

(7) "Student teaching center" means the program established to provide student teachers in a geographic region of the state with special support and training as part of their teacher preparation program.

(8) "Supervisor or university supervisor" means the regular or adjunct faculty member, or college or university-approved designee, who assists and supervises the work of cooperating teachers and student teachers.

[1995 c 335 § 403; 1991 c 258 § 2.]

Notes:

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

RCW 28A.415.125 Network of student teaching centers.

The state board of education, from appropriated funds, shall establish a network of student teaching centers to support the continuing development of the field-based component of teacher preparation programs. The purpose of the training centers is to:

(1) Expand opportunities for student teacher placements in school districts state-wide, with an emphasis on those populations and locations that are unserved or underserved;

(2) Provide cooperating teachers for all student teachers during their student internship for up to two academic quarters;

(3) Enhance the student teaching component of teacher preparation programs, including a placement of student teachers in special education and multi-ethnic school settings; and

(4) Expand access to each other and opportunities for collaboration in teacher education between colleges and universities and school districts.

[1991 c 258 § 6.]

RCW 28A.415.130 Allocation of funds for student teaching centers.

Funds for the student teaching centers shall be allocated by the superintendent of public instruction among the educational service district regions on the basis of student teaching placements. The fiscal agent for each center shall be either an educational service district or a state institution of higher education. Prospective fiscal agents shall document to the state board of education the following information:

(1) The existing or proposed center was developed jointly through a process including participation by at least one school district, one college or university, and one educational service district;

(2) Primary administration for each center shall be the responsibility of one or more of the cooperating organizations;

(3) Assurance that the training center program provides appropriate and necessary training in observation, supervision, and assistance skills and techniques for:

(a) Cooperating teachers;

(b) Other school building personnel; and
(c) School district employees.

[1991 c 258 § 7.]

RCW 28A.415.135 Alternative means of teacher placement.

The student teaching centers shall be an alternative means of placing teachers into school districts throughout the state. Nothing in RCW 28A.415.100 through 28A.415.140 or 28A.415.250 precludes a higher education institution that is not a participant in a training center from placing student teachers into a district that may be participating formally with other institutions in a student teaching center program, or placing student teachers into districts pursuant to an agreement between the institution and district.

[1991 c 258 § 8.]

RCW 28A.415.140 Field experiences.

Field experiences may be provided through a student teaching center. The cost of providing such experiences and opportunities shall be the sole responsibility of the participants cooperating in the operation of the center.

[1991 c 258 § 9.]

RCW 28A.415.145 Rules.

The state board of education and the superintendent of public instruction shall adopt rules as necessary under chapter 34.05 RCW to carry out the purposes of RCW 28A.415.100 through 28A.415.140.

[1991 c 258 § 10.]

RCW 28A.415.200 Minority teacher recruitment program--Intent.

The legislature finds that it is important to have a teaching force that reflects the rich diversity of the students served in the public schools. The legislature further finds that certain groups, as characterized by ethnic background, are traditionally underrepresented in the teaching profession in the state of Washington and that the ethnic diversity of the student population in the state of Washington is increasing. The legislature intends to increase the number of people from underrepresented groups entering our teaching force.

[1989 c 146 § 1. Formerly RCW 28A.305.260, 28A.67.250.]

RCW 28A.415.205 Minority teacher recruitment program.

(1) The Washington state minority teacher recruitment program is established. The

program shall be administered by the state board of education. The state board of education shall consult with the higher education coordinating board, representatives of institutions of higher education, education organizations having an interest in teacher recruitment issues, the superintendent of public instruction, the state board for community and technical colleges, the department of employment security, and the work force training and education coordinating board. The program shall be designed to recruit future teachers from students in the targeted groups who are in the ninth through twelfth grades and from adults in the targeted groups who have entered other occupations.

(2) The program shall include the following:

(a) Encouraging students in targeted groups in grades nine through twelve to acquire the academic and related skills necessary to prepare for the study of teaching at an institution of higher education;

(b) Promoting teaching career opportunities to develop an awareness of opportunities in the education profession;

(c) Providing opportunities for students to experience the application of regular high school course work to activities related to a teaching career; and

(d) Providing for increased cooperation among institutions of higher education including community colleges, the superintendent of public instruction, the state board of education, and local school districts in working toward the goals of the program.

[1991 c 238 § 75; 1989 c 146 § 2. Formerly RCW 28A.305.270, 28A.67.260.]

Notes:

Effective dates--Severability--1991 c 238: See RCW 28B.50.917 and 28B.50.918.

RCW 28A.415.250 Teacher assistance program--Provision for mentor teachers.

The superintendent of public instruction shall adopt rules to establish and operate a teacher assistance program. For the purposes of this section, the terms "mentor teachers," "beginning teachers," and "experienced teachers" may include any person possessing any one of the various certificates issued by the superintendent of public instruction under RCW 28A.410.010. The program shall provide for:

(1) Assistance by mentor teachers who will provide a source of continuing and sustained support to beginning teachers, or experienced teachers who are having difficulties, or both, both in and outside the classroom. A mentor teacher may not be involved in evaluations under RCW 28A.405.100 of a teacher who receives assistance from said mentor teacher under the teacher assistance program established under this section. The mentor teachers shall also periodically inform their principals respecting the contents of training sessions and other program activities;

(2) Stipends for mentor teachers and beginning and experienced teachers which shall not be deemed compensation for the purposes of salary lid compliance under RCW 28A.400.200: PROVIDED, That stipends shall not be subject to the continuing contract provisions of this title;

(3) Workshops for the training of mentor and beginning teachers;

(4) The use of substitutes to give mentor teachers, beginning teachers, and experienced teachers opportunities to jointly observe and evaluate teaching situations and to give mentor

teachers opportunities to observe and assist beginning and experienced teachers in the classroom;

(5) Mentor teachers who are superior teachers based on their evaluations, pursuant to RCW *28A.405.010 through 28A.405.240, and who hold valid continuing certificates;

(6) Mentor teachers shall be selected by the district and may serve as mentors up to and including full time. If a bargaining unit, certified pursuant to RCW 41.59.090 exists within the district, classroom teachers representing the bargaining unit shall participate in the mentor teacher selection process; and

(7) Periodic consultation by the superintendent of public instruction or the superintendent's designee with representatives of educational organizations and associations, including educational service districts and public and private institutions of higher education, for the purposes of improving communication and cooperation and program review.

[1993 c 336 § 401; 1991 c 116 § 19; 1990 c 33 § 403; 1987 c 507 § 1; 1985 c 399 § 1. Formerly RCW 28A.405.450, 28A.67.240.]

Notes:

***Reviser's note:** RCW 28A.405.010 was recodified as RCW 28A.410.025 pursuant to 1995 c 335 § 305.

Findings--Intent--Part headings not law--1993 c 336: See notes following RCW 28A.150.210.

Findings--1993 c 336: See note following RCW 28A.150.210.

Effective date--1987 c 507: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 15, 1987." [1987 c 507 § 4.]

RCW 28A.415.260 Pilot program using full-time mentor teachers.

(1) To the extent specific funds are appropriated for the pilot program in this section, the superintendent of public instruction shall establish a pilot program to support the pairing of full-time mentor teachers with experienced teachers who are having difficulties and full-time mentor teachers with beginning teachers under RCW 28A.415.250.

(2) The superintendent of public instruction shall appoint an oversight committee, which shall include teachers and administrators from the pilot districts, that shall be involved in the evaluation of the pilot program under this section.

(3) The superintendent of public instruction shall adopt rules as necessary under chapter 34.05 RCW to implement the pilot program established under subsection (1) of this section.

[1998 c 245 § 12; 1993 c 336 § 402.]

Notes:

Findings--Intent--Part headings not law--1993 c 336: See notes following RCW 28A.150.210.

Findings--1993 c 336: See note following RCW 28A.150.210.

RCW 28A.415.270 Principal internship support program.

(1) To the extent funds are appropriated, the Washington state principal internship support program is created beginning in the 1994-95 school year. The purpose of the program is to provide funds to school districts to provide partial release time for district employees who are in a principal preparation program to complete an internship with a mentor principal. Funds may

be used in a variety of ways to accommodate flexible implementation in releasing the intern to meet program requirements.

(2) Participants in the principal internship support program shall be selected as follows:

(a) The candidate shall be enrolled in a state board-approved school principal preparation program;

(b) The candidate shall apply in writing to his or her local school district;

(c) Each school district shall determine which applicants meet its criteria for participation in the principal internship support program and shall notify its educational service district of the school district's selected applicants. When submitting the names of applicants, the school district shall identify a mentor principal for each principal intern applicant, and shall agree to provide the internship applicant release time not to exceed the equivalent of forty-five student days by means of this funding source; and

(d) Educational service districts, with the assistance of an advisory board, shall select internship participants.

(3) The maximum amount of state funding for each internship shall not exceed the actual daily rate cost of providing a substitute teacher for the equivalent of forty-five school days.

(4) Funds appropriated for the principal internship support program shall be allocated by the superintendent of public instruction to the educational service districts based on the percentage of full-time equivalent public school students enrolled in school districts in each educational service district. If it is not possible to find qualified candidates within the educational service district, the positions remain unfilled, and any unspent funds shall revert to the superintendent of public instruction for supplementary direct disbursement.

The superintendent of public instruction shall allocate any remaining unfilled positions and unspent funds among the educational service districts that have qualified candidates but not enough positions for them.

This subsection does not preclude the superintendent of public instruction from permitting the affected educational service districts to make the supplementary selections.

(5) Once principal internship participants have been selected, the educational service districts shall allocate the funds to the appropriate school districts. The funds shall be used to pay for partial release time while the school district employee is completing the principal internship.

(6) Educational service districts may be reimbursed for costs associated with implementing the program. Reimbursement rates shall be determined by the superintendent of public instruction.

[1996 c 233 § 1; 1993 c 336 § 404.]

Notes:

Findings--Intent--Part headings not law--1993 c 336: See notes following RCW 28A.150.210.

Findings--1993 c 336: See note following RCW 28A.150.210.

RCW 28A.415.280 Superintendent and program administrator internship support program.

(1) To the extent funds are appropriated, the Washington state superintendent and

program administrator internship support program is created beginning in the 1994-95 school year. The purpose of the program is to provide funds to school districts to provide partial release time for district employees who are in a superintendent or program administrator preparation program to complete an internship with a mentor administrator. Funds may be used in a variety of ways to accommodate flexible implementation in releasing the intern to meet program requirements.

(2) Participants in the superintendent and program administrator internship support program shall be selected as follows:

(a) The candidate shall be enrolled in a state board-approved school district superintendent or program administrator preparation program;

(b) The candidate shall apply in writing to his or her local school district;

(c) Each school district shall determine which applicants meet its criteria for participation in the internship support program and shall notify its educational service district of the school district's selected applicants. When submitting the names of applicants, the school district shall identify a mentor administrator for each intern applicant and shall agree to provide the internship applicant release time not to exceed the equivalent of forty-five student days by means of this funding source; and

(d) Educational service districts, with the assistance of an advisory board, shall select internship participants.

(3)(a) The maximum amount of state funding for each internship shall not exceed the actual daily rate cost of providing a substitute teacher for the equivalent of forty-five school days.

(b) Funds appropriated for the internship support program shall be allocated by the superintendent of public instruction to the educational service districts based on the percentage of full-time equivalent public school students enrolled in school districts in each educational service district.

(c) Once internship participants have been selected, the educational service districts shall allocate the funds to the appropriate school districts. The funds shall be used to pay for partial release time while the school district employee is completing the internship.

(d) If an educational service district has unfilled superintendent or program administrator internship positions, the positions and unspent funds shall revert to the superintendent of public instruction for supplementary direct disbursement among the educational service districts.

The superintendent of public instruction shall allocate any remaining unfilled positions and unspent funds among the educational service districts that have qualified candidates but not enough positions for them.

This subsection does not preclude the superintendent of public instruction from permitting the affected educational service districts to make the supplementary selections.

(e) Educational service districts may be reimbursed for costs associated with implementing the program. Reimbursement rates shall be determined by the superintendent of public instruction.

[1996 c 233 § 2; 1993 c 336 § 405.]

Notes:

Findings--Intent--Part headings not law--1993 c 336: See notes following RCW 28A.150.210.

Findings--1993 c 336: See note following RCW 28A.150.210.

RCW 28A.415.300 Rules.

The superintendent of public instruction shall adopt rules as necessary under chapter 34.05 RCW to administer the principal and superintendent and program administrator internship support programs.

[1993 c 336 § 407.]

Notes:

Reviser's note: 1993 c 336 directed that this section be added to chapter 28A.300 RCW. This section has been codified in chapter 28A.415 RCW, which relates more directly to educators' training.

Findings--Intent--Part headings not law--1993 c 336: See notes following RCW 28A.150.210.

Findings--1993 c 336: See note following RCW 28A.150.210.

RCW 28A.415.310 Paraprofessional training program.

(1) The paraprofessional training program is created. The primary purpose of the program is to provide training for classroom assistants to assist them in helping students achieve the student learning goals under RCW 28A.150.210. Another purpose of the program is to provide training to certificated personnel who work with classroom assistants.

(2) The superintendent of public instruction may allocate funds, to the extent funds are appropriated for this program, to educational service districts, school districts, and other organizations for providing the training in subsection (1) of this section.

[1993 c 336 § 408.]

Notes:

Reviser's note: 1993 c 336 directed that this section be added to chapter 28A.300 RCW. This section has been codified in chapter 28A.415 RCW, which relates more directly to educators' training.

Findings--Intent--Part headings not law--1993 c 336: See notes following RCW 28A.150.210.

Findings--1993 c 336: See note following RCW 28A.150.210.

RCW 28A.415.330 Professional development institutes--Managing disruptive students.

(1) To the extent funds are appropriated, the superintendent of public instruction shall conduct professional development institutes to provide opportunities for teachers, principals, and other school staff to learn effective research-based strategies for handling disruptive students. The institutes shall be conducted during the summer of 2000. The training institutes shall emphasize methods for handling disruptions in regular classrooms and how to design and implement alternative learning settings and programs that have been proven to be effective in providing for the educational needs of students who exhibit frequent and prolonged disruptive behavior when placed in a regular classroom setting.

(2) The superintendent may enter into contracts with public or private entities that provide training in effective research-based methods for dealing with disruptive students. In developing the institutes, the superintendent shall work with school staff who have had

experience working effectively with disruptive students. The institutes shall be open to teams of teachers, principals, and other school staff from each school district choosing to participate. However, as a condition of participating in the institutes, school district teams shall be required to develop during or immediately following the institute a district plan for carrying out the purposes of this section. Elementary schools and junior high and middle schools in districts that send teams to participate in institutes conducted under this section are encouraged to formulate school building-level plans for addressing the educational needs of disruptive students and the needs of students and teachers in the regular classrooms for an orderly and disciplined environment that is optimally conducive to learning. Individual participants in the institutes shall agree to provide assistance as needed to other school staff in their school building or school district, consistent with their other normal duties.

(3) Beginning with the 1999-2000 school year, elementary and junior high schools are encouraged to provide staff from both the regular education and special education programs opportunities to work together to share successful practices for managing disruptive students.

[1999 c 166 § 2.]

Notes:

Findings--1999 c 166: "The legislature finds that disruptive students can significantly impede effective teaching and learning in the classroom. Training in effective strategies for handling disruptive students will help principals, teachers, and other staff gain additional skills to provide a classroom environment that is conducive to teaching and learning. Schools and school districts should be encouraged to provide staff with the training necessary to respond to disruptions effectively." [1999 c 166 § 1.]

Chapter 28A.500 RCW
LOCAL EFFORT ASSISTANCE

Sections

28A.500.010 Local effort assistance funds--Purpose--Not basic education allocation.
28A.500.020 Definitions.
28A.500.030 Allocation of state matching funds--Determination.
28A.500.040 Distribution of funds.
28A.500.900 Effective date--1999 c 317.

RCW 28A.500.010 Local effort assistance funds--Purpose--Not basic education allocation.

Commencing with calendar year 2000, in addition to a school district's other general fund allocations, each eligible district shall be provided local effort assistance funds. The purpose of these funds is to mitigate the effect that above average property tax rates might have on the ability of a school district to raise local revenues to supplement the state's basic program of education. These funds serve to equalize the property tax rates that individual taxpayers would pay for such levies and to provide tax relief to taxpayers in high tax rate school districts. Such funds are not part of the district's basic education allocation.

[1999 c 317 § 1; 1997 c 259 § 4; 1993 c 410 § 1; (1993 c 465 § 2 expired December 31, 1995); 1992 c 49 § 2; 1987 1st ex.s. c 2 § 102. Formerly RCW 28A.41.155.]

Notes:

Funding not related to basic education--1997 c 259: See note following RCW 84.52.0531.

Intent--Severability--Effective date--1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

RCW 28A.500.020 Definitions.

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

(a) "Prior tax collection year" means the year immediately preceding the year in which the local effort assistance shall be allocated.

(b) "State-wide average twelve percent levy rate" means twelve percent of the total levy bases as defined in RCW 84.52.0531(3) summed for all school districts, and divided by the total assessed valuation for excess levy purposes in the prior tax collection year for all districts as adjusted to one hundred percent by the county indicated ratio established in RCW 84.48.075.

(c) The "district's twelve percent levy amount" means the school district's maximum levy authority after transfers determined under RCW 84.52.0531(2) (a) through (c) divided by the district's maximum levy percentage determined under RCW 84.52.0531(4) multiplied by twelve percent.

(d) The "district's twelve percent levy rate" means the district's twelve percent levy amount divided by the district's assessed valuation for excess levy purposes for the prior tax collection year as adjusted to one hundred percent by the county indicated ratio.

(e) "Districts eligible for local effort assistance" means those districts with a twelve percent levy rate that exceeds the state-wide average twelve percent levy rate.

(2) Unless otherwise stated all rates, percents, and amounts are for the calendar year for which local effort assistance is being calculated under this chapter.

[1999 c 317 § 2.]

RCW 28A.500.030 Allocation of state matching funds--Determination.

Allocation of state matching funds to eligible districts for local effort assistance shall be determined as follows:

(1) Funds raised by the district through maintenance and operation levies shall be matched with state funds using the following ratio of state funds to levy funds:

(a) The difference between the district's twelve percent levy rate and the state-wide average twelve percent levy rate; to

(b) The state-wide average twelve percent levy rate.

(2) The maximum amount of state matching funds for districts eligible for local effort assistance shall be the district's twelve percent levy amount, multiplied by the following percentage:

(a) The difference between the district's twelve percent levy rate and the state-wide

average twelve percent levy rate; divided by

(b) The district's twelve percent levy rate.

[1999 c 317 § 3.]

RCW 28A.500.040 Distribution of funds.

Local effort assistance funds shall be distributed to qualifying districts as follows:

(1) Thirty percent in April;

(2) Twenty-three percent in May;

(3) Two percent in June;

(4) Seventeen percent in August;

(5) Nine percent in October;

(6) Seventeen percent in November; and

(7) Two percent in December.

[1999 c 317 § 4.]

RCW 28A.500.900 Effective date--1999 c 317.

This act takes effect January 1, 2000.

[1999 c 317 § 5.]

Chapter 28A.505 RCW
SCHOOL DISTRICTS' BUDGETS

Sections

28A.505.010 Definitions.
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28A.505.050 Budget--Notice of meeting to adopt.
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28A.505.070 Budget review committee--Members--Review of budget, limitations.
28A.505.080 Budget--Disposition of copies.
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28A.505.100 Budget--Contents--Display of salaries.
28A.505.110 Budget--Including receivables collectible in future years--Limitations.
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RCW 28A.505.010 Definitions.

The following terms when used in this chapter shall have the following meanings, unless where used the context thereof shall clearly indicate to the contrary:

(1) "Revenue" means an addition to assets of a fund of a school district during a fiscal period that is available to finance the fund's expenditures during the fiscal period. Revenue does not accompany the increase of liabilities or represent refunds of previous disbursements. Revenue may be in the form of cash or in the form of noncash assets such as donated commodities. Revenue for accrual basis expenditure funds is limited to amounts received in cash or noncash donations plus or minus adjustments for revenue accruals.

(2) "Accrual basis expenditures" mean expenditures incurred during a given fiscal period, whether paid or unpaid.

(3) "Cash basis expenditures" mean actual disbursements during a given fiscal period except for debt service, regardless of when liabilities are incurred, or the period of incurrence of expenditures.

(4) "Cash basis revenue" means actual receipt of revenue not adjusted for revenue accruals.

(5) "Revenue accruals" means those revenues anticipated to be received in cash after the close of the fiscal period that represent reimbursement for expenditures incurred by the end of the fiscal period.

(6) "Appropriation" means the maximum authorization during a given fiscal period to incur expenditures.

(7) "Disbursements" mean payments in cash, including but not limited to issuance of warrants.

[1983 c 59 § 1; 1975-'76 2nd ex.s. c 118 § 1. Formerly RCW 28A.65.400.]

Notes:

Application--Effective date--1983 c 59: "This act shall apply to school district budgets, financial statements, and bookkeeping and accounting procedures, practices, and principles beginning with fiscal year 1983-'84 starting September 1, 1983. This act shall take effect September 1, 1983." [1983 c 59 § 19.]

Severability--1983 c 59: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 59 § 20.]

Severability--1975-'76 2nd ex.s. c 118: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 118 § 37.]

RCW 28A.505.020 Districts must utilize methods of revenue and expenditure recognition.

All school districts must utilize the following methods of revenue and expenditure recognition in budgeting, accounting and financial reporting:

(1) Recognize revenue as defined in RCW 28A.505.010(1) for all funds: PROVIDED, That school districts that elect the cash basis of expenditure recognition under subsection (2) of this section shall recognize revenue on the cash basis.

(2) Recognition of expenditures for all funds shall be on the accrual basis: PROVIDED, That school districts with under one thousand full time equivalent students for the preceding fiscal year may make a uniform election for all funds, except debt service funds, to be on the cash basis of expenditure recognition. Notification of such election shall be given to the state superintendent of public instruction in the budget of the school district and shall remain in effect for one full fiscal year.

[1990 c 33 § 416; 1983 c 59 § 2; 1980 c 18 § 1; 1975-'76 2nd ex.s. c 118 § 2. Formerly RCW 28A.65.405.]

Notes:

Application--Effective date--Severability--1983 c 59: See notes following RCW 28A.505.010.

Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

RCW 28A.505.030 District fiscal year.

Beginning September 1, 1977 the fiscal year for all school districts shall be September 1 through August 31.

[1975-'76 2nd ex.s. c 118 § 3. Formerly RCW 28A.65.410.]

Notes:

Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

RCW 28A.505.040 Budget--Notice of completion--Copies--Review by educational service districts.

On or before the tenth day of July in each year, all school districts shall prepare their budget for the ensuing fiscal year. The budget shall set forth the complete financial plan of the district for the ensuing fiscal year.

Upon completion of their budgets, every school district shall publish a notice stating that the district has completed the budget, placed it on file in the school district administration office, and that a copy thereof will be furnished to any person who calls upon the district for it. The district shall provide a sufficient number of copies of the budget to meet the reasonable demands of the public. School districts shall submit one copy of their budget to their educational service districts for review and comment by July 10th. The superintendent of public instruction may delay the date in this section if the state's operating budget is not finally approved by the legislature until after June 1st.

[1995 c 121 § 1; 1975-'76 2nd ex.s. c 118 § 4. Formerly RCW 28A.65.415.]

Notes:

Effective date--1995 c 121: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 20, 1995]." [1995 c 121 § 3.]

Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

RCW 28A.505.050 Budget--Notice of meeting to adopt.

Upon completion of their budgets as provided in RCW 28A.505.040, every school district shall publish a notice stating that the board of directors will meet for the purpose of fixing and adopting the budget of the district for the ensuing fiscal year. Such notice shall designate the date, time, and place of said meeting which shall occur no later than the thirty-first day of August for first class school districts, and the first day of August for second class school districts. The notice shall also state that any person may appear thereat and be heard for or against any part of such budget. Said notice shall be published at least once each week for two consecutive weeks in a newspaper of general circulation in the district, or, if there be none, in a newspaper of general circulation in the county or counties in which such district is a part. The last notice shall be published no later than seven days immediately prior to the hearing.

[1995 c 121 § 2; 1990 c 33 § 417; 1983 c 59 § 3; 1975-'76 2nd ex.s. c 118 § 5. Formerly RCW 28A.65.420.]

Notes:

Effective date--1995 c 121: See note following RCW 28A.505.040.
Application--Effective date--Severability--1983 c 59: See notes following RCW 28A.505.010.
Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

RCW 28A.505.060 Budget--Hearing and adoption of--Copies filed with ESD's.

On the date given in said notice as provided in RCW 28A.505.050 the school district board of directors shall meet at the time and place designated. Any person may appear thereat and be heard for or against any part of such budget. Such hearing may be continued not to exceed a total of two days: PROVIDED, That the budget must be adopted no later than August 31st in first class school districts, and not later than August 1st in second class school districts.

Upon conclusion of the hearing, the board of directors shall fix and determine the appropriation from each fund contained in the budget separately, and shall by resolution adopt the budget and the appropriations as so finally determined, and enter the same in the official minutes of the board: PROVIDED, That first class school districts shall file copies of their adopted budget with their educational service district no later than September 3rd, and second class school districts shall forward copies of their adopted budget to their educational service district no later than August 3rd for review, alteration and approval as provided for in RCW 28A.505.070 by the budget review committee.

[1990 c 33 § 418; 1983 c 59 § 4; 1975-'76 2nd ex.s. c 118 § 6. Formerly RCW 28A.65.425.]

Notes:

Application--Effective date--Severability--1983 c 59: See notes following RCW 28A.505.010.
Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

RCW 28A.505.070 Budget review committee--Members--Review of budget, limitations.

The budget review committee shall fix and approve the amount of the appropriation from each fund of the budget of second class districts not later than August 31st. No budget review committee shall knowingly approve any budget or appropriation that is in violation of this chapter or rules and regulations adopted by the superintendent of public instruction in accordance with RCW 28A.505.140(1). A copy of said budget shall be returned to the local school districts no later than September 10th.

Members of the budget review committee as referred to in this section shall consist of the educational service district superintendent or a representative thereof, a member of the local school district board of directors or a representative thereof, and a representative of the superintendent of public instruction.

[1990 c 33 § 419; 1975-'76 2nd ex.s. c 118 § 7. Formerly RCW 28A.65.430.]

Notes:

Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

RCW 28A.505.080 Budget--Disposition of copies.

Copies of the budgets for all local school districts shall be filed with the superintendent of public instruction no later than September 10th. One copy will be retained by the educational service district.

[1984 c 128 § 8; 1983 c 59 § 5; 1975-'76 2nd ex.s. c 118 § 8. Formerly RCW 28A.65.435.]

Notes:

Application--Effective date--Severability--1983 c 59: See notes following RCW 28A.505.010.

Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

RCW 28A.505.090 Budget--Format, classifications, mandatory.

Every school district budget shall be prepared, submitted and adopted in the format prescribed by the office of the superintendent of public instruction. The budget classifications contained in said format shall be in accordance with the accounting manual for public school districts, published by the office of the superintendent of public instruction and the office of the state auditor. Budgets prepared and adopted in a format other than that prescribed by the office of the superintendent of public instruction shall not be official and will have no legal effect.

[1983 c 59 § 6; 1975-'76 2nd ex.s. c 118 § 9. Formerly RCW 28A.65.440.]

Notes:

Application--Effective date--Severability--1983 c 59: See notes following RCW 28A.505.010.

Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

RCW 28A.505.100 Budget--Contents--Display of salaries.

The budget shall set forth the estimated revenues for the ensuing fiscal year, the estimated revenues for the fiscal year current at the time of budget preparation, the actual

revenues for the last completed fiscal year, and the reserved and unreserved fund balances for each year. The estimated revenues from all sources for the ensuing fiscal year shall not include any revenue not anticipated to be available during that fiscal year: PROVIDED, That school districts, pursuant to RCW 28A.505.110 can be granted permission by the superintendent of public instruction to include as revenues in their budgets, receivables collectible in future fiscal years.

The budget shall set forth by detailed items or classes the estimated expenditures for the ensuing fiscal year, the estimated expenditures for the fiscal year current at the time of budget preparation, and the actual expenditures for the last completed fiscal year. Total salary amounts, full-time equivalents, and the high, low, and average annual salaries, shall be displayed by job classification within each budget classification. If individual salaries within each job classification are not displayed, districts shall provide the individual salaries together with the title or position of the recipient and the total amounts of salary under each budget class upon request. Salary schedules shall be displayed. In districts where negotiations have not been completed, the district may budget the salaries at the current year's rate and restrict fund balance for the amount of anticipated increase in salaries, so long as an explanation shall be attached to the budget on such restriction of fund balance.

[1990 c 33 § 420; 1983 c 59 § 7; 1975-'76 2nd ex.s. c 118 § 10. Formerly RCW 28A.65.445.]

Notes:

Application--Effective date--Severability--1983 c 59: See notes following RCW 28A.505.010.
Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

RCW 28A.505.110 Budget--Including receivables collectible in future years--Limitations.

When a school district board is unable to prepare a budget or budget extension pursuant to RCW 28A.505.170 or 28A.505.180 in which the estimated revenues for the budgeted fiscal year plus the estimated fund balance at the beginning of the budgeted fiscal year less the ending reserved fund balance for the budgeted fiscal year do not at least equal the estimated expenditures for the budgeted fiscal year, the school district board may deliver a petition in writing, at least twenty days before the budget or budget extension is scheduled for adoption, to the superintendent of public instruction requesting permission to include receivables collectible in future years, in order to balance the budget. If such permission is granted, it shall be in writing, and it shall contain conditions, binding on the district, designed to improve the district's financial condition. Any budget or appropriation adopted by the board of directors without written permission from the superintendent of public instruction that contains estimated expenditures in excess of the total of estimated revenue for the budgeted fiscal year plus estimated fund balance at the beginning of the budgeted fiscal year less ending reserve fund balance for the budgeted fiscal year shall be null and void and shall not be considered an appropriation.

[1990 c 33 § 421; 1983 c 59 § 8; 1975-'76 2nd ex.s. c 118 § 11. Formerly RCW 28A.65.450.]

Notes:

Application--Effective date--Severability--1983 c 59: See notes following RCW 28A.505.010.
Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

RCW 28A.505.120 Withholding state funds upon district noncompliance--Notice of.

If a local school district fails to comply with any binding restrictions issued by the superintendent of public instruction, the allocation of state funds for support of the local school district may be withheld, pending an investigation of the reason for such noncompliance by the office of the superintendent of public instruction. Written notice of the intent to withhold state funds, with reasons stated for this action, shall be made to the school district by the office of the superintendent of public instruction before any portion of the state allocation is withheld.

[1975-'76 2nd ex.s. c 118 § 12. Formerly RCW 28A.65.455.]

Notes:

Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

RCW 28A.505.130 Budget--Requirements for balancing estimated expenditures.

For each fund contained in the school district budget the estimated expenditures for the budgeted fiscal year must not be greater than the total of the estimated revenues for the budgeted fiscal year, the estimated fund balance at the beginning of the budgeted fiscal year less the estimated reserve fund balance at the end of the budgeted fiscal year, and the projected revenue from receivables collectible on future years as approved by the superintendent of public instruction for inclusion in the budget.

The proceeds of any interfund loan must not be used to balance the budget of the borrowing fund.

[1983 c 59 § 9; 1975-'76 2nd ex.s. c 118 § 13. Formerly RCW 28A.65.460.]

Notes:

Application--Effective date--Severability--1983 c 59: See notes following RCW 28A.505.010.
Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

RCW 28A.505.140 Rules and regulations for budgetary procedures--Review when superintendent determines budget irregularity--Revised budget, state board's financial plan until adoption.

(1) Notwithstanding any other provision of law, the superintendent of public instruction is hereby directed to promulgate such rules and regulations as will insure proper budgetary procedures and practices, including monthly financial statements consistent with the provisions of RCW 43.09.200, and this chapter.

(2) If the superintendent of public instruction determines upon a review of the budget of any district that said budget does not comply with the budget procedures established by this

chapter or by rules and regulations promulgated by the superintendent of public instruction, or the provisions of RCW 43.09.200, the superintendent shall give written notice of this determination to the board of directors of the local school district.

(3) The local school district, notwithstanding any other provision of law, shall, within thirty days from the date the superintendent of public instruction issues a notice pursuant to subsection (2) of this section, submit a revised budget which meets the requirements of RCW 43.09.200, this chapter, and the rules and regulations of the superintendent of public instruction: PROVIDED, That if the district fails or refuses to submit a revised budget which in the determination of the superintendent of public instruction meets the requirements of RCW 43.09.200, this chapter, and the rules and regulations of the superintendent of public instruction, the matter shall be submitted to the state board of education, which board shall meet and adopt a financial plan which shall be in effect until a budget can be adopted and submitted by the district in compliance with this section.

[1990 c 33 § 422; 1983 c 59 § 10; 1975-'76 2nd ex.s. c 118 § 14. Formerly RCW 28A.65.465.]

Notes:

Application--Effective date--Severability--1983 c 59: See notes following RCW 28A.505.010.
Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

RCW 28A.505.150 Budgeted expenditures as appropriations--Interim expenditures--Transfer between budget classes--Liability for nonbudgeted expenditures.

Total budgeted expenditures for each fund as adopted in the budget of a school district shall constitute the appropriations of the district for the ensuing fiscal year and the board of directors shall be limited in the incurring of expenditures to the grand total of such appropriations. The board of directors shall incur no expenditures for any purpose in excess of the appropriation for each fund: PROVIDED, That no board of directors shall be prohibited from incurring expenditures for the payment of regular employees, for the necessary repairs and upkeep of the school plant, for the purchase of books and supplies, and for their participation in joint purchasing agencies authorized in RCW 28A.320.080 during the interim while the budget is being settled under RCW 28A.505.140: PROVIDED FURTHER, That transfers between budget classes may be made by the school district's chief administrative officer or finance officer, subject to such restrictions as may be imposed by the school district board of directors.

Directors, officers or employees who knowingly or negligently violate or participate in a violation of this section by the incurring of expenditures in excess of any appropriation(s) shall be held civilly liable, jointly and severally, for such expenditures in excess of such appropriation(s), including consequential damages following therefrom, for each such violation. If as a result of any civil or criminal action the violation is found to have been done knowingly, such director, officer, or employee who is found to have participated in such breach shall immediately forfeit his or her office or employment, and the judgment in any such action shall so provide.

Nothing in this section shall be construed to limit the duty of the attorney general to carry

out the provisions of RCW 43.09.260, as now or hereafter amended.

[1990 c 33 § 423; 1975-'76 2nd ex.s. c 118 § 15. Formerly RCW 28A.65.470.]

Notes:

Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

RCW 28A.505.160 Appropriations lapse at end of fiscal year--Exception.

All appropriations for any school district upon which their budget is based shall lapse at the end of the fiscal year. At the expiration of said period all appropriations shall become null and void and any claim presented thereafter against any such appropriation for the fiscal year just closed shall be provided for in the appropriation for the next fiscal year: PROVIDED, That this shall not prevent payments upon incompleted improvements in progress at the close of the fiscal year.

[1975-'76 2nd ex.s. c 118 § 16. Formerly RCW 28A.65.475.]

Notes:

Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

RCW 28A.505.170 First class school districts--Emergency or additional appropriation resolutions--Procedure.

(1) Notwithstanding any other provision of this chapter, upon the happening of any emergency in first class school districts caused by fire, flood, explosion, storm, earthquake, epidemic, riot, insurrection, or for the restoration to a condition of usefulness of any school district property, the usefulness of which has been destroyed by accident, and no provision has been made for such expenditures in the adopted appropriation, the board of directors, upon the adoption by the vote of the majority of all board members of a resolution stating the facts constituting the emergency, may make an appropriation therefor without notice or hearing.

(2) Notwithstanding any other provision of this chapter, if in first class districts it becomes necessary to increase the amount of the appropriation, and if the reason is not one of the emergencies specifically enumerated in subsection (1) of this section, the school district board of directors, before incurring expenditures in excess of the appropriation, shall adopt a resolution stating the facts and the estimated amount of appropriation to meet it.

Such resolution shall be voted on at a public meeting, notice to be given in the manner provided in RCW 28A.505.050. Its introduction and passage shall require the vote of a majority of all members of the school district board of directors.

Any person may appear at the meeting at which the appropriation resolution is to be voted on and be heard for or against the adoption thereof.

Copies of all adopted appropriation resolutions shall be filed with the educational service district who shall forward one copy each to the office of the superintendent of public instruction. One copy shall be retained by the educational service district.

[1990 c 33 § 424; 1984 c 128 § 9; 1983 c 59 § 11; 1975-'76 2nd ex.s. c 118 § 17. Formerly RCW 28A.65.480.]

Notes:

Application--Effective date--Severability--1983 c 59: See notes following RCW 28A.505.010.
Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

RCW 28A.505.180 Second class school districts--Additional appropriation resolutions--Procedure.

Notwithstanding any other provision of this chapter, if a second class school district needs to increase the amount of the appropriation from any fund for any reason, the school district board of directors, before incurring expenditures in excess of appropriation, shall adopt a resolution stating the facts and estimating the amount of additional appropriation needed.

Such resolution shall be voted on at a public meeting, notice to be given in the manner provided by RCW 28A.505.050. Its introduction and passage shall require the vote of a majority of all members of the school district board of directors.

Any person may appear at the meeting at which the appropriation resolution is to be voted on and be heard for or against the adoption thereof.

Upon passage of the appropriation resolution the school district shall petition the superintendent of public instruction for approval to increase the amount of its appropriations in the manner prescribed in rules and regulations for such approval by the superintendent.

Copies of all appropriation resolutions approved by the superintendent of public instruction shall be filed by the office of the superintendent of public instruction with the educational service district.

[1990 c 33 § 425; 1984 c 128 § 10; 1983 c 59 § 12; 1975-'76 2nd ex.s. c 118 § 18. Formerly RCW 28A.65.485.]

Notes:

Application--Effective date--Severability--1983 c 59: See notes following RCW 28A.505.010.
Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

RCW 28A.505.200 Repayment of federal moneys--Federal disallowance determination.

Each school district that receives federal moneys from or through the superintendent of public instruction shall comply with applicable federal requirements and shall repay expenditures subsequently disallowed by the federal government together with such interest as may be assessed by the federal government. Once a federal disallowance determination, decision, or order becomes final respecting federal moneys expended by a school district, the superintendent of public instruction may withhold all or a portion of the annual basic education allocation amounts otherwise due and apportionable to the school district as necessary to facilitate payment of the principal and interest to the federal government. The superintendent of public instruction may pay withheld basic education allocation moneys:

(1) To the school district before the close of the biennium and following the school district's repayment of moneys due the federal government, or the school district's commitment

to an acceptable repayment plan, or both; or

(2) To the federal government, subject to the reappropriation of the withheld basic education allocation, moneys for the purpose of payment to the federal government.

No withholding of basic education allocation moneys may occur under this subsection until the superintendent of public instruction has first determined that the withholding should not substantially impair the school district's financial ability to provide the basic education program offerings required by statute.

[1990 c 103 § 1.]

RCW 28A.505.210 Student achievement funds--Use and accounting of funds--Public hearing--Report.

School districts shall have the authority to decide the best use of student achievement funds to assist students in meeting and exceeding the new, higher academic standards in each district consistent with the provisions of chapter 3, Laws of 2001.

(1) Student achievement funds shall be allocated for the following uses:

(a) To reduce class size by hiring certificated elementary classroom teachers in grades K-4 and paying nonemployee-related costs associated with those new teachers;

(b) To make selected reductions in class size in grades 5-12, such as small high school writing classes;

(c) To provide extended learning opportunities to improve student academic achievement in grades K-12, including, but not limited to, extended school year, extended school day, before-and-after-school programs, special tutoring programs, weekend school programs, summer school, and all-day kindergarten;

(d) To provide additional professional development for educators, including additional paid time for curriculum and lesson redesign and alignment, training to ensure that instruction is aligned with state standards and student needs, reimbursement for higher education costs related to enhancing teaching skills and knowledge, and mentoring programs to match teachers with skilled, master teachers. The funding shall not be used for salary increases or additional compensation for existing teaching duties, but may be used for extended year and extended day teaching contracts;

(e) To provide early assistance for children who need prekindergarten support in order to be successful in school;

(f) To provide improvements or additions to school building facilities which are directly related to the class size reductions and extended learning opportunities under (a) through (c) of this subsection.

(2) Annually on or before May 1st, the school district board of directors shall meet at the time and place designated for the purpose of a public hearing on the proposed use of these funds to improve student achievement for the coming year. Any person may appear or by written submission have the opportunity to comment on the proposed plan for the use of these funds. No later than August 31st, as a part of the process under RCW 28A.505.060, each school district shall adopt a plan for the use of these funds for the upcoming school year. Annually, each

school district shall provide to the citizens of their district a public accounting of the funds made available to the district during the previous school year under chapter 3, Laws of 2001, how the funds were used, and the progress the district has made in increasing student achievement, as measured by required state assessments and other assessments deemed appropriate by the district. Copies of this report shall be provided to the superintendent of public instruction and to the academic achievement and accountability commission.

[2001 c 3 § 3 (Initiative Measure No. 728, approved November 7, 2000).]

NOTES:

Short title--2001 c 3 (Initiative Measure No. 728): "This act may be known and cited as the K-12 2000 student achievement act." [2001 c 3 § 1 (Initiative Measure No. 728, approved November 7, 2000).]

Purpose--Intent--2001 c 3 (Initiative Measure No. 728): "The citizens of Washington state expect and deserve great public schools for our generation of school children and for those who will follow. A quality public education system is crucial for our state's future economic success and prosperity, and for our children and their children to lead successful lives.

The purpose of this act is to improve public education and to achieve higher academic standards for all students through smaller class sizes and other improvements. A portion of the state's surplus general fund revenues is dedicated to this purpose.

In 1993, Washington state made a major commitment to improved public education by passing the Washington education reform act. This act established new, higher standards of academic achievement for all students. It also established new levels of accountability for students, teachers, schools, and school districts. However, the K-12 finance system has not been changed to respond to the new standards and individual student needs.

To make higher student achievement a reality, schools need the additional resources and flexibility to provide all students with more individualized quality instruction, more time, and the extra support that they may require. We need to ensure that curriculum, instruction methods, and assessments of student performance are aligned with the new standards and student needs. The current level of state funding does not provide adequate resources to support higher academic achievement for all students. In fact, inflation-adjusted per-student state funding has declined since the legislature adopted the 1993 education reform act.

The erosion of state funding for K-12 education is directly at odds with the state's "paramount duty to make ample provision for the education of all children...." Now is the time to invest some of our surplus state revenues in K-12 education and redirect state lottery funds to education, as was originally intended, so that we can fulfill the state's paramount duty.

Conditions and needs vary across Washington's two hundred ninety-six school districts. School boards accountable to their local communities should therefore have the flexibility to decide which of the following strategies will be most effective in increasing student performance and in helping students meet the state's new, higher academic standards:

(1) Major reductions in K-4 class size;

(2) Selected class size reductions in grades 5-12, such as small high school writing classes;

(3) Extended learning opportunities for students who need or want additional time in school;

(4) Investments in educators and their professional development;

(5) Early assistance for children who need prekindergarten support in order to be successful in school; and

(6) Providing improvements or additions to facilities to support class size reductions and extended learning opportunities.

REDUCING CLASS SIZE

Smaller classes in the early grades can significantly increase the amount of learning that takes place in the

classroom. Washington state now ranks forty-eighth in the nation in its student-teacher ratio. This is unacceptable.

Significant class size reductions will provide our children with more individualized instruction and the attention they need and deserve and will reduce behavioral problems in classrooms. The state's long-term goal should be to reduce class size in grades K-4 to no more than eighteen students per teacher in a class.

The people recognize that class size reduction should be phased-in over several years. It should be accompanied by the necessary funds for school construction and modernization and for high-quality, well-trained teachers.

EXTENDED LEARNING OPPORTUNITIES

Student achievement will also be increased if we expand learning opportunities beyond our traditional-length school day and year. In many school districts, educators and parents want a longer school day, a longer school year, and/or all-day kindergarten to help students improve their academic performance or explore new learning opportunities. In addition, special programs such as before-and-after-school tutoring will help struggling students catch and keep up with their classmates. Extended learning opportunities will be increasingly important as attainment of a certificate of mastery becomes a high school graduation requirement.

TEACHER QUALITY

Key to every student's academic success is a quality teacher in every classroom. Washington state's new standards for student achievement make teacher quality more important than ever. We are asking our teachers to teach more demanding curriculum in new ways, and we are holding our educators and schools to new, higher levels of accountability for student performance. Resources are needed to give teachers the content knowledge and skills to teach to higher standards and to give school leaders the skills to improve instruction and manage organizational change.

The ability of school districts throughout the state to attract and retain the highest quality teaching corps by offering competitive salaries and effective working conditions is an essential element of basic education. The state legislature is responsible for establishing teacher salaries. It is imperative that the legislature fund salary levels that ensure school districts' ability to recruit and retain the highest quality teachers.

EARLY ASSISTANCE

The importance of a child's intellectual development in the first five years has been established by widespread scientific research. This is especially true for children with disabilities and special needs. Providing assistance appropriate to children's developmental needs will enhance the academic achievement of these children in grades K-12. Early assistance will also lessen the need for more expensive remedial efforts in later years.

NO SUPPLANTING OF EXISTING EDUCATION FUNDS

It is the intent of the people that existing state funding for education, including all sources of such funding, shall not be reduced, supplanted, or otherwise adversely impacted by appropriations or expenditures from the student achievement fund created in RCW 43.135.045 or the education construction fund.

INVESTING SURPLUS IN SCHOOLS UNTIL GOAL MET

It is the intent of the people to invest a portion of state surplus revenues in their schools. This investment should continue until the state's contribution to funding public education achieves a reasonable goal. The goal should reflect the state's paramount duty to make ample provision for the education of all children and our citizens'

desire that all students receive a quality education. The people set a goal of per-student state funding for the maintenance and operation of K-12 education being equal to at least ninety percent of the national average per-student expenditure from all sources. When this goal is met, further deposits to the student achievement fund shall be required only to the extent necessary to maintain the ninety-percent level." [2001 c 3 § 2 (Initiative Measure No. 728, approved November 7, 2000).]

Construction--2001 c 3 (Initiative Measure No. 728): "The provisions of this act are to be liberally construed to effectuate the policies and purposes of this act." [2001 c 3 § 11 (Initiative Measure No. 728, approved November 7, 2000).]

Severability--2001 c 3 (Initiative Measure No. 728): "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2001 c 3 § 12 (Initiative Measure No. 728, approved November 7, 2000).]

Effective dates--2001 c 3 (Initiative Measure No. 728): "This act takes effect January 1, 2001, except for section 4 of this act which takes effect July 1, 2001." [2001 c 3 § 13 (Initiative Measure No. 728, approved November 7, 2000).]

Chapter 28A.510 RCW
APPORTIONMENT TO DISTRICT--DISTRICT ACCOUNTING

Sections

28A.510.250 By state superintendent.
28A.510.260 Distribution by ESD superintendent.
28A.510.270 County treasurer's duties.

RCW 28A.510.250 By state superintendent.

On or before the last business day of September 1969 and each month thereafter, the superintendent of public instruction shall apportion from the state general fund to the several educational service districts of the state the proportional share of the total annual amount due and apportionable to such educational service districts for the school districts thereof as follows:

September	9%
October	9%
November	5.5%
December	9%
January	9%
February	9%
March	9%
April	9%
May	5.5%
June	6.0%
July	10.0%
August	10.0%

The annual amount due and apportionable shall be the amount apportionable for all

apportionment credits estimated to accrue to the schools during the apportionment year beginning September first and continuing through August thirty-first. Appropriations made for school districts for each year of a biennium shall be apportioned according to the schedule set forth in this section for the fiscal year starting September 1st of the then calendar year and ending August 31st of the next calendar year. The apportionment from the state general fund for each month shall be an amount which will equal the amount due and apportionable to the several educational service districts during such month: PROVIDED, That any school district may petition the superintendent of public instruction for an emergency advance of funds which may become apportionable to it but not to exceed ten percent of the total amount to become due and apportionable during the school districts apportionment year. The superintendent of public instruction shall determine if the emergency warrants such advance and if the funds are available therefor. If the superintendent determines in the affirmative, he or she may approve such advance and, at the same time, add such an amount to the apportionment for the educational service district in which the school district is located: PROVIDED, That the emergency advance of funds and the interest earned by school districts on the investment of temporary cash surpluses resulting from obtaining such advance of state funds shall be deducted by the superintendent of public instruction from the remaining amount apportionable to said districts during that apportionment year in which the funds are advanced.

[1990 c 33 § 426; 1982 c 136 § 1; 1981 c 282 § 1; 1981 c 5 § 32; 1980 c 6 § 5; 1979 ex.s. c 237 § 1; 1975-'76 2nd ex.s. c 118 § 27; 1975 1st ex.s. c 275 § 67; 1974 ex.s. c 89 § 1; 1972 ex.s. c 146 § 1; 1970 ex.s. c 15 § 15. Prior: 1969 ex.s. c 184 § 3; 1969 ex.s. c 176 § 108; 1969 ex.s. c 223 § 28A.48.010; prior: 1965 ex.s. c 162 § 1; 1959 c 276 § 3; prior: 1945 c 141 § 3, part; 1923 c 96 § 1; 1911 c 118 § 1; 1909 c 97 p 312 §§ 1, 2, 3; Rem. Supp. 1945 § 4940-3, part. Formerly RCW 28A.48.010, 28.48.010.]

Notes:

Certain 1982-83 school year monthly payments delayed--Interest--1982 c 136: "For the 1982-83 school year, one-half of the September, October, March, and April payments under RCW 28A.48.010 shall be made on the last business day of the respective month and the remainder on the fifteenth day of the following month. Interest shall be paid on the amounts deferred under this section at the rate for state interfund loans as established by the state finance committee." [1982 c 136 § 2.]

Effective date--1982 c 136: "Section 3 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [April 1, 1982]. The remainder to [of] this act shall take effect September 1, 1982." [1982 c 136 § 5.]

Severability--1980 c 6: See note following RCW 28A.515.320.

Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

Effective date--1972 ex.s. c 146: "This 1972 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and section 1 shall take effect July 1, 1972, and section 2 shall take effect immediately [February 25, 1972]." [1972 ex.s. c 146 § 3.]

Severability--1970 ex.s. c 15: See note following RCW 28A.230.160.

Student transportation allocation--Notice--Revised eligible student data, when--Allocation payments, amounts, when: RCW 28A.160.190.

Vehicle acquisition--Reimbursement schedule--Maintenance and operation--Depreciation schedule: RCW 28A.160.200.

RCW 28A.510.260 Distribution by ESD superintendent.

Upon receiving the certificate of apportionment from the superintendent of public instruction the educational service district superintendent shall promptly apportion to the school districts of his or her educational service district the amounts then due and apportionable to such districts as certified by the superintendent of public instruction.

[1990 c 33 § 427; 1983 c 56 § 5; 1975 1st ex.s. c 275 § 68; 1969 ex.s. c 176 § 109; 1969 ex.s. c 223 § 28A.48.030. Prior: 1965 ex.s. c 162 § 2; 1945 c 141 § 9; Rem. Supp. 1945 § 4940-8. Formerly RCW 28A.48.030, 28.48.030.]

Notes:

Severability--1983 c 56: See note following RCW 28A.195.010.

Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.510.270 County treasurer's duties.

The county treasurer of each county of this state shall be ex officio treasurer of the several school districts of their respective counties, and, except as otherwise provided by law, it shall be the duty of each county treasurer:

(1) To receive and hold all moneys belonging to such school districts, and to pay them only for legally authorized obligations of the district.

(2) To prepare and submit to each school district superintendent in the county a written report of the state of the finances of such district on the first day of each month, which report shall be submitted not later than the seventh business day of the month, which report shall contain the balance on hand the first of the preceding month, the funds paid in, warrants paid with interest thereon, if any, the number of warrants issued and not paid, and the balance on hand.

(3) The treasurer of each county shall submit a statement of all canceled warrants of districts to the respective school district superintendents. The canceled warrants of each district shall be preserved separately and shall at all times be open to inspection by the school district superintendent or by any authorized accountant of such district.

[1991 c 245 § 2; 1990 c 33 § 428; 1975-'76 2nd ex.s. c 118 § 28; 1975 1st ex.s. c 275 § 73; 1969 ex.s. c 176 § 114; 1969 ex.s. c 223 § 28A.48.100. Prior: 1911 c 85 § 1; 1909 c 97 p 309 § 1; RRS § 4867; prior: 1907 c 240 § 8; 1897 c 118 § 59; 1893 c 109 § 8; 1891 c 127 § 27; 1890 p 380 § 71; 1886 p 26 § 83; Code 1881 § 3236. Formerly RCW 28A.48.100, 28.48.100.]

Notes:

Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

Chapter 28A.515 RCW
COMMON SCHOOL CONSTRUCTION FUND

Sections

28A.515.300 Permanent common school fund--Sources--Use.
28A.515.310 Certain losses to permanent common school fund or other state educational funds as funded debt against state.

RCW 28A.515.300 Permanent common school fund--Sources--Use.

The principal of the common school fund as the same existed on June 30, 1965, shall remain permanent and irreducible. The said fund shall consist of the principal amount thereof existing on June 30, 1965, and such additions thereto as may be derived after June 30, 1965, from the following named sources, to wit: Appropriations and donations by the state to this fund; donations and bequests by individuals to the state or public for common schools; the proceeds of lands and other property which revert to the state by escheat and forfeiture; the proceeds of all property granted to the state, when the purpose of the grant is not specified, or is uncertain; funds accumulated in the treasury of the state for the disbursement of which provision has not been made by law; the proceeds of the sale of stone, minerals or property other than timber and other crops from school and state lands, other than those granted for specific purposes; all moneys received from persons appropriating stone, minerals or property other than timber and other crops from school and state lands other than those granted for specific purposes, and all moneys other than rental, recovered from persons trespassing on said lands; five percent of the proceeds of the sale of public lands lying within the state, which shall be sold by the United States subsequent to the admission of the state into the Union as approved by section 13 of the act of congress enabling the admission of the state into the Union; the principal of all funds arising from the sale of lands and other property which have been, and hereafter may be, granted to the state for the support of common schools and such other funds as may be provided by legislative enactment.

[1969 ex.s. c 223 § 28A.40.010. Prior: 1967 c 29 § 1; 1909 c 97 p 320 § 1; RRS § 4932; prior: 1897 c 118 § 109; 1890 p 373 § 50; 1886 p 20 § 57, part; Code 1881 § 3210, part; 1873 p 421 § 1. Formerly RCW 28A.40.010, 28.40.010.]

Notes:

Banks and trust companies, liquidation and winding up
dividends unclaimed deposited in: RCW 30.44.150, 30.44.180.
personal property, proceeds deposited in: RCW 30.44.220.
Enlargement of, legislature may provide: State Constitution Art. 9 § 3 (Amendment 43).
Escheated estates deposited in: RCW 11.08.210.
Game and game fish lands
payments to in lieu of property taxes: RCW 77.12.203.
withdrawn from lease, payment of amount of lease into: RCW 77.12.360.
Interest deposited in current state school fund used for current expenses: State Constitution Art. 9 § 3 (Amendment 43).
Investment of permanent common school fund: State Constitution Art. 16 § 5 (Amendment 44).
Lands set aside and permanent funds established: Enabling act §§ 10 through 25.
Losses occasioned by default, fraud, etc., to become permanent debt against state: State Constitution Art. 9 § 5.
Permanent and irreducible: State Constitution Art. 9 § 3 (Amendment 43), RCW 28A.515.300.
Safe deposit box contents
rent unpaid, sale, proceeds deposited in: RCW 22.28.040.

unclaimed after liquidation and winding up of bank or trust company, proceeds from sale deposited in: RCW 30.44.220.
School funds enumerated--Deposits--Uses: RCW 28A.320.330.
State land
acquired, lease and sale of, disposition of proceeds: RCW 79.01.612.
withdrawn for game purposes, payment of amount of lease into: RCW 77.12.360.

RCW 28A.515.310 Certain losses to permanent common school fund or other state educational funds as funded debt against state.

All losses to the permanent common school or any other state educational fund, which shall be occasioned by defalcation, mismanagement or fraud of the agents or officers controlling or managing the same, shall be audited by the proper authorities of the state. The amount so audited shall be a permanent funded debt against the state in favor of the particular fund sustaining such loss, upon which not less than six percent annual interest shall be paid.

[1969 ex.s. c 223 § 28A.40.020. Prior: 1909 c 97 p 321 § 2; RRS § 4933; prior: 1897 c 118 § 110, part; 1890 p 373 § 51, part. Formerly RCW 28A.40.020, 28.40.020.]

RCW 28A.515.320 Common school construction fund--Sources--Use--Excess moneys in, availability, repayment.

The common school construction fund is to be used exclusively for the purpose of financing the construction of facilities for the common schools. The sources of said fund shall be: (1) Those proceeds derived from sale or appropriation of timber and other crops from school and state land other than those granted for specific purposes; (2) the interest accruing on the permanent common school fund less the allocations to the state treasurer's service account [fund] pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160 together with all rentals and other revenue derived therefrom and from land and other property devoted to the permanent common school fund; (3) all moneys received by the state from the United States under the provisions of section 191, Title 30, United States Code, Annotated, and under section 810, chapter 12, Title 16, (Conservation), United States Code, Annotated, except moneys received before June 30, 2001, and when thirty megawatts of geothermal power is certified as commercially available by the receiving utilities and the department of community, trade, and economic development, eighty percent of such moneys, under the Geothermal Steam Act of 1970 pursuant to RCW 43.140.030; and (4) such other sources as the legislature may direct. That portion of the common school construction fund derived from interest on the permanent common school fund may be used to retire such bonds as may be authorized by law for the purpose of financing the construction of facilities for the common schools.

The interest accruing on the permanent common school fund less the allocations to the state treasurer's service fund pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160 together with all rentals and other revenues accruing thereto pursuant to subsection (2) of this section prior to July 1, 1967, shall be exclusively

applied to the current use of the common schools.

To the extent that the moneys in the common school construction fund are in excess of the amount necessary to allow fulfillment of the purpose of said fund, the excess shall be available for deposit to the credit of the permanent common school fund or available for the current use of the common schools, as the legislature may direct. Any money from the common school construction fund which is made available for the current use of the common schools shall be restored to the fund by appropriation, including interest income foregone, before the end of the next fiscal biennium following such use.

[1996 c 186 § 503; 1991 sp.s. c 13 § 58; 1991 c 76 § 2; 1981 c 158 § 6; 1981 c 4 § 1; 1980 c 6 § 1; 1969 ex.s. c 223 § 28A.40.100. Prior: 1967 c 29 § 3. Formerly RCW 28A.40.100, 28.40.100.]

Notes:

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Severability--1981 c 4: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 4 § 10.]

Severability--1980 c 6: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 6 § 8.]

Current state school fund--Abolished--Moneys transferred: RCW 43.79.425.

Chapter 28A.520 RCW
FOREST RESERVE FUNDS DISTRIBUTION

Sections

28A.520.010 Distribution of forest reserve funds--Procedure--Proportional county area distribution, when.
28A.520.020 Distribution of forest reserve funds--Revolving account created--Use--Apportionments from--As affects basic education allocation.

RCW 28A.520.010 Distribution of forest reserve funds--Procedure--Proportional county area distribution, when.

Of the moneys received by the state from the federal government in accordance with Title 16, section 500, United States Code, fifty percent shall be spent by the counties on public schools or public roads, and fifty percent shall be spent by the counties on public schools as provided in RCW 28A.520.020(2), or for any other purposes as now or hereafter authorized by federal law, in the counties in the United States forest reserve from which such moneys were received. Where the reserve is situated in more than one county, the state treasurer shall determine the proportional area of the counties therein. The state treasurer is authorized and required to obtain the necessary information to enable him or her to make that determination.

The state treasurer shall distribute to the counties, according to the determined proportional area, the money to be spent by the counties. The county legislative authority shall expend the fifty percent received by the county for the benefit of the public roads or public schools of the county, or for any other purposes as now or hereafter authorized by federal law.

[1990 c 33 § 429; 1985 c 311 § 1; 1982 c 126 § 1. Formerly RCW 28A.02.300.]

Notes:

Effective date--1982 c 126: "This act shall take effect July 1, 1983." [1982 c 126 § 5.]

Severability--1982 c 126: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 126 § 4.]

RCW 28A.520.020 Distribution of forest reserve funds--Revolving account created--Use--Apportionments from--As affects basic education allocation.

(1) There shall be a fund known as the federal forest revolving account. The state treasurer, who shall be custodian of the revolving account, shall deposit into the revolving account the funds for each county received by the state in accordance with Title 16, section 500, United States Code. The state treasurer shall distribute these moneys to the counties according to the determined proportional area. The county legislative authority shall expend fifty percent of the money for the benefit of the public roads and other public purposes as authorized by federal statute or public schools of such county and not otherwise. Disbursements by the counties of the remaining fifty percent of the money shall be as authorized by the superintendent of public instruction, or the superintendent's designee, and shall occur in the manner provided in subsection (2) of this section.

(2) No later than thirty days following receipt of the funds from the federal government, the superintendent of public instruction shall apportion moneys distributed to counties for schools to public school districts in the respective counties in proportion to the number of full time equivalent students enrolled in each public school district to the number of full time equivalent students enrolled in public schools in the county. In apportioning these funds, the superintendent of public instruction shall utilize the October enrollment count.

(3) If the amount received by any public school district pursuant to subsection (2) of this section is less than the basic education allocation to which the district would otherwise be entitled, the superintendent of public instruction shall apportion to the district, in the manner provided by RCW 28A.510.250, an amount which shall be the difference between the amount received pursuant to subsection (2) of this section and the basic education allocation to which the district would otherwise be entitled.

(4) All federal forest funds shall be expended in accordance with the requirements of Title 16, section 500, United States Code, as now existing or hereafter amended.

[1991 sp.s. c 13 § 113; 1990 c 33 § 430; 1985 c 311 § 2; 1982 c 126 § 2. Formerly RCW 28A.02.310.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date--Severability--1982 c 126: See notes following RCW 28A.520.010.

Chapter 28A.525 RCW
BOND ISSUES

Sections

28A.525.010 Statement of intent.
28A.525.020 Duties of state board of education.
28A.525.030 Modernization of existing school facilities.
28A.525.040 Portable buildings or classrooms.
28A.525.050 Applications for aid--Rules and regulations--Recommendations.
28A.525.055 New construction--Eligibility for state assistance--Inventory assessment exclusion.
28A.525.060 Manual--Contents--Preparation and revision.
28A.525.070 State superintendent to assist districts and state board.
28A.525.080 Federal grants--Rules and regulations.
28A.525.090 Construction management techniques--Rules--Use--Information and training.
28A.525.120 1967 bond issue for construction, modernization of school plant facilities--Authorized--Sale, conditions--Form, terms, etc.
28A.525.122 1967 bond issue for construction, modernization of school plant facilities--Common school building construction account--Created--Proceeds from bond sale deposited in--Use.
28A.525.124 1967 bond issue for construction, modernization of school plant facilities--Bonds not general obligation of state--Bonds, interest on, source for payment of--Pledge.
28A.525.126 1967 bond issue for construction, modernization of school plant facilities--Common school building bond redemption fund of 1967--Created--Use--Transfer of funds to--Prior charge against certain common school construction fund moneys.
28A.525.128 1967 bond issue for construction, modernization of school plant facilities--Legislature may provide additional means of revenue--General credit of state not pledged.
28A.525.130 1967 bond issue for construction, modernization of school plant facilities--Bonds are negotiable, legal investment and security.
28A.525.132 1967 bond issue for construction, modernization of school plant facilities--Allotment of funds appropriated from common school building construction account or common school construction fund--Local responsibility--Duties, rules and regulations of state board of education.
28A.525.134 1967 bond issue for construction, modernization of school plant facilities--Appropriations to state board of education--Allocation of, limitations.
28A.525.140 1969 bond issue for construction, modernization of school plant facilities--Authorized--Sale, conditions--Form, terms.
28A.525.142 1969 bond issue for construction, modernization of school plant facilities--Proceeds from bond sale deposited in common school building construction account--Use.
28A.525.144 1969 bond issue for construction, modernization of school plant facilities--Bonds not general obligation of state--Bonds, interest on, source of payment of--Pledge.
28A.525.146 1969 bond issue for construction, modernization of school plant facilities--Common school building bond redemption fund of 1967--Use--Transfer of funds to--Prior charge against certain common school construction fund moneys.
28A.525.148 1969 bond issue for construction, modernization of school plant facilities--Legislature may provide additional means of revenue.
28A.525.150 1969 bond issue for construction, modernization of school plant facilities--Bonds are negotiable, legal investment and security.
28A.525.152 1969 bond issue for construction, modernization of school plant facilities--Allotment of funds appropriated from common school building construction account--Local responsibility--Duties of

state board of education.
28A.525.154 1969 bond issue for construction, modernization of school plant facilities--Appropriations to state board of education--Allocation of, limitations.
28A.525.156 Bonds authorized under RCW 28A.525.120 through 28A.525.154 may be refunded--Security.
28A.525.158 Rescinding authority to issue balance of bonds authorized under RCW 28A.525.140 through 28A.525.154.
28A.525.160 1969 appropriation for construction, modernization of school plant facilities.
28A.525.162 Allotment of appropriations for school plant facilities by state board--Local school district participation--Computing state matching percentage--Rules.
28A.525.164 Allotment of appropriations for school plant facilities--Duties of board.
28A.525.166 Allotment of appropriations for school plant facilities--Basis of state aid for school plant.
28A.525.168 Allotment of appropriations for school plant facilities--Taxable valuation and percentage of state assistance to be used in determining eligibility.
28A.525.170 Allotment of appropriations for school plant facilities--Additional allotment authorized--Effect of allotment on future disbursements to district.
28A.525.172 Allotment of appropriations for school plant facilities--Application by district for state assistance--Studies and surveys by state board.
28A.525.174 Allotment of appropriations for school plant facilities--Manual, other materials to guide and provide information to district.
28A.525.176 Allotment of appropriations for school plant facilities--State board to provide district with consultatory, advisory service.
28A.525.178 Allotment of appropriations for school plant facilities--Modifiable basic or standard plans for school buildings.
28A.525.180 Allotment of appropriations for school plant facilities--Appropriation to be reduced by amount of federal funds made available for school construction except to federally affected areas.
28A.525.182 Allotment of appropriations for school plant facilities--Permissible allocations.
28A.525.190 Board limited when prioritizes construction.
28A.525.200 Specific RCW sections enumerated governing allocation and distribution of funds for school plant facilities.
28A.525.210 1984 bond issue for construction, modernization of school plant facilities--Intent.
28A.525.212 1984 bond issue for construction, modernization of school plant facilities--Authorized--Sale.
28A.525.214 1984 bond issue for construction, modernization of school plant facilities--Proceeds deposited in common school construction fund--Use.
28A.525.216 1984 bond issue for construction, modernization of school plant facilities--Proceeds--Administered by state board of education.
28A.525.218 1984 bond issue for construction, modernization of school plant facilities--State general obligation bond fund utilized for payment of principal and interest--Committee's and treasurer's duties--Form and condition of bonds.
28A.525.220 1984 bond issue for construction, modernization of school plant facilities--Legislature may provide additional means for payment.
28A.525.222 1984 bond issue for construction, modernization of school plant facilities--Bonds as legal investment for public funds.
28A.525.230 Bonds authorized--Amount--As compensation for sale of timber--Sale, conditions.
28A.525.240 Bond anticipation notes--Authorized--Payment.
28A.525.250 Form, terms, conditions, sale and covenants of bonds and notes.
28A.525.260 Disposition of proceeds from sale of bonds and notes--Use.
28A.525.270 State general obligation bond retirement fund utilized for payment of bond principal and interest--Procedure.
28A.525.280 Bonds as legal investment for public funds.
28A.525.290 Chapter provisions as limited by other statutes, covenants and proceedings.

28A.525.300 Proceeds from sale of bonds as compensation for sale of timber from trust lands.
28A.525.310 Proceeds from voter-approved bonds, voter-approved levies, and other funding--Use for installment purchase contracts and leases with options to purchase.

RCW 28A.525.010 Statement of intent.

It is hereby declared to be the intent of the legislature that the following provisions be enacted for the purpose of establishing and providing for the operation of a program of state assistance to school districts in providing school plant facilities.

[1969 ex.s. c 223 § 28A.47.050. Prior: 1947 c 278 § 1; Rem. Supp. 1947 § 4940-12. Formerly RCW 28A.47.050, 28.47.050.]

RCW 28A.525.020 Duties of state board of education.

The state board of education shall have the power and it shall be its duty (1) to prescribe rules and regulations governing the administration, control, terms, conditions, and disbursements of allotments to school districts to assist them in providing school plant facilities; (2) to approve allotments to districts that apply for state assistance whenever the board deems such action advisable and in so doing to give due consideration to the findings, reports, and recommendations of the superintendent of public instruction pertaining thereto; (3) to authorize the payment of approved allotments by warrant of the state treasurer; and (4) in the event that the amount of state assistance applied for exceeds the funds available for such assistance during any biennium, to make allotments on the basis of the urgency of need for school facilities in the districts that apply for assistance and/or to prorate allotments among such districts in conformity with procedures and regulations applicable thereto which shall be established by the state board.

[1969 ex.s. c 223 § 28A.47.060. Prior: 1947 c 278 § 2; Rem. Supp. 1947 § 4940-13. Formerly RCW 28A.47.060, 28.47.060.]

RCW 28A.525.030 Modernization of existing school facilities.

Whenever funds are appropriated for modernization of existing school facilities, the state board of education is authorized to approve the use of such funds for modernization of existing facilities, modernization being limited to major structural changes in such facilities and, as necessary to bring such facilities into compliance with the barrier free access requirements of section 504 of the federal rehabilitation act of 1973 (29 U.S.C. Sec. 706) and rules implementing the act, both major and minor structural changes, and may include as incidental thereto the replacement of fixtures, fittings, furnishings and service systems of a building in order to bring it up to a contemporary state consistent with the needs of changing educational programs. The allocation of such funds shall be made upon the same basis as funds used for the financing of a new school plant project utilized for a similar purpose.

[1995 c 77 § 23; 1980 c 154 § 17; 1969 ex.s. c 223 § 28A.47.073. Prior: 1967 ex.s. c 21 § 1. Formerly RCW

28A.47.073, 28.47.073.]

Notes:

Purpose--Effective dates--Savings--Disposition of certain funds--Severability--1980 c 154: See notes following chapter 82.45 RCW digest.

RCW 28A.525.040 Portable buildings or classrooms.

State matching funds shall not be denied to any school district undertaking any construction, repairs or improvements for school district purposes solely on the ground that said construction, repairs and improvements are in connection with portable buildings or classrooms.

[1969 ex.s. c 223 § 28A.47.075. Prior: 1953 c 158 § 1. Formerly RCW 28A.47.075, 28.47.075.]

RCW 28A.525.050 Applications for aid--Rules and regulations--Recommendations.

All applications by school districts for state assistance in providing school plant facilities shall be made to the superintendent of public instruction in conformity with rules and regulations which shall be prescribed by the state board of education. Studies and surveys shall be conducted by the aforesaid officer for the purpose of securing information relating to (1) the kind and extent of the school plant facilities required and the urgency of need for such facilities in districts that seek state assistance, (2) the ability of such districts to provide capital outlay funds by local effort, (3) the need for improvement of school administrative units and school attendance areas among or within such districts, and (4) any other pertinent matters. Recommendations respecting action on the aforesaid applications shall be submitted to the state board of education by the superintendent of public instruction together with such reports of the findings, studies, and surveys made by said officer as may be required by the state board.

[1969 ex.s. c 223 § 28A.47.080. Prior: 1947 c 278 § 4; Rem. Supp. 1947 § 4940-15. Formerly RCW 28A.47.080, 28.47.080.]

RCW 28A.525.055 New construction--Eligibility for state assistance--Inventory assessment exclusion.

The state board of education, for purposes of determining eligibility for state assistance for new construction, shall adopt rules excluding from the inventory of available educational space those spaces that have been constructed for educational and community activities from grants received from other public or private entities.

[1994 c 219 § 11.]

Notes:

Finding--1994 c 219: See note following RCW 43.88.030.

RCW 28A.525.060 Manual--Contents--Preparation and revision.

It shall be the duty of the superintendent of public instruction, in consultation with the

Washington state department of social and health services, to prepare, and so often as the superintendent deems necessary revise, a manual for the information and guidance of local school district authorities and others responsible for and concerned with the designing, planning, maintenance, and operation of school plant facilities for the common schools. In the preparation and revision of the aforesaid manual due consideration shall be given to the presentation of information regarding (1) the need for cooperative state-local district action in planning school plant facilities arising out of the cooperative plan for financing said facilities provided for in RCW 28A.525.010 through 28A.525.080 and 28A.335.230; (2) procedures in inaugurating and conducting a school plant planning program for a school district; (3) standards for use in determining the selection and development of school sites and in designing, planning, and constructing school buildings to the end that the health, safety, and educational well-being and development of school children will be served; (4) the planning of readily expansible and flexible school buildings to meet the requirements of an increasing school population and a constantly changing educational program; (5) an acceptable school building maintenance program and the necessity therefor; (6) the relationship of an efficient school building operations service to the health and educational progress of pupils; and (7) any other matters regarded by the aforesaid officer as pertinent or related to the purposes and requirements of RCW 28A.525.010 through 28A.525.080 and 28A.335.230.

[1990 c 33 § 431; 1979 c 141 § 36; 1969 ex.s. c 223 § 28A.47.090. Prior: 1947 c 278 § 5; Rem. Supp. 1947 § 4940-16. Formerly RCW 28A.47.090, 28.47.090.]

RCW 28A.525.070 State superintendent to assist districts and state board.

The superintendent of public instruction shall furnish (1) to school districts seeking state assistance consultatory and advisory service in connection with the development of school building programs and the planning of school plant facilities for such district, and (2) to the state board of education such service as may be required by the board in the exercise of the powers and the performance of the duties vested in and required to be performed by the board.

[1985 c 136 § 1; 1969 ex.s. c 223 § 28A.47.100. Prior: 1947 c 278 § 6; Rem. Supp. 1947 § 4940-17. Formerly RCW 28A.47.100, 28.47.100.]

RCW 28A.525.080 Federal grants--Rules and regulations.

Insofar as is permissible under acts of congress, funds made available by the federal government for the purpose of assisting school districts in providing school plant facilities shall be made available to such districts in conformity with rules and regulations which the state board of education shall establish.

[1969 ex.s. c 223 § 28A.47.120. Prior: 1947 c 278 § 8; Rem. Supp. 1947 § 4940-19. Formerly RCW 28A.47.120, 28.47.120.]

RCW 28A.525.090 Construction management techniques--Rules--Use--Information and

training.

(1) The state board of education shall adopt rules for appropriate use of the following construction management techniques: Value engineering, constructibility review, building commissioning, and construction management. Rules adopted under this section shall:

(a) Define each technique as it applies to school buildings;

(b) Describe the scope of work for each technique;

(c) Define the timing for implementing each technique in the construction process;

(d) Determine the appropriate size of projects for the use of each technique; and

(e) Determine standards for qualification and performance for each technique.

(2) Except as provided in rules adopted under subsection (1)(d) of this section, in allocating state moneys provided under this chapter, the state board of education shall include in funding for each project, at the state matching percentage, the cost of each of the construction management techniques listed in subsection (1) of this section.

(3) When assigning priority and allocating state funds for construction of common school facilities, the state board of education shall consider the adequacy of the construction management techniques used by a district and the compliance with the rules adopted under subsection (1) of this section.

(4) Except as provided in rules adopted under subsection (1)(d) of this section, the construction management techniques in subsection (1) of this section shall be used on each project submitted for approval by the state board of education.

(5)(a) School districts applying for state assistance for school facilities shall:

(i) Cause value engineering, constructibility review, and building commissioning to be performed by contract with a professional firm specializing in those construction management techniques; and

(ii) Contract or employ personnel to perform professional construction management.

(b) All recommendations from the value engineering and constructibility review construction techniques for a school project shall be presented to the school district's board of directors for acceptance or rejection. If the board of directors rejects a recommendation it shall provide a statement explaining the reasons for rejecting the recommendation and include the statement in the application for state assistance to the state board of education.

(6) The office of the superintendent of public instruction shall provide:

(a) An information and training program for school districts on the use of the construction management techniques; and

(b) Consulting services to districts on the benefits and best uses of these construction management techniques.

[1999 c 313 § 2.]

Notes:

Findings--1999 c 313: "The legislature finds that certain construction management techniques will improve the effectiveness of construction and operation of new school buildings, and that such techniques, including value engineering, constructibility reviews, building commissioning, and professional construction management, will provide better value to the taxpayers by reducing construction costs, improving building

operations, improving the building environment for the occupants, and reducing future replacement costs." [1999 c 313 § 1.]

RCW 28A.525.120 1967 bond issue for construction, modernization of school plant facilities--Authorized--Sale, conditions--Form, terms, etc.

For the purpose of furnishing funds for state assistance to school districts in providing common school plant facilities and modernization of existing common school plant facilities, there shall be issued and sold limited obligation bonds of the state of Washington in the sum of twenty-two million dollars to be paid and discharged in accordance with terms to be established by the finance committee. The issuance, sale and retirement of said bonds shall be under the general supervision and control of the state finance committee: PROVIDED, That no part of the twenty-two million dollar bond issue shall be sold unless there are insufficient funds in the common school construction fund to meet appropriations authorized by RCW 28A.525.120 through 28A.525.134 as evidenced by a joint agreement entered into between the governor and the superintendent of public instruction.

The state finance committee is authorized to prescribe the forms of such bonds; the provisions of sale of all or any portion or portions of such bonds; the terms, provisions, and covenants of said bonds, and the sale, issuance and redemption thereof. The covenants of said bonds may include but not be limited to a covenant for the creation, maintenance and replenishment of a reserve account or accounts within the common school building bond redemption fund of 1967 to secure the payment of the principal of and interest on said bonds, into which it shall be pledged there will be paid, from the same sources pledged for the payment of such principal and interest, such amounts at such times which in the opinion of the state finance committee are necessary for the most advantageous sale of said bonds; a covenant that additional bonds which may be authorized by the legislature payable out of the same source or sources may be issued on a parity with the bonds authorized in RCW 28A.525.120 through 28A.525.134 upon compliance with such conditions as the state finance committee may deem necessary to effect the most advantageous sale of the bonds authorized in RCW 28A.525.120 through 28A.525.134 and such additional bonds; and if found reasonably necessary by the state finance committee to accomplish the most advantageous sale of the bonds authorized herein or any issue or series thereof, such committee may select a trustee for the owners and holders of such bonds or issue or series thereof and shall fix the rights, duties, powers and obligations of such trustee. The money in such reserve account or accounts and in such common school construction fund may be invested in any investments that are legal for the permanent common school fund of the state, and any interest earned on or profits realized from the sale of any such investments shall be deposited in such common school building bond redemption fund of 1967. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and upon any coupons attached thereto. Such bonds shall be payable at such places as the state finance committee may provide.

[1990 c 33 § 440; 1970 ex.s. c 15 § 26; 1969 c 77 § 4; 1969 ex.s. c 223 § 28A.47.784. Prior: 1967 ex.s. c 56 § 1. Formerly RCW 28A.47.784.]

Notes:

Severability--1970 ex.s. c 15: See note following RCW 28A.230.160.

RCW 28A.525.122 1967 bond issue for construction, modernization of school plant facilities--Common school building construction account--Created--Proceeds from bond sale deposited in--Use.

The common school building construction account of the general fund is hereby created as an account of the general fund and the proceeds from the sale of the bonds authorized by RCW 28A.525.120 through 28A.525.134 shall be deposited therein and shall be used exclusively for the purposes of carrying out the provisions of RCW 28A.525.120 through 28A.525.134 and for payment of the expense incurred in the printing, issuance and sale of such bonds.

[1990 c 33 § 441; 1969 ex.s. c 223 § 28A.47.785. Prior: 1967 ex.s. c 56 § 2. Formerly RCW 28A.47.785, 28.47.785.]

RCW 28A.525.124 1967 bond issue for construction, modernization of school plant facilities--Bonds not general obligation of state--Bonds, interest on, source for payment of--Pledge.

Bonds issued under the provisions of RCW 28A.525.120 through 28A.525.134 shall distinctly state that they are not a general obligation bond of the state, but are payable in the manner provided in RCW 28A.525.120 through 28A.525.134 from that portion of the common school construction fund derived from the interest on the permanent common school fund. That portion of the common school construction fund derived from interest on the permanent common school fund is hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW 28A.525.120 through 28A.525.134.

[1990 c 33 § 442; 1969 ex.s. c 223 § 28A.47.786. Prior: 1967 ex.s. c 56 § 3. Formerly RCW 28A.47.786, 28.47.786.]

Notes:

Common school construction fund: Chapter 28A.515 RCW.

RCW 28A.525.126 1967 bond issue for construction, modernization of school plant facilities--Common school building bond redemption fund of 1967--Created--Use--Transfer of funds to--Prior charge against certain common school construction fund moneys.

The common school building bond redemption fund of 1967 is hereby created in the state treasury which fund shall be exclusively devoted to the retirement of the bonds and interest authorized by RCW 28A.525.120 through 28A.525.134 and to the retirement of and payment of interest on any additional bonds which may be issued on a parity therewith. The state finance

committee shall, on or before June thirtieth of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet reserve account payments, interest payments on and retirement of bonds payable out of such common school building bond redemption fund of 1967. On July first of each year the state treasurer shall transfer such amount to the common school building bond redemption fund of 1967 from moneys in the common school construction fund certified by the state finance committee to be interest on the permanent common school fund and such amount certified by the state finance committee to the state treasurer shall be a prior charge against that portion of the common school construction fund derived from interest on the permanent common school fund.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein.

[1990 c 33 § 443; 1969 c 77 § 5; 1969 ex.s. c 223 § 28A.47.787. Prior: 1967 ex.s. c 56 § 4. Formerly RCW 28A.47.787.]

RCW 28A.525.128 1967 bond issue for construction, modernization of school plant facilities--Legislature may provide additional means of revenue--General credit of state not pledged.

The legislature may provide additional means for raising funds for the payment of interest and principal of the bonds authorized by RCW 28A.525.120 through 28A.525.134 from any source or sources not prohibited by the state Constitution and RCW 28A.525.120 through 28A.525.134 shall not be deemed to provide an exclusive method of payment. The power given to the legislature by this section is permissive and shall not be construed to constitute a pledge of general credit of the state of Washington.

[1990 c 33 § 444; 1969 c 77 § 6; 1969 ex.s. c 223 § 28A.47.788. Prior: 1967 ex.s. c 56 § 5. Formerly RCW 28A.47.788.]

RCW 28A.525.130 1967 bond issue for construction, modernization of school plant facilities--Bonds are negotiable, legal investment and security.

The bonds authorized in RCW 28A.525.120 through 28A.525.134 shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county and municipal deposits.

[1990 c 33 § 445; 1969 ex.s. c 223 § 28A.47.789. Prior: 1967 ex.s. c 56 § 6. Formerly RCW 28A.47.789, 28.47.789.]

RCW 28A.525.132 1967 bond issue for construction, modernization of school plant facilities--Allotment of funds appropriated from common school building construction account or common school construction fund--Local responsibility--Duties, rules and

regulations of state board of education.

For the purpose of carrying out the provisions of RCW 28A.525.120 through 28A.525.134 funds appropriated to the state board of education from the common school building construction account of the general fund or the common school construction fund shall be allotted by the state board of education in accordance with the provisions of *RCW 28A.47.732 through 28A.47.748: PROVIDED, That no allotment shall be made to a school district for the purpose aforesaid until such district has provided funds for school building construction purposes through the issuance of bonds or through the authorization of excess tax levies or both in an amount equivalent to ten percent of its taxable valuation or such amount as may be required by the state board of education. The state board of education shall prescribe and make effective such rules and regulations as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid.

[1990 c 33 § 446; 1969 ex.s. c 223 § 28A.47.790. Prior: 1967 ex.s. c 56 § 7. Formerly RCW 28A.47.790, 28.47.790.]

Notes:

***Reviser's note:** RCW 28A.47.732 through 28A.47.748 were repealed by 1983 c 189 § 1.

RCW 28A.525.134 1967 bond issue for construction, modernization of school plant facilities--Appropriations to state board of education--Allocation of, limitations.

There is hereby appropriated to the state board of education the following sums, or so much thereof as may be necessary, for the purpose of carrying out the provisions of RCW 28A.525.120 through 28A.525.134: (1) Twenty-two million dollars from the common school building construction account and (2) twenty-nine million seven hundred forty-four thousand five hundred and fifty-four dollars from the common school construction fund including three million for modernization of existing school facilities.

In accordance with RCW 28A.525.132, the state board of education is authorized to allocate for the purposes of carrying out the provisions of RCW 28A.525.120 through 28A.525.134 the sum of sixty-three million nine hundred thousand dollars: PROVIDED, That expenditures against such allocation shall not exceed the amount appropriated in this section: PROVIDED FURTHER, That no part of the allocation provided in this section in excess of the total amount appropriated by RCW 28A.525.120 through 28A.525.134 shall be allocated unless joint agreement of its necessity shall be determined by the governor and the superintendent of public instruction.

[1990 c 33 § 447; 1969 ex.s. c 223 § 28A.47.791. Prior: 1967 ex.s. c 56 § 8. Formerly RCW 28A.47.791, 28.47.791.]

RCW 28A.525.140 1969 bond issue for construction, modernization of school plant facilities--Authorized--Sale, conditions--Form, terms.

For the purpose of furnishing funds for state assistance to school districts in providing common school plant facilities and modernization of existing common school plant facilities,

there shall be issued and sold general obligation bonds of the state of Washington in the sum of twenty-two million five hundred thousand dollars to be paid and discharged in accordance with terms to be established by the state finance committee. The issuance, sale and retirement of said bonds shall be under the general supervision and control of the state finance committee: PROVIDED, That no part of the twenty-six million four hundred thousand dollar bond issue shall be sold unless there are insufficient funds in the common school construction fund to meet appropriations authorized by RCW 28A.525.140 through 28A.525.154 as evidenced by a joint agreement entered into between the governor and the superintendent of public instruction.

The state finance committee is authorized to prescribe the forms of such bonds; the provisions of sale of all or any portion or portions of such bonds; the terms, provisions, and covenants of said bonds, and the sale, issuance and redemption thereof. The covenants of said bonds may include but not be limited to a covenant for the creation, maintenance and replenishment of a reserve account or accounts within the common school building bond redemption fund of 1967 to secure the payment of the principal of and interest on said bonds, into which it shall be pledged there will be paid, from the same sources pledged for the payment of such principal and interest, such amounts at such times which in the opinion of the state finance committee are necessary for the most advantageous sale of said bonds; a covenant that additional bonds which may be authorized by the legislature payable out of the same source or sources may be issued on a parity with the bonds authorized in RCW 28A.525.120 through 28A.525.134 and 28A.525.140 through 28A.525.154 upon compliance with such conditions as the state finance committee may deem necessary to effect the most advantageous sale of the bonds authorized in RCW 28A.525.140 through 28A.525.154 and such additional bonds; and if found reasonably necessary by the state finance committee to accomplish the most advantageous sale of the bonds authorized herein or any issue or series thereof, such committee may select a trustee for the owners and holders of such bonds or issue or series thereof and shall fix the rights, duties, powers and obligations of such trustee. The money in such reserve account or accounts and in such common school construction fund may be invested in any investments that are legal for the permanent common school fund of the state, and any interest earned on or profits realized from the sale of any such investments shall be deposited in such common school building bond redemption fund of 1967. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and upon any coupons attached thereto. Such bonds shall be payable at such places as the state finance committee may provide.

[1990 c 33 § 448; 1985 ex.s. c 4 § 11; 1974 ex.s. c 108 § 1; 1971 ex.s. c 4 § 1; 1969 c 13 § 1. Formerly RCW 28A.47.792, 28.47.792.]

Notes:

Severability--1985 ex.s. c 4: See RCW 43.99G.900.

Severability--1969 c 13: "If any section, paragraph, sentence, clause, phrase or word of this 1969 act shall

be held to be invalid or unconstitutional, such 1969 act shall not affect nor impair the validity or constitutionality of any other section, paragraph, sentence, clause, phrase or word of this 1969 act. It is hereby declared that had any section, paragraph, sentence, clause, phrase or word as to which this 1969 act is declared invalid been eliminated from the act at the time the same was considered, the act would have nevertheless been enacted with such portions eliminated." [1969 c 13 § 9.]

Rescinding authority to issue balance of bonds authorized under RCW 28A.525.140 through 28A.525.154: RCW 28A.525.158.

RCW 28A.525.142 1969 bond issue for construction, modernization of school plant facilities--Proceeds from bond sale deposited in common school building construction account--Use.

The proceeds from the sale of the bonds authorized herein shall be deposited in the common school building construction account of the general fund and shall be used exclusively for the purposes of carrying out the provisions of *RCW 28A.47.742 through 28A.47.748, and for payment of the expense incurred in the printing, issuance and sale of such bonds.

[1969 c 13 § 2. Formerly RCW 28A.47.793, 28.47.793.]

Notes:

***Reviser's note:** RCW 28A.47.742 through 28A.47.748 were repealed by 1983 c 189 § 1.

Severability--1969 c 13: See note following RCW 28A.525.140.

RCW 28A.525.144 1969 bond issue for construction, modernization of school plant facilities--Bonds not general obligation of state--Bonds, interest on, source of payment of--Pledge.

Bonds issued under the provisions of RCW 28A.525.140 through 28A.525.154 shall distinctly state that they are a general obligation bond of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The principal of and interest on such bonds shall be first payable in the manner provided in RCW 28A.525.140 through 28A.525.154 from that portion of the common school construction fund derived from the interest on the permanent common school fund. That portion of the common school construction fund derived from interest on the permanent common school fund is hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW 28A.525.140 through 28A.525.154.

[1990 c 33 § 449; 1974 ex.s. c 108 § 2; 1969 c 13 § 3. Formerly RCW 28A.47.794, 28.47.794.]

Notes:

Severability--1969 c 13: See note following RCW 28A.525.140.

RCW 28A.525.146 1969 bond issue for construction, modernization of school plant facilities--Common school building bond redemption fund of 1967--Use--Transfer of funds to--Prior charge against certain common school construction fund moneys.

The common school building bond redemption fund of 1967 has been created in the state treasury which fund shall be exclusively devoted to the retirement of the bonds and interest authorized by RCW 28A.525.120 through 28A.525.134 and 28A.525.140 through 28A.525.154 and to the retirement of and payment of interest on any additional bonds which may be issued on a parity therewith. The state finance committee shall, on or before June thirtieth of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet reserve account payments, interest payments on and retirement of bonds payable out of such common school building bond redemption fund of 1967. On July first of each year the state treasurer shall transfer such amount to the common school building bond redemption fund of 1967 from moneys in the common school construction fund certified by the state finance committee to be interest on the permanent common school fund and such amount certified by the state finance committee to the state treasurer shall be a prior charge against that portion of the common school construction fund derived from interest on the permanent common school fund.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein.

[1990 c 33 § 450; 1971 ex.s. c 4 § 2; 1969 c 13 § 4. Formerly RCW 28A.47.795, 28.47.795.]

Notes:

Severability--1969 c 13: See note following RCW 28A.525.140.

RCW 28A.525.148 1969 bond issue for construction, modernization of school plant facilities--Legislature may provide additional means of revenue.

The legislature may provide additional means for raising funds for the payment of interest and principal of the bonds authorized by RCW 28A.525.140 through 28A.525.154 from any source or sources not prohibited by the state Constitution and RCW 28A.525.140 through 28A.525.154 shall not be deemed to provide an exclusive method of payment.

[1990 c 33 § 451; 1974 ex.s. c 108 § 3; 1971 ex.s. c 4 § 3; 1969 c 13 § 5. Formerly RCW 28A.47.796, 28.47.796.]

Notes:

Severability--1969 c 13: See note following RCW 28A.525.140.

RCW 28A.525.150 1969 bond issue for construction, modernization of school plant facilities--Bonds are negotiable, legal investment and security.

The bonds herein authorized shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county and municipal deposits.

[1969 c 13 § 6. Formerly RCW 28A.47.797, 28.47.797.]

Notes:

Severability--1969 c 13: See note following RCW 28A.525.140.

RCW 28A.525.152 1969 bond issue for construction, modernization of school plant facilities--Allotment of funds appropriated from common school building construction account--Local responsibility--Duties of state board of education.

For the purpose of carrying out the provisions of RCW 28A.525.140 through 28A.525.154 funds appropriated to the state board of education from the common school building construction account of the general fund shall be allotted by the state board of education in accordance with the provisions of *RCW 28A.47.732 through 28A.47.748: PROVIDED, That no allotment shall be made to a school district for the purpose aforesaid until such district has provided funds for school building construction purposes through the issuance of bonds or through the authorization of excess tax levies or both in an amount equivalent to ten percent of its taxable valuation or such amount as may be required by the state board of education. The state board of education shall prescribe and make effective such rules and regulations as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid.

[1990 c 33 § 452; 1969 c 13 § 7. Formerly RCW 28A.47.798, 28.47.798.]

Notes:

***Reviser's note:** RCW 28A.47.732 through 28A.47.748 were repealed by 1983 c 189 § 1.

Severability--1969 c 13: See note following RCW 28A.525.140.

RCW 28A.525.154 1969 bond issue for construction, modernization of school plant facilities--Appropriations to state board of education--Allocation of, limitations.

There is hereby appropriated to the state board of education the following sums or so much thereof as may be necessary for the purpose of carrying out the provisions of RCW 28A.525.140 through 28A.525.154: Twenty-six million four hundred thousand dollars from the common school building construction account of the general fund and five million seven hundred and fifty-five thousand four hundred and forty-six dollars from the common school construction fund.

In accordance with RCW 28A.525.152, the state board of education is authorized to allocate for the purposes of carrying out the provisions of RCW 28A.525.140 through 28A.525.154 the entire amount of such appropriation as hereinabove in this section provided which is not already allocated for that purpose: PROVIDED, That expenditures against such allocation shall not exceed the amount appropriated in this section.

[1990 c 33 § 453; 1969 c 13 § 8. Formerly RCW 28A.47.799, 28.47.799.]

Notes:

Severability--1969 c 13: See note following RCW 28A.525.140.

RCW 28A.525.156 Bonds authorized under RCW 28A.525.120 through 28A.525.154 may

be refunded--Security.

Any or all of the heretofore issued and outstanding bonds authorized by RCW 28A.525.120 through 28A.525.134 and 28A.525.140 through 28A.525.154 may be refunded by the issuance of general obligation bonds of the state of Washington pursuant to the provisions of chapter 39.53 RCW as heretofore or hereafter amended. Any such refunding general obligation bonds shall be additionally secured as to the payment thereof by a pledge of interest on the permanent common school fund.

[1990 c 33 § 454; 1974 ex.s. c 108 § 4. Formerly RCW 28A.47.7991.]

RCW 28A.525.158 Rescinding authority to issue balance of bonds authorized under RCW 28A.525.140 through 28A.525.154.

Authority to issue the balance of general obligation bonds authorized by chapter 13, Laws of 1969 and unissued in the amount of three million nine hundred thousand dollars is hereby rescinded.

[1979 ex.s. c 241 § 13. Formerly RCW 28A.47.7992.]

Notes:

Effective date--1979 ex.s. c 241: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [June 15, 1979]." [1979 ex.s. c 241 § 15.]

Severability--1979 ex.s. c 241: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 241 § 14.]

RCW 28A.525.160 1969 appropriation for construction, modernization of school plant facilities.

For the purpose of furnishing funds for state assistance to school districts in providing common school plant facilities and modernization of existing common school plant facilities, there is hereby appropriated from the common school construction fund the sum of thirty-seven million, four thousand, four hundred twenty-seven dollars.

[1969 ex.s. c 244 § 1. Formerly RCW 28A.47.800, 28.47.800.]

Notes:

Severability--1969 ex.s. c 244: "If any section, paragraph, sentence, clause, phrase or word of this act should be held to be invalid or unconstitutional, such act shall not affect nor impair the validity or constitutionality of any other section, paragraph, sentence, clause, phrase or word of this act. It is hereby declared that had any section, paragraph, sentence, clause, phrase or word as to which this act is declared invalid been eliminated from the act at the time the same was considered, the act would have nevertheless been enacted with such portions eliminated." [1969 ex.s. c 244 § 16.]

RCW 28A.525.162 Allotment of appropriations for school plant facilities by state

board--Local school district participation--Computing state matching percentage--Rules.

(1) Funds appropriated to the state board of education from the common school construction fund shall be allotted by the state board of education in accordance with student enrollment and the provisions of RCW 28A.525.200.

(2) No allotment shall be made to a school district until such district has provided matching funds equal to or greater than the difference between the total approved project cost and the amount of state assistance to the district for financing the project computed pursuant to RCW 28A.525.166, with the following exceptions:

(a) The state board may waive the matching requirement for districts which have provided funds for school building construction purposes through the authorization of bonds or through the authorization of excess tax levies or both in an amount equivalent to two and one-half percent of the value of its taxable property, as defined in RCW 39.36.015.

(b) No such matching funds shall be required as a condition to the allotment of funds for the purpose of making major or minor structural changes to existing school facilities in order to bring such facilities into compliance with the barrier free access requirements of section 504 of the federal rehabilitation act of 1973 (29 U.S.C. Sec. 706) and rules implementing the act.

(3) For the purpose of computing the state matching percentage under RCW 28A.525.166 when a school district is granted authority to enter into contracts, adjusted valuation per pupil shall be calculated using headcount student enrollments from the most recent October enrollment reports submitted by districts to the superintendent of public instruction, adjusted as follows:

(a) In the case of projects for which local bonds were approved after May 11, 1989:

(i) For districts which have been designated as serving high school districts under RCW 28A.540.110, students residing in the nonhigh district so designating shall be excluded from the enrollment count if the student is enrolled in any grade level not offered by the nonhigh district;

(ii) The enrollment of nonhigh school districts shall be increased by the number of students residing within the district who are enrolled in a serving high school district so designated by the nonhigh school district under RCW 28A.540.110, including only students who are enrolled in grade levels not offered by the nonhigh school district; and

(iii) The number of preschool students with disabilities included in the enrollment count shall be multiplied by one-half;

(b) In the case of construction or modernization of high school facilities in districts serving students from nonhigh school districts, the adjusted valuation per pupil shall be computed using the combined adjusted valuations and enrollments of each district, each weighted by the percentage of the district's resident high school students served by the high school district; and

(c) The number of kindergarten students included in the enrollment count shall be multiplied by one-half.

(4) The state board of education shall prescribe and make effective such rules as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid.

(5) For the purposes of this section, "preschool students with disabilities" means developmentally disabled children of preschool age who are entitled to services under RCW

28A.155.010 through 28A.155.100 and are not included in the kindergarten enrollment count of the district.

[1995 c 77 § 24; 1990 c 33 § 455; 1989 c 321 § 1; 1980 c 154 § 18; 1974 ex.s. c 56 § 1; 1970 ex.s. c 42 § 5; 1969 ex.s. c 244 § 2. Formerly RCW 28A.47.801, 28.47.801.]

Notes:

Purpose--Effective dates--Savings--Disposition of certain funds--Severability--1980 c 154: See notes following chapter 82.45 RCW digest.

Severability--1974 ex.s. c 56: "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 56 § 9.]

Severability--Effective date--1970 ex.s. c 42: See notes following RCW 39.36.015.

Severability--1969 ex.s. c 244: See note following RCW 28A.525.160.

RCW 28A.525.164 Allotment of appropriations for school plant facilities--Duties of board.

In allotting the state funds provided by RCW 28A.525.160 through 28A.525.182, the state board of education shall:

(1) Prescribe rules and regulations not inconsistent with RCW 28A.525.160 through 28A.525.182 governing the administration, control, terms, conditions, and disbursement of allotments to school districts to assist them in providing school plant facilities;

(2) Approve, whenever the board deems such action advisable, allotments to districts that apply for state assistance;

(3) Authorize the payment of approved allotments by warrant of the state treasurer; and

(4) In the event that the amount of state assistance applied for pursuant to the provisions hereof exceeds the funds available for such assistance during any biennium, make allotments on the basis of the urgency of need for school facilities in the districts that apply for assistance or prorate allotments among such districts in conformity with procedures and regulations applicable thereto which shall be established by the board.

[1990 c 33 § 456; 1989 c 321 § 2; 1974 ex.s. c 56 § 2; 1969 ex.s. c 244 § 3. Formerly RCW 28A.47.802, 28.47.802.]

Notes:

Severability--1974 ex.s. c 56: See note following RCW 28A.525.162.

Severability--1969 ex.s. c 244: See note following RCW 28A.525.160.

RCW 28A.525.166 Allotment of appropriations for school plant facilities--Basis of state aid for school plant.

Allocations to school districts of state funds provided by RCW 28A.525.160 through 28A.525.182 shall be made by the state board of education and the amount of state assistance to a school district in financing a school plant project shall be determined in the following manner:

(1) The boards of directors of the districts shall determine the total cost of the proposed

project, which cost may include the cost of acquiring and preparing the site, the cost of constructing the building or of acquiring a building and preparing the same for school use, the cost of necessary equipment, taxes chargeable to the project, necessary architects' fees, and a reasonable amount for contingencies and for other necessary incidental expenses: PROVIDED, That the total cost of the project shall be subject to review and approval by the state board of education.

(2) The state matching percentage for a school district shall be computed by the following formula:

The ratio of the school district's adjusted valuation per pupil divided by the ratio of the total state adjusted valuation per pupil shall be subtracted from three, and then the result of the foregoing shall be divided by three plus (the ratio of the school district's adjusted valuation per pupil divided by the ratio of the total state adjusted valuation per pupil).

$$\text{Computed State Ratio} = \frac{3 - \dfrac{\text{District adjusted valuation per pupil}}{\text{Total state adjusted valuation per pupil}}}{3 + \dfrac{\text{District adjusted valuation per pupil}}{\text{Total state adjusted valuation per pupil}}} = - \%\ \text{State Assistance}$$

PROVIDED, That in the event the percentage of state assistance to any school district based on the above formula is less than twenty percent and such school district is otherwise eligible for state assistance under RCW 28A.525.160 through 28A.525.182, the state board of education may establish for such district a percentage of state assistance not in excess of twenty percent of the approved cost of the project, if the state board finds that such additional assistance is necessary to provide minimum facilities for housing the pupils of the district.

(3) In addition to the computed percent of state assistance developed in (2) above, a school district shall be entitled to additional percentage points determined by the average percentage of growth for the past three years. One percent shall be added to the computed percent of state assistance for each percent of growth, with a maximum of twenty percent.

(4) The approved cost of the project determined in the manner herein prescribed times the percentage of state assistance derived as provided for herein shall be the amount of state assistance to the district for the financing of the project: PROVIDED, That need therefor has been established to the satisfaction of the state board of education: PROVIDED, FURTHER, That additional state assistance may be allowed if it is found by the state board of education that such assistance is necessary in order to meet (a) a school housing emergency resulting from the destruction of a school building by fire, the condemnation of a school building by properly constituted authorities, a sudden excessive and clearly foreseeable future increase in school population, or other conditions similarly emergent in nature; or (b) a special school housing burden resulting from industrial projects of state-wide significance or imposed by virtue of the admission of nonresident students into educational programs established, maintained and operated in conformity with the requirements of law; or (c) a deficiency in the capital funds of the district resulting from financing, subsequent to April 1, 1969, and without benefit of the state assistance provided by prior state assistance programs, the construction of a needed school building project or projects approved in conformity with the requirements of such programs, after having first applied for and been denied state assistance because of the inadequacy of state funds available for the purpose, or (d) a condition created by the fact that an excessive number of students live in state owned housing, or (e) a need for the construction of a school building to provide for improved school district organization or racial balance, or (f) conditions similar to those defined under (a), (b), (c), (d) and (e) hereinabove, creating a like emergency.

[1997 c 369 § 9; 1990 c 33 § 457; 1989 c 321 § 3; 1975 1st ex.s. c 98 § 1; 1974 ex.s. c 56 § 3; 1969 ex.s. c 244 § 4. Formerly RCW 28A.47.803, 28.47.803.]

Notes:

Effective date--1975 1st ex.s. c 98: "This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1975." [1975 1st ex.s. c 98 § 3.]

Severability--1974 ex.s. c 56: See note following RCW 28A.525.162.

Severability--1969 ex.s. c 244: See note following RCW 28A.525.160.

Industrial project of state-wide significance--Defined: RCW 43.157.010.

RCW 28A.525.168 Allotment of appropriations for school plant facilities--Taxable valuation and percentage of state assistance to be used in determining eligibility.

Whenever the voters of a school district authorize the issuance of bonds and/or the levying of excess taxes in an amount sufficient to meet the requirements of RCW 28A.525.162 respecting eligibility for state assistance in providing school facilities, the taxable valuation of the district and the percentage of state assistance in providing school facilities prevailing at the time of such authorization shall be the valuation and the percentage used for the purpose of determining the eligibility of the district for an allotment of state funds and the amount or amounts of such allotments, respectively, for all projects for which the voters authorize capital funds as aforesaid, unless a higher percentage of state assistance prevails on the date that state funds for assistance in financing a project are allotted by the state board of education in which case the percentage prevailing on the date of allotment by the state board of funds for each project shall govern: PROVIDED, That if the state board of education determines at any time that there has been undue or unwarranted delay on the part of school district authorities in advancing a project to the point of readiness for an allotment of state funds, the taxable valuation of the school district and the percentage of state assistance prevailing on the date that the allotment is made shall be used for the purposes aforesaid: PROVIDED, FURTHER, That the date herein specified as applicable in determining the eligibility of an individual school district for state assistance and in determining the amount of such assistance shall be applicable also to cases where it is necessary in administering chapter 28A.540 RCW to determine eligibility for and the amount of state assistance for a group of school districts considered as a single school administrative unit.

[1990 c 33 § 458; 1969 ex.s. c 244 § 5. Formerly RCW 28A.47.804, 28.47.804.]

Notes:

Severability--1969 ex.s. c 244: See note following RCW 28A.525.160.

RCW 28A.525.170 Allotment of appropriations for school plant facilities--Additional allotment authorized--Effect of allotment on future disbursements to district.

If a school district which has qualified for an allotment of state funds under the provisions of RCW 28A.525.160 through 28A.525.182 for school building construction is found

by the state board of education to have a school housing emergency requiring an allotment of state funds in excess of the amount allocable under RCW 28A.525.166, an additional allotment may be made to such district: PROVIDED, That the total amount allotted shall not exceed ninety percent of the total cost of the approved project which may include the cost of the site and equipment. At any time thereafter when the state board of education finds that the financial position of such school district has improved through an increase in its taxable valuation or through retirement of bonded indebtedness or through a reduction in school housing requirements, or for any combination of these reasons, the amount of such additional allotment, or any part of such amount as the state board of education determines, shall be deducted, under terms and conditions prescribed by the board, from any state school building construction funds which might otherwise be provided to such district.

[1990 c 33 § 459; 1974 ex.s. c 56 § 4; 1969 ex.s. c 244 § 6. Formerly RCW 28A.47.805, 28.47.805.]

Notes:

Severability--1974 ex.s. c 56: See note following RCW 28A.525.162.

Severability--1969 ex.s. c 244: See note following RCW 28A.525.160.

RCW 28A.525.172 Allotment of appropriations for school plant facilities--Application by district for state assistance--Studies and surveys by state board.

All applications by school districts for state assistance in providing school plant facilities shall be made to the superintendent of public instruction in conformity with rules and regulations which shall be prescribed by the state board of education. Studies and surveys shall be conducted by the state board for the purpose of securing information relating to (a) the kind and extent of the school plant facilities required and the urgency of need for such facilities in districts that seek state assistance, (b) the ability of such districts to provide capital funds by local effort, (c) the need for improvement of school administrative units and school attendance areas among or within such districts, and (d) any other pertinent matters.

[1969 ex.s. c 244 § 7. Formerly RCW 28A.47.806, 28.47.806.]

Notes:

Severability--1969 ex.s. c 244: See note following RCW 28A.525.162.

RCW 28A.525.174 Allotment of appropriations for school plant facilities--Manual, other materials to guide and provide information to district.

It shall be the duty of the state board of education, in consultation with the Washington state department of social and health services, to prepare a manual and/or to specify other materials for the information and guidance of local school district authorities and others responsible for and concerned with the designing, planning, maintenance and operation of school plant facilities for the public schools. In so doing due consideration shall be given to the presentation of information regarding (a) the need for cooperative state-local district action in planning school plant facilities arising out of the cooperative plan for financing said facilities

provided for in RCW 28A.525.160 through 28A.525.182; (b) procedures in inaugurating and conducting a school plant planning program for a school district; (c) standards for use in determining the selection and development of school sites and in designing, planning, and constructing school buildings to the end that the health, safety, and educational well-being and development of school children will be served; (d) the planning of readily expansible and flexible school buildings to meet the requirements of an increasing school population and a constantly changing educational program; (e) an acceptable school building maintenance program and the necessity therefor; (f) the relationship of an efficient school building operations service to the health and educational progress of pupils; and (g) any other matters regarded by the state board as pertinent or related to the purposes and requirements of RCW 28A.525.160 through 28A.525.182.

[1990 c 33 § 460; 1979 c 141 § 39; 1974 ex.s. c 56 § 5; 1969 ex.s. c 244 § 8. Formerly RCW 28A.47.807, 28.47.807.]

Notes:

Severability--1974 ex.s. c 56: See note following RCW 28A.525.162.
Severability--1969 ex.s. c 244: See note following RCW 28A.525.160.

RCW 28A.525.176 Allotment of appropriations for school plant facilities--State board to provide district with consultatory, advisory service.

The state board of education shall furnish to school districts seeking state assistance under the provisions of RCW 28A.525.160 through 28A.525.182 consultatory and advisory service in connection with the development of school building programs and the planning of school plant facilities.

[1990 c 33 § 461; 1974 ex.s. c 56 § 6; 1969 ex.s. c 244 § 9. Formerly RCW 28A.47.808, 28.47.808.]

Notes:

Severability--1974 ex.s. c 56: See note following RCW 28A.525.162.
Severability--1969 ex.s. c 244: See note following RCW 28A.525.160.

RCW 28A.525.178 Allotment of appropriations for school plant facilities--Modifiable basic or standard plans for school buildings.

Whenever in the judgment of the state board of education economies may be effected without impairing the usefulness and adequacy of school buildings, said board may prescribe rules and regulations and establish procedures governing the preparation and use of modifiable basic or standard plans for school building construction projects for which state assistance funds provided by RCW 28A.525.160 through 28A.525.182 are allotted.

[1990 c 33 § 462; 1974 ex.s. c 56 § 7; 1969 ex.s. c 244 § 10. Formerly RCW 28A.47.809, 28.47.809.]

Notes:

Severability--1974 ex.s. c 56: See note following RCW 28A.525.162.
Severability--1969 ex.s. c 244: See note following RCW 28A.525.160.

RCW 28A.525.180 Allotment of appropriations for school plant facilities--Appropriation to be reduced by amount of federal funds made available for school construction except to federally affected areas.

The total amount of funds appropriated under the provisions of RCW 28A.525.160 through 28A.525.182 shall be reduced by the amount of federal funds made available during each biennium for school construction purposes under any applicable federal law. The funds appropriated by RCW 28A.525.160 through 28A.525.182 and available for allotment by the state board of education shall be reduced by the amount of such federal funds made available. Notwithstanding the foregoing provisions of this section, the total amount of funds appropriated by RCW 28A.525.160 through 28A.525.182 shall not be reduced by reason of any grants to any school district of federal moneys paid under Public Law No. 815 or any other federal act authorizing school building construction assistance to federally affected areas.

[1990 c 33 § 463; 1974 ex.s. c 56 § 8; 1969 ex.s. c 244 § 11. Formerly RCW 28A.47.810, 28.47.810.]

Notes:

Severability--1974 ex.s. c 56: See note following RCW 28A.525.162.
Severability--1969 ex.s. c 244: See note following RCW 28A.525.160.

RCW 28A.525.182 Allotment of appropriations for school plant facilities--Permissible allocations.

In accordance with RCW 28A.525.162, the state board of education is authorized to allocate for the purposes of carrying out the provisions of RCW 28A.525.160 through 28A.525.180 the sum of forty-three million, two hundred thousand dollars: PROVIDED, That expenditures against such allocation shall not exceed the amount appropriated in RCW 28A.525.160.

[1990 c 33 § 464; 1969 ex.s. c 244 § 12. Formerly RCW 28A.47.811, 28.47.811.]

Notes:

Severability--1969 ex.s. c 244: See note following RCW 28A.525.160.

RCW 28A.525.190 Board limited when prioritizes construction.

The state board of education shall prioritize the construction of common school facilities only from funds appropriated and available in the common school construction fund.

[1975 1st ex.s. c 98 § 2. Formerly RCW 28A.47.820.]

Notes:

Effective date--1975 1st ex.s. c 98: See note following RCW 28A.525.166.

RCW 28A.525.200 Specific RCW sections enumerated governing allocation and distribution of funds for school plant facilities.

Notwithstanding any other provision of RCW 28A.525.010 through 28A.525.222, the allocation and distribution of funds by the state board of education which are now or may hereafter be appropriated for the purposes of providing assistance in the construction of school plant facilities shall be governed by RCW 28A.525.010 through 28A.525.080 and 28A.525.162 through 28A.525.178.

[1990 c 33 § 465; 1985 c 136 § 2; 1977 ex.s. c 227 § 1. Formerly RCW 28A.47.830.]

RCW 28A.525.210 1984 bond issue for construction, modernization of school plant facilities--Intent.

It is the intent of the legislature to authorize general obligation bonds of the state of Washington for common school plant facilities which provides for the reimbursement of the state treasury for principal and interest payments and which therefore is not subject to the limitations on indebtedness under RCW 39.42.060.

[1984 c 266 § 1. Formerly RCW 28A.47.840.]

Notes:

Severability--1984 c 266: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 266 § 8.]

RCW 28A.525.212 1984 bond issue for construction, modernization of school plant facilities--Authorized--Sale.

For the purpose of furnishing funds for state assistance to school districts in providing common school plant facilities and modernization of existing common school plant facilities, and to provide for the state administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of credit enhancement agreements, and other expenses incidental to the administration of capital projects, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of forty million one hundred seventy thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto.

Bonds authorized in this section may be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance or letters of credit and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal of or interest on the bonds with respect to which the same relate.

[1985 ex.s. c 3 § 1; 1984 c 266 § 2. Formerly RCW 28A.47.841.]

Notes:

Severability--1984 c 266: See note following RCW 28A.525.210.

RCW 28A.525.214 1984 bond issue for construction, modernization of school plant facilities--Proceeds deposited in common school construction fund--Use.

The proceeds from the sale of the bonds authorized in RCW 28A.525.212 shall be deposited in the common school construction fund and shall be used exclusively for the purposes specified in RCW 28A.525.212 and section 887, chapter 57, Laws of 1983 1st ex. sess. and for the payment of expenses incurred in the issuance and sale of the bonds.

[1990 c 33 § 466; 1984 c 266 § 3. Formerly RCW 28A.47.842.]

Notes:

Severability--1984 c 266: See note following RCW 28A.525.210.

RCW 28A.525.216 1984 bond issue for construction, modernization of school plant facilities--Proceeds--Administered by state board of education.

The proceeds from the sale of the bonds deposited under RCW 28A.525.214 in the common school construction fund shall be administered by the state board of education.

[1990 c 33 § 467; 1984 c 266 § 4. Formerly RCW 28A.47.843.]

Notes:

Severability--1984 c 266: See note following RCW 28A.525.210.

RCW 28A.525.218 1984 bond issue for construction, modernization of school plant facilities--State general obligation bond fund utilized for payment of principal and interest--Committee's and treasurer's duties--Form and condition of bonds.

The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized in RCW 28A.525.212. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund, or a special account in such fund, such amounts and at such times as are required by the bond proceedings. On each date on which any interest or principal and interest is due, the state treasurer shall cause an identical amount to be transferred to the general fund of the state treasury from that portion of the common school construction fund derived from the interest on the

permanent common school fund. The transfers from the common school construction fund shall be subject to all pledges, liens, and encumbrances heretofore granted or created on the portion of the fund derived from interest on the permanent common school fund. Any deficiency in such transfer shall be made up as soon as moneys are available for transfer and shall constitute a continuing obligation of that portion of the common school construction fund derived from the interest on the permanent common school fund until all deficiencies are fully paid.

Bonds issued under RCW 28A.525.212 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

[1990 c 33 § 468; 1985 ex.s. c 3 § 2; 1984 c 266 § 5. Formerly RCW 28A.47.844.]

Notes:

Severability--1984 c 266: See note following RCW 28A.525.210.

RCW 28A.525.220 1984 bond issue for construction, modernization of school plant facilities--Legislature may provide additional means for payment.

The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 28A.525.212 and 28A.525.218 shall not be deemed to provide an exclusive method for the payment.

[1990 c 33 § 469; 1984 c 266 § 6. Formerly RCW 28A.47.845.]

Notes:

Severability--1984 c 266: See note following RCW 28A.525.210.

RCW 28A.525.222 1984 bond issue for construction, modernization of school plant facilities--Bonds as legal investment for public funds.

The bonds authorized in RCW 28A.525.212 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body.

[1990 c 33 § 470; 1984 c 266 § 7. Formerly RCW 28A.47.846.]

Notes:

Severability--1984 c 266: See note following RCW 28A.525.210.

RCW 28A.525.230 Bonds authorized--Amount--As compensation for sale of timber--Sale, conditions.

For the purpose of furnishing funds for state assistance to school districts in providing for

the construction of common school plant facilities, the state finance committee is hereby authorized to issue general obligation bonds of the state of Washington in the sum of twenty-two million seven hundred thousand dollars or so much thereof as may be required to provide state assistance to local school districts for the construction of common school plant facilities and to compensate the common school construction fund for the sale of timber from common school, indemnity, and escheat trust lands sold to the parks and recreation commission prior to March 13, 1980, pursuant to RCW *43.51.270 and **43.51.280. The amount of bonds issued under RCW 28A.525.230 through 28A.525.300 shall not exceed the fair market value of the timber. No bonds authorized by RCW 28A.525.230 through 28A.525.300 shall be offered for sale without prior legislative appropriation and these bonds shall be paid and discharged in not more than thirty years of the date of issuance.

[1990 c 33 § 471; 1985 ex.s. c 4 § 12; 1980 c 141 § 1. Formerly RCW 28A.47B.010.]

Notes:

Reviser's note: *(1) RCW 43.51.270 was recodified as RCW 79A.05.210 pursuant to 1999 c 249 § 1601.
**(2) RCW 43.51.280 was repealed by 1995 c 211 § 6, effective July 1, 1995.
Severability--1985 ex.s. c 4: See RCW 43.99G.900.

RCW 28A.525.240 Bond anticipation notes--Authorized--Payment.

When the state finance committee has determined to issue the general obligation bonds or a portion thereof as authorized in RCW 28A.525.230 it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of the bonds, which notes shall be designated as "bond anticipation notes." Such portion of the proceeds of the sale of bonds as may be required for the payment of the principal of and redemption premium, if any, and interest on the notes shall be applied thereto when the bonds are issued.

[1990 c 33 § 472; 1980 c 141 § 2. Formerly RCW 28A.47B.020.]

RCW 28A.525.250 Form, terms, conditions, sale and covenants of bonds and notes.

The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds and the bond anticipation notes authorized by this chapter, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due.

[1980 c 141 § 3. Formerly RCW 28A.47B.030.]

RCW 28A.525.260 Disposition of proceeds from sale of bonds and notes--Use.

Except for that portion of the proceeds required to pay bond anticipation notes, the

proceeds from the sale of the bonds and bond anticipation notes authorized by RCW 28A.525.230 through 28A.525.300, and any interest earned on the proceeds, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the common school construction fund and shall be used exclusively for the purposes of carrying out RCW 28A.525.230 through 28A.525.300, and for payment of the expense incurred in the printing, issuance and sale of the bonds.

[1990 c 33 § 473; 1980 c 141 § 4. Formerly RCW 28A.47B.040.]

RCW 28A.525.270 State general obligation bond retirement fund utilized for payment of bond principal and interest--Procedure.

The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized by RCW 28A.525.230 through 28A.525.300.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amounts required in the next succeeding twelve months for the payment of the principal of and the interest coming due on the bonds and the dates on which the payments are due. The state treasurer, not less than thirty days prior to the date on which any interest or principal and interest payment is due, shall withdraw from any general state revenues or any other funds constitutionally available and received in the state treasury and deposit in the state general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

[1990 c 33 § 474; 1980 c 141 § 5. Formerly RCW 28A.47B.050.]

RCW 28A.525.280 Bonds as legal investment for public funds.

The bonds authorized by RCW 28A.525.230 through 28A.525.300 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

[1990 c 33 § 475; 1980 c 141 § 6. Formerly RCW 28A.47B.060.]

RCW 28A.525.290 Chapter provisions as limited by other statutes, covenants and proceedings.

No provisions of RCW 28A.525.230 through 28A.525.300 shall be deemed to repeal, override, or limit any provision of RCW 28A.525.120 through 28A.525.182, nor any provision or covenant of the proceedings of the state finance committee acting for and on behalf of the state of Washington heretofore or hereafter taken in the issuance of its revenue or general obligation bonds secured by a pledge of the interest earnings of the permanent common school fund under these statutes.

[1990 c 33 § 476; 1980 c 141 § 7. Formerly RCW 28A.47B.070.]

RCW 28A.525.300 Proceeds from sale of bonds as compensation for sale of timber from trust lands.

The proceeds received from the sale of the bonds issued under RCW 28A.525.230 through 28A.525.300 which are deposited in the common school construction fund and available for common school construction purposes shall serve as total compensation to the common school construction fund for the proceeds from the sale of timber from trust lands sold prior to March 13, 1980, to the state parks and recreation commission pursuant to RCW *43.51.270 and **43.51.280 which are required to be deposited in the common school construction fund. The superintendent of public instruction and the state board of education shall expend by June 30, 1981, the proceeds received from the bonds issued under RCW 28A.525.230 through 28A.525.300.

[1990 c 33 § 477; 1980 c 141 § 8. Formerly RCW 28A.47B.080.]

Notes:

Reviser's note: *(1) RCW 43.51.270 was recodified as RCW 79A.05.210 pursuant to 1999 c 249 § 1601. **(2) RCW 43.51.280 was repealed by 1995 c 211 § 6, effective July 1, 1995.

RCW 28A.525.310 Proceeds from voter-approved bonds, voter-approved levies, and other funding--Use for installment purchase contracts and leases with options to purchase.

The board of directors of any school district may use the proceeds of voter-approved bonds, voter-approved levies, state allocations for financial assistance, or other funds available to the district for: (1) Payment of an installment purchase contract for school plant facilities; or (2) payments under any financing lease the term of which is ten years or longer and that contains an option by the school district to purchase the leased property for nominal consideration. The authority granted by this section for the use of moneys from such sources is in addition to, and not in limitation of, any other authority provided by law, and the proceeds of voter-approved bonds or tax levies may be used for such payments to the full extent allowed by Article VII, section 2 of the state Constitution.

[1999 c 386 § 2.]

Chapter 28A.530 RCW
DISTRICT BONDS FOR LAND, BUILDINGS, AND EQUIPMENT

Sections

28A.530.010 Directors may borrow money, issue bonds.
28A.530.020 Bond issuance--Election--Resolution to specify purposes.
28A.530.030 Disposition of bond proceeds--Capital projects fund.
28A.530.040 Refunding former issues without vote of the people.
28A.530.050 Holder to notify treasurer--Redemption.
28A.530.060 Expense of county treasurer.
28A.530.070 Exchange of warrants for bonds.

28A.530.080 Additional authority to contract indebtedness.

RCW 28A.530.010 Directors may borrow money, issue bonds.

The board of directors of any school district may borrow money and issue negotiable bonds therefor for the purpose of:

(1) Funding outstanding indebtedness or bonds theretofore issued; or

(2) For the purchase of sites for all buildings, playgrounds, physical education and athletic facilities and structures authorized by law or necessary or proper to carry out the functions of a school district; or

(3) For erecting all buildings authorized by law, including but not limited to those mentioned in subsection (2) of this section immediately above or necessary or proper to carry out the functions of a school district, and providing the necessary furniture, apparatus, or equipment therefor; or

(4) For improving the energy efficiency of school district buildings and/or installing systems and components to utilize renewable and/or inexhaustible energy resources; or

(5) For major and minor structural changes and structural additions to buildings, structures, facilities and sites necessary or proper to carrying out the functions of the school district; or

(6) For payment of (a) an installment purchase contract for school plant facilities or (b) a financing lease the term of which is ten years or longer and that contains an option by the school district to purchase the leased property for nominal consideration, but only to the extent such payment constitutes a capital expenditure; or

(7) For any or all of these and other capital purposes.

Neither the amount of money borrowed nor bonds issued therefor shall exceed the limitation of indebtedness prescribed by chapter 39.36 RCW, as now or hereafter amended.

Except for bonds issued under RCW 28A.530.080, bonds may be issued only when authorized by the vote of the qualified electors of the district as provided by law.

The bonds shall be issued and sold in accordance with chapter 39.46 RCW.

[1999 c 386 § 3; 1991 c 114 § 3; 1984 c 186 § 10; 1983 c 167 § 21; 1980 c 170 § 1; 1970 ex.s. c 42 § 7; 1969 c 142 § 2; 1969 ex.s. c 223 § 28A.51.010. Prior: 1953 c 163 § 1; 1927 c 99 § 1; 1921 c 147 § 1; 1919 c 90 § 12; 1909 c 97 p 324 § 1; RRS § 4941; prior: 1907 c 240 § 7 1/2; 1907 c 101 § 1; 1903 c 153 § 1; 1897 c 118 § 117; 1890 p 45 § 1. Formerly RCW 28A.51.010, 28.51.010, 28.51.050, part.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Severability--Effective date--1970 ex.s. c 42: See notes following RCW 39.36.015.

Validation--1969 c 142: See RCW 39.36.900.

School funds enumerated--Deposits--Uses--Energy audits: RCW 28A.320.330.

RCW 28A.530.020 Bond issuance--Election--Resolution to specify purposes.

(1) The question whether the bonds shall be issued, as provided in RCW 28A.530.010, shall be determined at an election to be held pursuant to RCW 39.36.050. If a majority of the votes cast at such election favor the issuance of such bonds, the board of directors must issue such bonds: PROVIDED, That if the amount of bonds to be issued, together with any outstanding indebtedness of the district that only needs a simple majority voter approval, exceeds three-eighths of one percent of the value of the taxable property in said district, as the term "value of the taxable property" is defined in RCW 39.36.015, then three-fifths of the votes cast at such election must be in favor of the issuance of such bonds, before the board of directors is authorized to issue said bonds.

(2) The resolution adopted by the board of directors calling the election in subsection (1) of this section shall specify the purposes of the debt financing measure, including the specific buildings to be constructed or remodeled and any additional specific purposes as authorized by RCW 28A.530.010. If the debt financing measure anticipates the receipt of state financing assistance under chapter 28A.525 RCW, the board resolution also shall describe the specific anticipated purpose of the state assistance. If the school board subsequently determines that state or local circumstances should cause any alteration to the specific expenditures from the debt financing or of the state assistance, the board shall first conduct a public hearing to consider those circumstances and to receive public testimony. If the board then determines that any such alterations are in the best interests of the district, it may adopt a new resolution or amend the original resolution at a public meeting held subsequent to the meeting at which public testimony was received.

[1996 c 48 § 1; 1990 c 33 § 478; 1984 c 186 § 11; 1970 ex.s. c 42 § 9; 1969 ex.s. c 223 § 28A.51.020. Prior: 1909 c 97 p 324 § 2; RRS § 4942; prior: 1897 c 118 § 118; 1890 p 46 § 2. Formerly RCW 28A.51.020, 28.51.020, 28.51.050, part.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Severability--Effective date--1970 ex.s. c 42: See notes following RCW 39.36.015.

RCW 28A.530.030 Disposition of bond proceeds--Capital projects fund.

When the bonds have been sold, the county treasurer shall place the money derived from such sale to the credit of the capital projects fund of the district, and such fund is hereby created.

[1984 c 186 § 12; 1983 c 167 § 24; 1979 ex.s. c 257 § 1; 1969 ex.s. c 223 § 28A.51.070. Prior: 1911 c 88 § 1; 1909 c 97 p 326 § 4; RRS § 4944; prior: 1907 c 240 § 9; 1905 c 142 § 7; 1897 c 118 § 120; 1890 p 47 § 4. Formerly RCW 28A.51.070, 28.51.070, 28.51.080, 28.51.090, 28.51.100, and 28.51.110.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Severability--1979 ex.s. c 257: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 257 § 3.]

RCW 28A.530.040 Refunding former issues without vote of the people.

Whenever any bonds lawfully issued by any school district under the provisions of this chapter shall reach maturity and shall remain unpaid, or may be paid under any option provided in the bonds, the board of directors thereof shall have the power without any vote of the school district to fund the same by issuing bonds conformable to the requirements of this chapter and use the proceeds exclusively for the purpose of retiring and canceling such outstanding bonds as aforesaid, or the said directors in their discretion may exchange such refunding bonds par for par for such outstanding bonds.

[1984 c 186 § 13; 1983 c 167 § 25; 1969 ex.s. c 223 § 28A.51.180. Prior: 1969 ex.s. c 232 § 66; 1945 c 32 § 1; 1909 c 97 p 329 § 12; Rem. Supp. 1945 § 4952; prior: 1897 c 118 § 124, part; 1890 p 48 § 8, part. Formerly RCW 28A.51.180, 28.51.180.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 28A.530.050 Holder to notify treasurer--Redemption.

Every holder of any of the bonds so issued as a bearer bond as provided in this chapter, within ten days after the owner becomes the owner or holder thereof, shall notify the county treasurer of the county in which such bonds are issued of his or her ownership, together with his or her full name and post office address, and the county treasurer of said county shall deposit in the post office, properly stamped and addressed to each owner of any such bonds subject to redemption or payment, a notice in like form, stating the time and place of the redemption of such bonds and the number of the bonds to be redeemed, and in case any owners of bonds shall fail to notify the treasurer of their ownership as aforesaid, then a notice mailed to the last holder of such bonds shall be deemed sufficient, and any and all such notices so mailed as aforesaid shall be deemed to be personal notice to the holders of such bonds, and at the expiration of the time therein named shall have the force to suspend the interest upon any such bonds.

[1990 c 33 § 479; 1983 c 167 § 26; 1969 ex.s. c 223 § 28A.51.190. Prior: 1909 c 97 p 330 § 13; RRS § 4953; prior: 1897 c 118 § 125; 1890 p 49 § 9. Formerly RCW 28A.51.190, 28.51.190.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 28A.530.060 Expense of county treasurer.

At any time after the issuance of such bonds as in this chapter provided, and in the discharge of the duties imposed upon said county treasurer, should any incidental expense, costs or charges arise, the said county treasurer shall present his or her claim for the same to the board of directors of the school district issuing such bonds, and the same shall be audited and paid in the same manner as other services are paid under the provisions of law.

[1990 c 33 § 480; 1969 ex.s. c 223 § 28A.51.200. Prior: 1909 c 97 p 330 § 14; RRS § 4954; prior: 1897 c 118 § 126; 1890 p 50 § 10. Formerly RCW 28A.51.200, 28.51.200.]

RCW 28A.530.070 Exchange of warrants for bonds.

If bonds issued under this chapter are not sold as in this chapter provided, the owners of unpaid warrants drawn on the county treasurer by such district for an indebtedness existing at the date of the election may exchange said warrants at the face value thereof and accrued interest thereon for bonds issued under this chapter, at not less than par value and accrued interest of such bonds at the time of the exchange; such exchange to be made under such regulations as may be provided by the board of directors of such district.

[1983 c 167 § 27; 1969 ex.s. c 223 § 28A.51.220. Prior: 1909 c 97 p 327 § 5; RRS § 4945. Formerly RCW 28A.51.220, 28.51.220.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 28A.530.080 Additional authority to contract indebtedness.

In addition to the authority granted under RCW 28A.530.010, a school district may contract indebtedness for any purpose specified in RCW 28A.530.010 (2), (4), and (5) or for the purpose of purchasing any real or personal property, or property rights, in connection with the exercise of any powers or duties which it is now or hereafter authorized to exercise, and issue bonds, notes, or other evidences of indebtedness therefor without a vote of the qualified electors of the district, subject to the limitations on indebtedness set forth in RCW 39.36.020(3). Such bonds, notes, or other evidences of indebtedness shall be issued and sold in accordance with chapter 39.46 RCW, and the proceeds thereof shall be deposited in the capital projects fund, the transportation vehicle fund, or the general fund, as applicable.

[1999 c 314 § 2; 1991 c 114 § 1.]

Notes:

Findings--Intent--1999 c 314: "The legislature finds that current law authorizes school districts to use nonvoter-approved debt to acquire real or personal property but not to construct or repair school district property. It is the intent of the legislature to authorize school districts to use nonvoter-approved debt, within existing debt limits, to finance the acquisition, remodel, and repair of school facilities." [1999 c 314 § 1.]

Chapter 28A.535 RCW
VALIDATING INDEBTEDNESS

Sections

28A.535.010 Authority to validate indebtedness.
28A.535.020 Resolution providing for election--Vote required to validate.
28A.535.030 Notice of election.
28A.535.040 Manner and result of election.
28A.535.050 Authority to borrow, issue bonds.
28A.535.060 Exchange of warrants for bonds.
28A.535.070 Notice to county treasurer of authority to issue bonds--Annual levy for payment of interest and principal on bonds--Penalty against officer for expenditures in excess of revenues.

28A.535.080 Validating indebtedness proceedings after merger.

RCW 28A.535.010 Authority to validate indebtedness.

Any school district may validate and ratify the indebtedness of such school district, incurred for strictly school purposes, when the same together with all then outstanding legal indebtedness does not exceed that amount permitted for school districts in RCW 39.36.020 (1) and (3). The value of taxable property in such school district shall be ascertained as provided in Article eight, section six, Amendment 27, of the Constitution of the state of Washington.

[1969 ex.s. c 223 § 28A.52.010. Prior: 1909 c 97 p 331 § 1; RRS § 4956; prior: 1897 c 118 § 128; 1895 c 21 § 1. Formerly RCW 28A.52.010, 28.52.010.]

Notes:

Reviser's note: The above reference to RCW 39.36.020 (1) and (3) was apparently based upon the 1967 version of that section [1967 c 107 § 4]; the contents and organization of that section have been altered by subsequent amendments.

RCW 28A.535.020 Resolution providing for election--Vote required to validate.

Whenever the board of directors of any school district shall deem it advisable to validate and ratify the indebtedness mentioned in RCW 28A.535.010, they shall provide therefor by resolution, which shall be entered on the records of such school district, which resolution shall provide for the holding of an election for the purpose of submitting the question of validating and ratifying the indebtedness so incurred to the voters of such school district for approval or disapproval, and if at such election three-fifths of the voters in such school district voting at such election shall vote in favor of the validation and ratification of such indebtedness, then such indebtedness so validated and ratified and every part thereof existing at the time of the adoption of said resolution shall thereby become and is hereby declared to be validated and ratified and a binding obligation upon such school district.

[1996 c 48 § 2; 1995 c 111 § 1; 1990 c 33 § 481; 1969 ex.s. c 223 § 28A.52.020. Prior: 1909 c 97 p 331 § 2; RRS § 4957; prior: 1897 c 118 § 129; 1895 c 21 § 2. Formerly RCW 28A.52.020, 28.52.020.]

RCW 28A.535.030 Notice of election.

At the time of the adoption of the resolution provided for in RCW 28A.535.020, the board of directors shall direct the school district superintendent to give notice to the county auditor of the suggested time and purpose of such election, and specifying the amount and general character of the indebtedness proposed to be ratified. Such superintendent shall also cause written or printed notices to be posted in at least five places in such school district at least twenty days before such election. In addition to his or her other duties relating thereto, the county auditor shall give notice of such election as provided for in RCW 29.27.080.

[1990 c 33 § 482; 1969 ex.s. c 223 § 28A.52.030. Prior: 1909 c 97 p 332 § 3; RRS § 4958; prior: 1897 c 118 § 131; 1895 c 21 § 4. Formerly RCW 28A.52.030, 28.52.030.]

RCW 28A.535.040 Manner and result of election.

Elections hereunder shall be by ballot, and conducted in the manner provided for conducting annual school elections. The ballot must contain the words, "Validating and ratifying indebtedness, yes," or the words, "Validating and ratifying indebtedness, no." Ballots containing the words, "Validating and ratifying indebtedness, yes," shall be counted in favor of validating and ratifying such indebtedness, and ballots containing the words, "Validating and ratifying indebtedness, no," shall be counted against validating and ratifying such indebtedness. At their next meeting following ascertainment of the result of the election from the county auditor, the board of directors of any such district holding such an election shall cause to be entered a minute thereof on the records of such district. The qualifications of voters at such election shall be the same as prescribed for the election of school officials.

[1969 ex.s. c 223 § 28A.52.040. Prior: 1909 c 97 p 332 § 4; RRS § 4959; prior: 1897 c 118 § 130; 1895 c 21 § 3. Formerly RCW 28A.52.040, 28.52.040.]

Notes:
Conduct of elections, canvass: RCW 29.13.040.

RCW 28A.535.050 Authority to borrow, issue bonds.

If the indebtedness of such school district is validated and ratified, as provided in this chapter, by three-fifths of the voters voting at such election, the board of directors of such school district, without any further vote, may borrow money and issue and sell negotiable bonds therefor in accordance with chapter 39.46 RCW.

[1984 c 186 § 14; 1983 c 167 § 28; 1975 c 43 § 2; 1969 ex.s. c 223 § 28A.52.050. Prior: 1909 c 97 p 333 § 5; RRS § 4960; prior: 1897 c 118 § 132; 1895 c 21 § 5. Formerly RCW 28A.52.050, 28.52.050.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Effective date--1975 c 43: "The effective date of this amendatory act shall be July 1, 1975." [1975 c 43 § 37.]

Severability--1975 c 43: "If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 c 43 § 38.]

RCW 28A.535.060 Exchange of warrants for bonds.

If bonds issued under this chapter are not sold as herein provided, the owners of unpaid warrants drawn on the county treasurer by such district for an indebtedness existing at the time of the adoption of the resolution mentioned in RCW 28A.535.020, may exchange said warrants at the face value thereof and accrued interest thereon for bonds issued under this chapter, at not less than par value and accrued interest of such bonds at the time of the exchange; such exchange to be made under such regulations as may be provided by the board of directors of such district.

[1990 c 33 § 483; 1983 c 167 § 30; 1969 ex.s. c 223 § 28A.52.060. Prior: 1909 c 97 p 334 § 7; RRS § 4962; prior: 1897 c 118 § 134; 1895 c 21 § 7. Formerly RCW 28A.52.060, 28.52.060.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 28A.535.070 Notice to county treasurer of authority to issue bonds--Annual levy for payment of interest and principal on bonds--Penalty against officer for expenditures in excess of revenues.

When authorized to issue bonds, as provided in this chapter the board of directors shall immediately cause to be sent to the appropriate county treasurer, notice thereof. The county officials charged by law with the duty of levying taxes for the payment of said bonds and interest shall do so as provided in RCW 39.46.110.

The annual expense of such district shall not thereafter exceed the annual revenue thereof, and any officer of such district who shall knowingly aid in increasing the annual expenditure in excess of the annual revenue of such district, in addition to any other penalties, whether civil or criminal, as provided by law, shall be deemed to be guilty of a misdemeanor, and shall be punished by a fine not exceeding five hundred dollars.

[1985 c 7 § 90; 1969 ex.s. c 223 § 28A.52.070. Prior: 1909 c 97 p 335 § 8; RRS § 4963; prior: 1897 c 118 § 135; 1895 c 21 § 8. Formerly RCW 28A.52.070, 28.52.070.]

RCW 28A.535.080 Validating indebtedness proceedings after merger.

In case any school district has heretofore incurred, or shall hereafter incur, indebtedness for strictly school purposes and has heretofore, or shall hereafter, become merged with another district as provided in *RCW 28A.315.010 through 28A.315.680 and 28A.315.900, the directors of the last named district may, after such merger, cause to be submitted to the voters within the limits of the district which incurred the obligations, the question of validating and ratifying such indebtedness. The vote shall be taken and the question determined in the manner prescribed in RCW 28A.535.020, 28A.535.030, and 28A.535.040. The directors of the district to which the district incurring the obligations was merged shall make provisions for payment of the indebtedness so validated by certifying the amount thereof in the manner prescribed in RCW 28A.535.070: PROVIDED, Such enlarged district may pay a part, or all, of such validating indebtedness from any funds available or by issuing bonds therefor when such enlarged district has taken over property of any district and in making such adjustment and apportionment as provided in *RCW 28A.315.010 through 28A.315.680 and 28A.315.900, the value of the property received shall be found to exceed the total indebtedness of the district annexed to the extent of such value over the total indebtedness of the district annexed.

[1990 c 33 § 484; 1969 ex.s. c 223 § 28A.52.080. Prior: 1913 c 136 § 1; RRS § 4964. Formerly RCW 28A.52.080, 28.52.080.]

Notes:

***Reviser's note:** RCW 28A.315.010 through 28A.315.680 and 28A.315.900 were repealed or recodified

by 1999 c 315.

Chapter 28A.540 RCW
CAPITAL FUND AID BY NONHIGH SCHOOL DISTRICTS

Sections

28A.540.010 High school facilities defined.
28A.540.020 Plan for nonhigh district to provide capital funds in aid of high school district.
28A.540.030 Factors to be considered in preparation of plan.
28A.540.040 Public hearing--Notice.
28A.540.050 Review by state board--Approval--Revised plan.
28A.540.060 Bond, excess levy, elections--Use of proceeds.
28A.540.070 Rejection by voters of nonhigh districts--Additional elections--Revised plan--Annexation proposal.
28A.540.080 Failure of nonhigh districts to submit proposal to vote within time limits--Annexation procedure.
28A.540.090 Nonhigh districts, time of levy and issuance of bonds.
28A.540.100 Validation of proceedings under 1955 act, when.
28A.540.110 Designation of high school district nonhigh district students shall attend--Effect when attendance otherwise.

RCW 28A.540.010 High school facilities defined.

High school facilities shall mean buildings for occupancy by grades nine through twelve and equipment and furniture for such buildings and shall include major alteration or major remodeling of buildings and the acquisition of new sites and of additions to existing sites, and improvement of sites but only when included as a part of a general plan for the construction, equipping and furnishing of a building or of an alteration or addition to a building. The term shall also (1) include that portion of any building, alteration, equipment, furniture, site and improvement of site allocated to grade nine when included in a plan for facilities to be occupied by grades seven through nine and (2) includes such facilities for grades seven and eight when included in a plan as aforesaid, if the regional committee on school district organization finds that students of these grades who reside in any nonhigh school districts involved are now attending school in the high school district involved under an arrangement which likely will be continued.

[1985 c 385 § 31; 1969 ex.s. c 223 § 28A.56.005. Prior: 1959 c 262 § 2. Formerly RCW 28A.56.005, 28.56.005.]

Notes:

Severability--1985 c 385: See note following RCW 28A.315.025.

RCW 28A.540.020 Plan for nonhigh district to provide capital funds in aid of high school district.

Upon receipt of a written request from the board of directors of a high school district or a nonhigh school district that presents to the regional committee on school district organization

satisfactory evidence of a need for high school facilities to be located therein and of ability to provide such facilities, the regional committee shall prepare a plan for participation by any nonhigh school district or districts in providing capital funds to pay the costs of such school facilities and equipment to be provided for the education of students residing in the school districts. Prior to submission of the aforesaid request the board of directors of the school district concerned therewith shall determine the nature and extent of the high school facilities proposed to be provided, the approximate amount of local capital funds required to pay the cost thereof, and the site or sites upon which the proposed facilities are to be located, and shall submit a report thereon to the regional committee along with the aforesaid request.

[1985 c 385 § 32; 1969 ex.s. c 223 § 28A.56.010. Prior: 1959 c 262 § 1; 1955 c 344 § 1; 1953 c 229 § 1. Formerly RCW 28A.56.010, 28.56.010.]

Notes:

Severability--1985 c 385: See note following RCW 28A.315.025.

RCW 28A.540.030 Factors to be considered in preparation of plan.

The regional committee on school district organization shall give consideration to:

(1) The report submitted by the board of directors as stated above;

(2) The exclusion from the plan of nonhigh school districts because of remoteness or isolation or because they are so situated with respect to location, present and/or clearly foreseeable future population, and other pertinent factors as to warrant the establishment of a high school therein within a period of two years or the inclusion of their territory in some other nonhigh school district within which the establishment of a high school within a period of two years is warranted;

(3) The assessed valuation of the school districts involved;

(4) The cash balance, if any, in the capital projects fund of the district submitting the request which is designated for high school building construction purposes, together with the sources of such balance; and

(5) Any other factors found by the committee to have a bearing on the preparation of an equitable plan.

[1985 c 385 § 33; 1985 c 7 § 91; 1969 ex.s. c 223 § 28A.56.020. Prior: 1959 c 262 § 3; 1955 c 344 § 2; 1953 c 229 § 2. Formerly RCW 28A.56.020, 28.56.020.]

Notes:

Severability--1985 c 385: See note following RCW 28A.315.025.

RCW 28A.540.040 Public hearing--Notice.

The regional committee on school district organization shall also hold a public hearing or hearings on any proposed plan: PROVIDED, That three members of the committee or two members of the committee and the educational service district superintendent, or his or her designee, may be designated by the committee to hold such public hearing or hearings and to

submit a report thereof to the regional committee. The regional committee shall cause to be posted, at least ten days prior to the date appointed for any such hearing, a written or printed notice thereof in at least three prominent and public places in the school districts involved and at the place of hearing.

[1985 c 385 § 34; 1975 1st ex.s. c 275 § 74; 1971 c 48 § 21; 1969 ex.s. c 223 § 28A.56.030. Prior: 1959 c 262 § 4; 1955 c 344 § 3; 1953 c 229 § 3. Formerly RCW 28A.56.030, 28.56.030.]

Notes:

Severability--1985 c 385: See note following RCW 28A.315.025.
Severability--1971 c 48: See note following RCW 28A.305.040.

RCW 28A.540.050 Review by state board--Approval--Revised plan.

Subsequent to the holding of a hearing or hearings as provided in RCW 28A.540.040, the regional committee on school district organization shall determine the nonhigh school districts to be included in the plan and the amount of capital funds to be provided by every school district included therein, and shall submit the proposed plan to the state board of education together with such maps and other materials pertaining thereto as the state board may require. The state board shall review such plan, shall approve any plan which in its judgment makes adequate and satisfactory provision for participation by the nonhigh school districts in providing capital funds to be used for the purpose above stated, and shall notify the regional committee of such action. Upon receipt by the regional committee of such notification, the educational service district superintendent, or his or her designee, shall notify the board of directors of each school district included in the plan, supplying each board with complete details of the plan and shall state the total amount of funds to be provided and the amount to be provided by each district.

If any such plan submitted by a regional committee is not approved by the state board, the regional committee shall be so notified, which notification shall contain a statement of reasons therefor and suggestions for revision. Within sixty days thereafter the regional committee shall submit to the state board a revised plan which revision shall be subject to approval or disapproval by the state board and the procedural requirements and provisions of law applicable to an original plan submitted to said board.

[1990 c 33 § 485; 1985 c 385 § 35; 1975 1st ex.s. c 275 § 75; 1971 c 48 § 22; 1969 ex.s. c 223 § 28A.56.040. Prior: 1959 c 262 § 5; 1955 c 344 § 4; 1953 c 229 § 4. Formerly RCW 28A.56.040, 28.56.040.]

Notes:

Severability--1985 c 385: See note following RCW 28A.315.025.
Severability--1971 c 48: See note following RCW 28A.305.040.

RCW 28A.540.060 Bond, excess levy, elections--Use of proceeds.

Within sixty days after receipt of the notice of approval from the educational service district superintendent, the board of directors of each school district included in the plan shall submit to the voters thereof a proposal or proposals for providing, through the issuance of bonds

and/or the authorization of an excess tax levy, the amount of capital funds that the district is required to provide under the plan. The proceeds of any such bond issue and/or excess tax levy shall be credited to the capital projects fund of the school district in which the proposed high school facilities are to be located and shall be expended to pay the cost of high school facilities for the education of such students residing in the school districts as are included in the plan and not otherwise.

[1985 c 7 § 92; 1975 1st ex.s. c 275 § 76; 1971 c 48 § 23; 1969 ex.s. c 223 § 28A.56.050. Prior: 1959 c 262 § 6; 1955 c 344 § 5; 1953 c 229 § 5. Formerly RCW 28A.56.050, 28.56.050.]

Notes:

Severability--1971 c 48: See note following RCW 28A.305.040.

RCW 28A.540.070 Rejection by voters of nonhigh districts--Additional elections--Revised plan--Annexation proposal.

In the event that a proposal or proposals for providing capital funds as provided in RCW 28A.540.060 is not approved by the voters of a nonhigh school district a second election thereon shall be held within sixty days thereafter. If the vote of the electors of the nonhigh school district is again in the negative, the high school students residing therein shall not be entitled to admission to the high school under the provisions of RCW 28A.225.210, following the close of the school year during which the second election is held: PROVIDED, That in any such case the regional committee on school district organization shall determine within thirty days after the date of the aforesaid election the advisability of initiating a proposal for annexation of such nonhigh school district to the school district in which the proposed facilities are to be located or to some other district where its students can attend high school without undue inconvenience: PROVIDED FURTHER, That pending such determination by the regional committee and action thereon as required by law the board of directors of the high school district shall continue to admit high school students residing in the nonhigh school district. Any proposal for annexation of a nonhigh school district initiated by a regional committee shall be subject to the procedural requirements of this chapter respecting a public hearing and submission to and approval by the state board of education. Upon approval by the state board of any such proposal, the educational service district superintendent shall make an order, establishing the annexation.

[1990 c 33 § 486; 1985 c 385 § 36; 1975 1st ex.s. c 275 § 77; 1971 c 48 § 24; 1969 ex.s. c 223 § 28A.56.060. Prior: 1959 c 262 § 7; 1955 c 344 § 6; 1953 c 229 § 6. Formerly RCW 28A.56.060, 28.56.060.]

Notes:

Severability--1985 c 385: See note following RCW 28A.315.025.
Severability--1971 c 48: See note following RCW 28A.305.040.

RCW 28A.540.080 Failure of nonhigh districts to submit proposal to vote within time limits--Annexation procedure.

In case of failure or refusal by a board of directors of a nonhigh school district to submit

a proposal or proposals to a vote of the electors within the time limit specified in RCW 28A.540.060 and 28A.540.070, the regional committee on school district reorganization may initiate a proposal for annexation of such nonhigh school district as provided for in RCW 28A.540.070.

[1990 c 33 § 487; 1985 c 385 § 37; 1969 ex.s. c 223 § 28A.56.070. Prior: 1959 c 262 § 8; 1955 c 344 § 7; 1953 c 229 § 7. Formerly RCW 28A.56.070, 28.56.070.]

Notes:

Severability--1985 c 385: See note following RCW 28A.315.025.

RCW 28A.540.090 Nonhigh districts, time of levy and issuance of bonds.

If the voters of a nonhigh school district approve an excess tax levy, the levy shall be made at the earliest time permitted by law. If the voters of a nonhigh school district approve the issuance of bonds, the board of directors of the nonhigh school district shall issue and sell said bonds within ninety days after receiving a copy of a resolution of the board of directors of the high school district that the high school district is ready to proceed with the construction of the high school facilities provided for in the plan and requesting the sale of the bonds.

[1969 ex.s. c 223 § 28A.56.075. Prior: 1959 c 262 § 9. Formerly RCW 28A.56.075, 28.56.075.]

RCW 28A.540.100 Validation of proceedings under 1955 act, when.

All proceedings had and taken under chapter 344, Laws of 1955, shall be valid and binding although not in compliance with that act if said proceedings comply with the requirements of this chapter.

[1969 ex.s. c 223 § 28A.56.170. Prior: 1959 c 262 § 11. Formerly RCW 28A.56.170, 28.56.170.]

RCW 28A.540.110 Designation of high school district nonhigh district students shall attend--Effect when attendance otherwise.

(1) In cases where high school students resident in a nonhigh school district are to be educated in a high school district, the board of directors of the nonhigh school district shall, by mutual agreement with the serving district(s), designate the serving high school district or districts which its high school students shall attend. A nonhigh school district shall designate a district as a serving high school district when more than thirty-three and one-third percent of the high school students residing within the boundaries of the nonhigh school district are enrolled in the serving district.

(2) Students residing in a nonhigh school district shall be allowed to attend a high school other than in the designated serving district referred to in subsection (1) of this section, however the nonhigh school board of directors shall not be required to contribute to building programs in any such high school district. Contribution shall be made only to those districts which are designated as serving high school districts at the time the county auditor is requested by the high

school district to place a measure on the ballot regarding a proposal or proposals for the issuance of bonds or the authorization of an excess tax levy to provide capital funds for building programs. The nonhigh school district shall be subject to the capital fund aid provisions contained in this chapter with respect to the designated high school serving district(s).

[1989 c 321 § 4; 1981 c 239 § 1. Formerly RCW 28A.56.200.]

Chapter 28A.545 RCW
PAYMENT TO HIGH SCHOOL DISTRICTS

Sections

28A.545.010 School district divisions--High and nonhigh.
28A.545.020 Reimbursement not a tuition charge.
28A.545.030 Purposes.
28A.545.040 "Student residing in a nonhigh school district" defined.
28A.545.050 Amounts due from nonhigh districts.
28A.545.060 Enrollment data for computation of amounts due.
28A.545.070 Superintendent's annual determination of estimated amount due--Process.
28A.545.080 Estimated amount due paid in May and November installments.
28A.545.090 Assessing nonhigh school lesser amount--Notice of.
28A.545.100 Amount due reflects cost of education and transportation of students.
28A.545.110 Rules to effect purposes and implement provisions.

Notes:
Exemptions: State Constitution Art. 7 § 1 (Amendment 14).

RCW 28A.545.010 School district divisions--High and nonhigh.

For the purposes of this chapter all school districts in the state of Washington shall be and the same are hereby divided into two divisions to be known and designated respectively as high school districts and nonhigh school districts.

[1983 c 3 § 31; 1969 ex.s. c 223 § 28A.44.045. Prior: 1917 c 21 § 1; RRS § 4710. Formerly RCW 28A.44.045, 28.44.045, 28.01.040, part.]

RCW 28A.545.020 Reimbursement not a tuition charge.

The reimbursement of a high school district for cost of educating high school pupils for a nonhigh school district, as provided for in this chapter, shall not be deemed a tuition charge as affecting the apportionment of current state school funds.

[1983 c 3 § 32; 1969 ex.s. c 223 § 28A.44.095. Prior: 1917 c 21 § 11; RRS § 4720. Formerly RCW 28A.44.095, 28.44.095.]

RCW 28A.545.030 Purposes.

The purposes of RCW 28A.545.030 through 28A.545.110 and 84.52.0531 are to:

(1) Simplify the annual process of determining and paying the amounts due by nonhigh school districts to high school districts for educating students residing in a nonhigh school district;

(2) Provide for a payment schedule that coincides to the extent practicable with the ability of nonhigh school districts to pay and the need of high school districts for payment; and

(3) Establish that the maximum amount due per annual average full-time equivalent student by a nonhigh school district for each school year is no greater than the maintenance and operation excess tax levy rate per annual average full-time equivalent student levied upon the taxpayers of the high school district.

[1990 c 33 § 488; 1981 c 264 § 1. Formerly RCW 28A.44.150.]

Notes:

Severability--1981 c 264: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 264 § 13.]

RCW 28A.545.040 "Student residing in a nonhigh school district" defined.

The term "student residing in a nonhigh school district" and its equivalent as used in RCW 28A.545.030 through 28A.545.110 and 84.52.0531 shall mean any common school age person with or without disabilities who resides within the boundaries of a nonhigh school district that does not conduct the particular kindergarten through grade twelve grade which the person has not yet successfully completed and is eligible to enroll in.

[1995 c 77 § 25; 1990 c 33 § 489; 1981 c 264 § 2. Formerly RCW 28A.44.160.]

Notes:

Severability--1981 c 264: See note following RCW 28A.545.030.

RCW 28A.545.050 Amounts due from nonhigh districts.

Each year at such time as the superintendent of public instruction determines and certifies such maximum allowable amounts of school district levies under RCW 84.52.0531 he or she shall also:

(1) Determine the extent to which the estimated amounts due by nonhigh school districts for the previous school year exceeded or fell short of the actual amounts due; and

(2) Determine the estimated amounts due by nonhigh school districts for the current school year and increase or decrease the same to the extent of overpayments or underpayments for the previous school year.

[1985 c 341 § 11; 1981 c 264 § 3. Formerly RCW 28A.44.170.]

Notes:

Severability--1981 c 264: See note following RCW 28A.545.030.

RCW 28A.545.060 Enrollment data for computation of amounts due.

The student enrollment data necessary for the computation of the annual amounts due by nonhigh school districts pursuant to RCW 28A.545.030 through 28A.545.110 and 84.52.0531 shall be established as follows:

(1) On or before July tenth preceding the school year, or such other date as may be established by the superintendent of public instruction, each high school district superintendent shall certify to the superintendent of public instruction:

(a) The estimated number of students residing in a nonhigh school district that will be enrolled in the high school district during the school year which estimate has been mutually agreed upon by the high school district superintendent and the superintendent of each nonhigh school district in which one or more of such students resides;

(b) The total estimated number of kindergarten through twelfth grade annual average full-time equivalent students, inclusive of nonresident students, that will be enrolled in the high school district during the school year;

(c) The actual number of annual average full-time equivalent students provided for in subsections (1)(a) and (b) of this section that were enrolled in the high school district during the regular school term just completed; and

(d) The name, address, and the school district and county of residence of each student residing in a nonhigh school district reported pursuant to this subsection (1), to the extent the same can reasonably be established.

(2) In the event the superintendents of a high school district and a nonhigh school district are unable to reach agreement respecting the estimated number of annual average full-time equivalent students residing in the nonhigh school district that will be enrolled in the high school district during the school year, the estimate shall be established by the superintendent of public instruction.

[1990 c 33 § 490; 1981 c 264 § 4. Formerly RCW 28A.44.180.]

Notes:

Severability--1981 c 264: See note following RCW 28A.545.030.

RCW 28A.545.070 Superintendent's annual determination of estimated amount due--Process.

(1) The superintendent of public instruction shall annually determine the estimated amount due by a nonhigh school district to a high school district for the school year as follows:

(a) The total of the high school district's maintenance and operation excess tax levy that has been authorized and determined by the superintendent of public instruction to be allowable pursuant to RCW 84.52.0531, as now or hereafter amended, for collection during the next calendar year, shall first be divided by the total estimated number of annual average full-time equivalent students which the high school district superintendent or the superintendent of public

instruction has certified pursuant to RCW 28A.545.060 will be enrolled in the high school district during the school year;

(b) The result of the calculation provided for in subsection (1)(a) of this section shall then be multiplied by the estimated number of annual average full-time equivalent students residing in the nonhigh school district that will be enrolled in the high school district during the school year which has been established pursuant to RCW 28A.545.060; and

(c) The result of the calculation provided for in subsection (1)(b) of this section shall be adjusted upward to the extent the estimated amount due by a nonhigh school district for the prior school year was less than the actual amount due based upon actual annual average full-time equivalent student enrollments during the previous school year and the actual per annual average full-time equivalent student maintenance and operation excess tax levy rate for the current tax collection year, of the high school district, or adjusted downward to the extent the estimated amount due was greater than such actual amount due or greater than such lesser amount as a high school district may have elected to assess pursuant to RCW 28A.545.090.

(2) The amount arrived at pursuant to subsection (1)(c) of this subsection shall constitute the estimated amount due by a nonhigh school district to a high school district for the school year.

[1990 c 33 § 491; 1981 c 264 § 5. Formerly RCW 28A.44.190.]

Notes:

Severability--1981 c 264: See note following RCW 28A.545.030.

RCW 28A.545.080 Estimated amount due paid in May and November installments.

The estimated amounts due by nonhigh school districts as determined pursuant to RCW 28A.545.070 shall be paid in two installments. During the month of May of the school year for which the amount is due, each nonhigh school district shall pay to each high school district fifty percent of the total estimated amount due to the high school district for the school year as determined by the superintendent of public instruction pursuant to RCW 28A.545.070. The remaining fifty percent shall be paid by each nonhigh school district to each high school district during the following November.

[1990 c 33 § 492; 1981 c 264 § 6. Formerly RCW 28A.44.200.]

Notes:

Severability--1981 c 264: See note following RCW 28A.545.030.

RCW 28A.545.090 Assessing nonhigh school lesser amount--Notice of.

Notwithstanding any provision of RCW 28A.545.050 through 28A.545.080 to the contrary, any high school district board of directors may elect to assess a nonhigh school district an amount which is less than that otherwise established by the superintendent of public instruction pursuant to RCW 28A.545.070 to be due. In the event a high school district elects to do so, it shall notify both the superintendent of public instruction and the nonhigh school district

of its election and the lesser amount no later than September first following the school year for which the amount is due. In the absence of such notification, each nonhigh school district shall pay the amount otherwise established by the superintendent of public instruction pursuant to RCW 28A.545.070.

[1990 c 33 § 493; 1981 c 264 § 7. Formerly RCW 28A.44.210.]

Notes:

Severability--1981 c 264: See note following RCW 28A.545.030.

RCW 28A.545.100 Amount due reflects cost of education and transportation of students.

Unless otherwise agreed to by the board of directors of a nonhigh school district, the amounts which are established as due by a nonhigh school district pursuant to RCW 28A.545.030 through 28A.545.110 and 84.52.0531, as now or hereafter amended, shall constitute the entire amount which is due by a nonhigh school district for the school year for the education of any and all students with or without disabilities residing in the nonhigh school district who attend a high school district pursuant to RCW 28A.225.210, and for the transportation of such students by a high school district.

[1995 c 77 § 26; 1990 c 33 § 494; 1983 1st ex.s. c 61 § 7; 1981 c 264 § 8. Formerly RCW 28A.44.220.]

Notes:

Severability--1983 1st ex.s. c 61: See note following RCW 28A.160.010.
Severability--1981 c 264: See note following RCW 28A.545.030.

RCW 28A.545.110 Rules to effect purposes and implement provisions.

The superintendent of public instruction is hereby empowered to adopt rules pursuant to chapter 34.05 RCW, as now or hereafter amended, deemed necessary or advisable by the superintendent to effect the purposes and implement the provisions of RCW 28A.545.030 through 28A.545.110 and 84.52.0531.

[1990 c 33 § 495; 1981 c 264 § 9. Formerly RCW 28A.44.230.]

Notes:

Severability--1981 c 264: See note following RCW 28A.545.030.

Chapter 28A.600 RCW
STUDENTS

Sections

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28A.600.020 Government of schools, pupils, and employees--Exclusion of student by teacher--Written disciplinary procedures--Appropriate disciplinary action.
28A.600.025 Students' rights of religious expression--Duty of superintendent of public instruction to inform

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28A.600.420 Firearms on school premises, transportation, or facilities--Penalty--Exemptions.
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28A.600.460 Classroom discipline--Policies--Classroom placement of student offenders--Data on disciplinary actions.
28A.600.475 Exchange of information with law enforcement and juvenile court officials--Notification of parents and students.

Notes:

Uniform minor student capacity to borrow act: Chapter 26.30 RCW.

RCW 28A.600.010 Government of schools, pupils, employees, rules for--Due process guarantees--Enforcement.

Every board of directors, unless otherwise specifically provided by law, shall:

(1) Enforce the rules prescribed by the superintendent of public instruction and the state board of education for the government of schools, pupils, and certificated employees.

(2) Adopt and make available to each pupil, teacher and parent in the district reasonable written rules regarding pupil conduct, discipline, and rights, including but not limited to short-term suspensions as referred to in RCW 28A.305.160 and suspensions in excess of ten consecutive days. Such rules shall not be inconsistent with any of the following: Federal statutes and regulations, state statutes, common law, the rules of the superintendent of public instruction, and the state board of education. The board's rules shall include such substantive and procedural due process guarantees as prescribed by the state board of education under RCW 28A.305.160. Commencing with the 1976-77 school year, when such rules are made available to each pupil, teacher, and parent, they shall be accompanied by a detailed description of rights, responsibilities, and authority of teachers and principals with respect to the discipline of pupils as prescribed by state statutory law, superintendent of public instruction, and state board of education rules and rules and regulations of the school district.

For the purposes of this subsection, computation of days included in "short-term" and "long-term" suspensions shall be determined on the basis of consecutive school days.

(3) Suspend, expel, or discipline pupils in accordance with RCW 28A.305.160.

[1997 c 265 § 4; 1990 c 33 § 496; 1979 ex.s. c 173 § 2; 1975-'76 2nd ex.s. c 97 § 2; 1975 1st ex.s. c 254 § 1; 1971 ex.s. c 268 § 1; 1969 ex.s. c 223 § 28A.58.101. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28A.58.101, 28.58.100(2), (6).]

Notes:

Severability--1997 c 265: See note following RCW 13.40.160.

Severability--1975 1st ex.s. c 254: See note following RCW 28A.410.120.

RCW 28A.600.020 Government of schools, pupils, and employees--Exclusion of student by teacher--Written disciplinary procedures--Appropriate disciplinary action.

(1) The rules adopted pursuant to RCW 28A.600.010 shall be interpreted to insure that the optimum learning atmosphere of the classroom is maintained, and that the highest consideration is given to the judgment of qualified certificated educators regarding conditions necessary to maintain the optimum learning atmosphere.

(2) Any student who creates a disruption of the educational process in violation of the building disciplinary standards while under a teacher's immediate supervision may be excluded by the teacher from his or her individual classroom and instructional or activity area for all or any portion of the balance of the school day, or up to the following two days, or until the

principal or designee and teacher have conferred, whichever occurs first. Except in emergency circumstances, the teacher first must attempt one or more alternative forms of corrective action. In no event without the consent of the teacher may an excluded student return to the class during the balance of that class or activity period or up to the following two days, or until the principal or his or her designee and the teacher have conferred.

(3) In order to preserve a beneficial learning environment for all students and to maintain good order and discipline in each classroom, every school district board of directors shall provide that written procedures are developed for administering discipline at each school within the district. Such procedures shall be developed with the participation of parents and the community, and shall provide that the teacher, principal or designee, and other authorities designated by the board of directors, make every reasonable attempt to involve the parent or guardian and the student in the resolution of student discipline problems. Such procedures shall provide that students may be excluded from their individual classes or activities for periods of time in excess of that provided in subsection (2) of this section if such students have repeatedly disrupted the learning of other students. The procedures must be consistent with the rules of the state board of education and must provide for early involvement of parents in attempts to improve the student's behavior.

(4) The procedures shall assure, pursuant to RCW 28A.400.110, that all staff work cooperatively toward consistent enforcement of proper student behavior throughout each school as well as within each classroom.

(5) A principal shall consider imposing long-term suspension or expulsion as a sanction when deciding the appropriate disciplinary action for a student who, after July 27, 1997:

(a) Engages in two or more violations within a three-year period of RCW 9A.46.120, 28A.320.135, 28A.600.455, 28A.600.460, 28A.635.020, 28A.600.020, 28A.635.060, 9.41.280, or 28A.320.140; or

(b) Engages in one or more of the offenses listed in RCW 13.04.155.

The principal shall communicate the disciplinary action taken by the principal to the school personnel who referred the student to the principal for disciplinary action.

[1997 c 266 § 11; 1990 c 33 § 497; 1980 c 171 § 1; 1972 ex.s. c 142 § 5. Formerly RCW 28A.58.1011.]

Notes:

Findings--Intent--Severability--1997 c 266: See notes following RCW 28A.600.455.

RCW 28A.600.025 Students' rights of religious expression--Duty of superintendent of public instruction to inform school districts.

(1) The First Amendment to the United States Constitution, and Article I, sections 5 and 11 of the Washington state Constitution guarantee that students retain their rights of free speech and free exercise of religion, notwithstanding the student's enrollment and attendance in a common school. These rights include, but are not limited to, the right of an individual student to freely express and incorporate the student's religious beliefs and opinions where relevant or appropriate in any and all class work, homework, evaluations or tests. School personnel may not grade the class work, homework, evaluation, or test on the religious expression but may grade

the student's performance on scholastic content such as spelling, sentence structure, and grammar, and the degree to which the student's performance reflects the instruction and objectives established by the school personnel. School personnel may not subject an individual student who expresses religious beliefs or opinions in accordance with this section to any form of retribution or negative consequence and may not penalize the student's standing, evaluations, or privileges. An employee of the school district may not censure a student's expression of religious beliefs or opinions, when relevant or appropriate, in any class work, homework, evaluations or tests, extracurricular activities, or other activities under the sponsorship or auspices of the school district.

(2) This section is not intended to impose any limit on the exchange of ideas in the common schools of this state. No officer, employee, agent, or contractor of a school district may impose his or her religious beliefs on any student in class work, homework, evaluations or tests, extracurricular activities, or other activities under the auspices of the school district.

(3) The superintendent of public instruction shall distribute to the school districts information about laws governing students' rights of religious expression in school.

[1998 c 131 § 2.]

Notes:

Findings--1998 c 131: "The legislature recognizes the right of free speech and freedom of religion as guaranteed through the First Amendment to the United States Constitution and Article I, sections 5 and 11 of the Washington state Constitution and that these rights extend to students enrolled in the common schools of our state.

The legislature also recognizes that students may choose to exercise these rights, as protected under the law, in response to the challenges of academic pursuit. While the legislature upholds the rights of students to freely express their religious beliefs and right of free speech, it also holds firmly that it is not the role of education to solicit student responses that force students to reveal, analyze, or critique their religious beliefs." [1998 c 131 § 1.]

RCW 28A.600.030 Grading policies--Option to consider attendance.

Each school district board of directors may establish student grading policies which permit teachers to consider a student's attendance in determining the student's overall grade or deciding whether the student should be granted or denied credit. Such policies shall take into consideration the circumstances pertaining to the student's inability to attend school. However, no policy shall be adopted whereby a grade shall be reduced or credit shall be denied for disciplinary reasons only, rather than for academic reasons, unless due process of law is provided as set forth by the state board of education under RCW 28A.305.160.

[1990 c 33 § 498; 1984 c 278 § 7. Formerly RCW 28A.58.195.]

Notes:

Severability--1984 c 278: See note following RCW 28A.185.010.

RCW 28A.600.035 Policies on secondary school access and egress.

School district boards of directors shall review school district policies regarding access and egress by students from secondary school grounds during school hours. Each school district board of directors shall adopt a policy specifying any restrictions on students leaving secondary

school grounds during school hours.

[1995 c 312 § 82.]

Notes:

Effective date--1995 c 312 §§ 71 and 82: See note following RCW 28A.225.095.
Short title--1995 c 312: See note following RCW 13.32A.010.

RCW 28A.600.040 Pupils to comply with rules and regulations.

All pupils who attend the common schools shall comply with the rules and regulations established in pursuance of the law for the government of the schools, shall pursue the required course of studies, and shall submit to the authority of the teachers of such schools, subject to such disciplinary or other action as the local school officials shall determine.

[1969 ex.s. c 223 § 28A.58.200. Prior: 1909 c 97 p 263 § 6; RRS § 4690; prior: 1897 c 118 § 69; 1890 p 372 § 48. Formerly RCW 28A.58.200, 28.58.200.]

RCW 28A.600.050 State honors awards program established--Purpose.

The Washington state honors awards program is hereby established for the purpose of promoting academic achievement among high school students enrolled in public or approved private high schools by recognizing outstanding achievement of students in academic core subjects. This program shall be voluntary on the part of each school district and each student enrolled in high school.

[1985 c 62 § 1. Formerly RCW 28A.03.440.]

Notes:
Washington scholars' program: RCW 28A.600.100 through 28A.600.150.

RCW 28A.600.060 State honors awards program--Areas included.

The recipients of the Washington state honors awards shall be selected based on student achievement in both verbal and quantitative areas, as measured by a test or tests of general achievement selected by the superintendent of public instruction, and shall include student performance in the academic core areas of English, mathematics, science, social studies, and languages other than English, which may be American Indian languages. The performance level in such academic core subjects shall be determined by grade point averages, numbers of credits earned, and courses enrolled in during the beginning of the senior year.

[1993 c 371 § 4; 1991 c 116 § 22; 1985 c 62 § 2. Formerly RCW 28A.03.442.]

RCW 28A.600.070 State honors awards program--Rules.

The superintendent of public instruction shall adopt rules for the establishment and administration of the Washington state honors awards program. The rules shall establish: (1) The test or tests of general achievement that are used to measure verbal and quantitative

achievement, (2) academic subject performance levels, (3) timelines for participating school districts to notify students of the opportunity to participate, (4) procedures for the administration of the program, and (5) the procedures for providing the appropriate honors award designation.

[1991 c 116 § 23; 1985 c 62 § 3. Formerly RCW 28A.03.444.]

RCW 28A.600.080 State honors awards program--Materials--Recognition by business and industry encouraged.

The superintendent of public instruction shall provide participating high schools with the necessary materials for conferring honors. The superintendent of public instruction shall require participating high schools to encourage local representatives of business and industry to recognize students in their communities who receive an honors designation based on the Washington state honors awards program.

[1985 c 62 § 4. Formerly RCW 28A.03.446.]

RCW 28A.600.100 Washington scholars' program--Purpose.

Each year high schools in the state of Washington graduate a significant number of students who have distinguished themselves through outstanding academic achievement. The purpose of RCW 28A.600.100 through 28A.600.150 is to establish a consistent and uniform program which will recognize and honor the accomplishments of these students; encourage and facilitate privately funded scholarship awards among them; stimulate the recruitment of outstanding students to Washington public and private colleges and universities; and allow educational and legislative leaders, as well as the governor, to reaffirm the importance of educational excellence to the future of this state.

[1990 c 33 § 499; 1985 c 341 § 14; 1981 c 54 § 1. Formerly RCW 28A.58.820.]

Notes:

Severability--1981 c 54: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 54 § 10.]

State honors awards program: RCW 28A.600.050 through 28A.600.080.

Waiver of tuition and fees for recipients of the Washington scholars award: RCW 28B.15.543.

RCW 28A.600.110 Washington scholars' program--Established--Scope.

There is established by the legislature of the state of Washington the Washington state scholars program. The purposes of this program annually are to:

(1) Provide for the selection of three seniors residing in each legislative district in the state graduating from high schools who have distinguished themselves academically among their peers.

(2) Maximize public awareness of the academic achievement, leadership ability, and community contribution of Washington state public and private high school seniors through

appropriate recognition ceremonies and events at both the local and state level.

(3) Provide a listing of the Washington scholars to all Washington state public and private colleges and universities to facilitate communication regarding academic programs and scholarship availability.

(4) Make available a state level mechanism for utilization of private funds for scholarship awards to outstanding high school seniors.

(5) Provide, on written request and with student permission, a listing of the Washington scholars to private scholarship selection committees for notification of scholarship availability.

(6) Permit a waiver of tuition and services and activities fees as provided for in RCW 28B.15.543 and grants under RCW 28B.80.245.

[1994 c 234 § 4; 1988 c 210 § 4; 1987 c 465 § 1; 1981 c 54 § 2. Formerly RCW 28A.58.822.]

Notes:

Severability--1981 c 54: See note following RCW 28A.600.100.

RCW 28A.600.120 Washington scholars' program--Administration--Cooperation with other agencies.

The higher education coordinating board shall have the responsibility for administration of the Washington scholars program. The program will be developed cooperatively with the Washington association of secondary school principals, a voluntary professional association of secondary school principals. The cooperation of other state agencies and private organizations having interest and responsibility in public and private education shall be sought for planning assistance.

[1985 c 370 § 32; 1981 c 54 § 3. Formerly RCW 28A.58.824.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--1981 c 54: See note following RCW 28A.600.100.

RCW 28A.600.130 Washington scholars' program--Planning committee--Composition--Duties.

The higher education coordinating board shall establish a planning committee to develop criteria for screening and selection of the Washington scholars each year in accordance with RCW 28A.600.110(1). It is the intent that these criteria shall emphasize scholastic achievement but not exclude such criteria as leadership ability and community contribution in final selection procedures. The Washington scholars planning committee shall have members from selected state agencies and private organizations having an interest and responsibility in education, including but not limited to, the state board of education, the office of superintendent of public instruction, the council of presidents, the state board for community and technical colleges, and the Washington friends of higher education.

[1995 1st sp.s. c 5 § 1; 1990 c 33 § 500; 1985 c 370 § 33; 1981 c 54 § 4. Formerly RCW 28A.58.826.]

Notes:

Severability--1995 1st sp.s. c 5: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 1st sp.s. c 5 § 5.]

Effective date--1995 1st sp.s. c 5: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 1st sp.s. c 5 § 6.]

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--1981 c 54: See note following RCW 28A.600.100.

RCW 28A.600.140 Washington scholars' program--Principal's association to submit names to board.

Each year on or before March 1st, the Washington association of secondary school principals shall submit to the higher education coordinating board the names of graduating senior high school students who have been identified and recommended to be outstanding in academic achievement by their school principals based on criteria to be established under RCW 28A.600.130.

[1990 c 33 § 501; 1985 c 370 § 34; 1981 c 54 § 5. Formerly RCW 28A.58.828.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--1981 c 54: See note following RCW 28A.600.100.

RCW 28A.600.150 Washington scholars' program--Selection of scholars and scholars-alternates--Notification process--Certificates--Awards ceremony.

Each year, three Washington scholars and one Washington scholars-alternate shall be selected from the students nominated under RCW 28A.600.140. The higher education coordinating board shall notify the students so designated, their high school principals, the legislators of their respective districts, and the governor when final selections have been made.

The board, in conjunction with the governor's office, shall prepare appropriate certificates to be presented to the Washington scholars and the Washington scholars-alternates. An awards ceremony at an appropriate time and place shall be planned by the board in cooperation with the Washington association of secondary school principals, and with the approval of the governor.

[1999 c 159 § 2; 1985 c 370 § 35; 1981 c 54 § 6. Formerly RCW 28A.58.830.]

Notes:

Findings--Intent--1999 c 159: "The legislature finds that approximately thirty-five percent of the recipients of the Washington scholars award under RCW 28A.600.100 through 28A.600.150 choose to enroll in an out-of-state college and therefore do not use the grants that would have been available to them under RCW 28B.80.245 had they chosen to attend a college or university in the state of Washington. It is the intent of the legislature to require high school seniors who are announced as recipients of the Washington scholars award to demonstrate in a timely manner that they will be using any grants they may receive with their awards to enroll in a college or university in Washington state during the fall term of the same year in which they receive the award. Any

grants not used by initial recipients should be awarded to alternate recipients who must also demonstrate in a timely manner that they will be using their grants to enroll in a Washington college or university in Washington state during the fall term." [1999 c 159 § 1.]

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--1981 c 54: See note following RCW 28A.600.100.

RCW 28A.600.160 Educational pathways.

Any middle school, junior high school, or high school using educational pathways shall ensure that all participating students will continue to have access to the courses and instruction necessary to meet admission requirements at baccalaureate institutions. Students shall be allowed to enter the educational pathway of their choice. Before accepting a student into an educational pathway, the school shall inform the student's parent of the pathway chosen, the opportunities available to the student through the pathway, and the career objectives the student will have exposure to while pursuing the pathway. Parents and students dissatisfied with the opportunities available through the selected educational pathway shall be provided with the opportunity to transfer the student to any other pathway provided in the school. Schools may not develop educational pathways that retain students in high school beyond the date they are eligible to graduate, and may not require students who transfer between pathways to complete pathway requirements beyond the date the student is eligible to graduate. Educational pathways may include, but are not limited to, programs such as work-based learning, school-to-work transition, tech prep, vocational-technical education, running start, and preparation for technical college, community college, or university education.

[1998 c 225 § 2.]

RCW 28A.600.200 Interschool athletic and other extracurricular activities for students, regulation of--Delegation, conditions.

Each school district board of directors is hereby granted and shall exercise the authority to control, supervise and regulate the conduct of interschool athletic activities and other interschool extracurricular activities of an athletic, cultural, social or recreational nature for students of the district. A board of directors may delegate control, supervision and regulation of any such activity to the Washington Interscholastic Activities Association or any other voluntary nonprofit entity and compensate such entity for services provided, subject to the following conditions:

(1) The voluntary nonprofit entity shall submit an annual report to the state board of education of student appeal determinations, assets, and financial receipts and disbursements at such time and in such detail as the state board shall establish by rule;

(2) The voluntary nonprofit entity shall not discriminate in connection with employment or membership upon its governing board, or otherwise in connection with any function it performs, on the basis of race, creed, national origin, sex or marital status;

(3) Any rules and policies applied by the voluntary nonprofit entity which govern student participation in any interschool activity shall be written and subject to the annual review and

approval of the state board of education at such time as it shall establish;

(4) All amendments and repeals of such rules and policies shall be subject to the review and approval of the state board; and

(5) Such rules and policies shall provide for notice of the reasons and a fair opportunity to contest such reasons prior to a final determination to reject a student's request to participate in or to continue in an interschool activity. Any such decision shall be considered a decision of the school district conducting the activity in which the student seeks to participate or was participating and may be appealed pursuant to RCW 28A.645.010 through 28A.645.030.

[1990 c 33 § 502; 1975-'76 2nd ex.s. c 32 § 1. Formerly RCW 28A.58.125.]

Notes:
School buses, transport of general public to interscholastic activities--Limitations: RCW 28A.160.100.

RCW 28A.600.210 School locker searches--Findings.

The legislature finds that illegal drug activity and weapons in schools threaten the safety and welfare of school children and pose a severe threat to the state educational system. School officials need authority to maintain order and discipline in schools and to protect students from exposure to illegal drugs, weapons, and contraband. Searches of school-issued lockers and the contents of those lockers is a reasonable and necessary tool to protect the interests of the students of the state as a whole.

[1989 c 271 § 244. Formerly RCW 28A.67.300.]

NOTES:
Severability--1989 c 271: See note following RCW 9.94A.510.

RCW 28A.600.220 School locker searches--No expectation of privacy.

No right nor expectation of privacy exists for any student as to the use of any locker issued or assigned to a student by a school and the locker shall be subject to search for illegal drugs, weapons, and contraband as provided in RCW 28A.600.210 through 28A.600.240.

[1990 c 33 § 503; 1989 c 271 § 245. Formerly RCW 28A.67.310.]

NOTES:
Severability--1989 c 271: See note following RCW 9.94A.510.

RCW 28A.600.230 School locker searches--Authorization--Limitations.

(1) A school principal, vice principal, or principal's designee may search a student, the student's possessions, and the student's locker, if the principal, vice principal, or principal's designee has reasonable grounds to suspect that the search will yield evidence of the student's violation of the law or school rules. A search is mandatory if there are reasonable grounds to suspect a student has illegally possessed a firearm in violation of RCW 9.41.280.

(2) Except as provided in subsection (3) of this section, the scope of the search is proper if the search is conducted as follows:

(a) The methods used are reasonably related to the objectives of the search; and

(b) Is not excessively intrusive in light of the age and sex of the student and the nature of the suspected infraction.

(3) A principal or vice principal or anyone acting under their direction may not subject a student to a strip search or body cavity search as those terms are defined in RCW 10.79.070.

[1999 c 167 § 3; 1989 c 271 § 246. Formerly RCW 28A.67.320.]

NOTES:

Severability--1989 c 271: See note following RCW 9.94A.510.

RCW 28A.600.240 School locker searches--Notice and reasonable suspicion requirements.

(1) In addition to the provisions in RCW 28A.600.230, the school principal, vice principal, or principal's designee may search all student lockers at any time without prior notice and without a reasonable suspicion that the search will yield evidence of any particular student's violation of the law or school rule.

(2) If the school principal, vice principal, or principal's designee, as a result of the search, develops a reasonable suspicion that a certain container or containers in any student locker contain evidence of a student's violation of the law or school rule, the principal, vice principal, or principal's designee may search the container or containers according to the provisions of RCW 28A.600.230(2).

[1990 c 33 § 504; 1989 c 271 § 247. Formerly RCW 28A.67.330.]

NOTES:

Severability--1989 c 271: See note following RCW 9.94A.510.

RCW 28A.600.300 High school students' options--Definition.

For the purposes of RCW 28A.600.310 through 28A.600.400, "participating institution of higher education" or "institution of higher education" means:

(1) A community or technical college as defined in RCW 28B.50.030; and

(2) Central Washington University, Eastern Washington University, and Washington State University, if the institution's governing board decides to participate in the program in RCW 28A.600.310 through 28A.600.400.

[1994 c 205 § 1; 1990 1st ex.s. c 9 § 401.]

Notes:

Finding--Severability--1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

RCW 28A.600.310 High school students' options--Enrollment in institutions of higher education--Transmittal of funds.

(1) Eleventh and twelfth grade students or students who have not yet received a high school diploma or its equivalent and are eligible to be in the eleventh or twelfth grades may

apply to a participating institution of higher education to enroll in courses or programs offered by the institution of higher education. However, students are eligible to enroll in courses or programs in participating universities only if the board of directors of the student's school district has decided to participate in the program. Participating institutions of higher education, in consultation with school districts, may establish admission standards for these students. If the institution of higher education accepts a secondary school pupil for enrollment under this section, the institution of higher education shall send written notice to the pupil and the pupil's school district within ten days of acceptance. The notice shall indicate the course and hours of enrollment for that pupil.

(2) The pupil's school district shall transmit to the institution of higher education an amount per each full-time equivalent college student at state-wide uniform rates for vocational and nonvocational students. The superintendent of public instruction shall separately calculate and allocate moneys appropriated for basic education under RCW 28A.150.260 to school districts for purposes of making such payments and for granting school districts seven percent thereof to offset program related costs. The calculations and allocations shall be based upon the estimated state-wide annual average per full-time equivalent high school student allocations under RCW 28A.150.260, excluding small high school enhancements, and applicable rules adopted under chapter 34.05 RCW. The superintendent of public instruction, the higher education coordinating board, and the state board for community and technical colleges shall consult on the calculation and distribution of the funds. The institution of higher education shall not require the pupil to pay any other fees. The funds received by the institution of higher education from the school district shall not be deemed tuition or operating fees and may be retained by the institution of higher education. A student enrolled under this subsection shall not be counted for the purpose of determining any enrollment restrictions imposed by the state on the institution of higher education.

[1994 c 205 § 2; 1993 c 222 § 1; 1990 1st ex.s. c 9 § 402.]

Notes:

Effective date--1993 c 222: "This act shall take effect September 1, 1993." [1993 c 222 § 2.]

Finding--Severability--1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

RCW 28A.600.320 High school students' options--Information on enrollment.

A school district shall provide general information about the program to all pupils in grades ten, eleven, and twelve and the parents and guardians of those pupils. To assist the district in planning, a pupil shall inform the district of the pupil's intent to enroll in courses at an institution of higher education for credit. Students are responsible for applying for admission to the institution of higher education.

[1994 c 205 § 3; 1990 1st ex.s. c 9 § 403.]

Notes:

Finding--Severability--1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

RCW 28A.600.330 High school students' options--Maximum terms of enrollment for high school credit.

A pupil who enrolls in an institution of higher education in grade eleven may not enroll in postsecondary courses under RCW 28A.600.300 through 28A.600.390 for high school credit and postsecondary credit for more than the equivalent of the course work for two academic years. A pupil who first enrolls in an institution of higher education in grade twelve may not enroll in postsecondary courses under this section for high school credit and postsecondary credit for more than the equivalent of the course work for one academic year.

[1994 c 205 § 4; 1990 1st ex.s. c 9 § 404.]

Notes:

Finding--Severability--1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

RCW 28A.600.340 High school students' options--Enrolled students not displaced.

Once a pupil has been enrolled in a postsecondary course or program under RCW 28A.600.300 through 28A.600.400, the pupil shall not be displaced by another student.

[1994 c 205 § 5; 1990 1st ex.s. c 9 § 405.]

Notes:

Finding--Severability--1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

RCW 28A.600.350 High school students' options--Enrollment for secondary and postsecondary credit.

A pupil may enroll in a course under RCW 28A.600.300 through 28A.600.390 for both high school credit and postsecondary credit.

[1994 c 205 § 6; 1990 1st ex.s. c 9 § 406.]

Notes:

Finding--Severability--1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

RCW 28A.600.360 High school students' options--Enrollment in postsecondary institution--Determination of high school credits--Application toward graduation requirements.

A school district shall grant academic credit to a pupil enrolled in a course for high school credit if the pupil successfully completes the course. If no comparable course is offered by the school district, the school district superintendent shall determine how many credits to award for the course. The determination shall be made in writing before the pupil enrolls in the course. The credits shall be applied toward graduation requirements and subject area requirements. Evidence of the successful completion of each course in an institution of higher education shall be included in the pupil's secondary school records and transcript. The transcript

shall also note that the course was taken at an institution of higher education.

[1994 c 205 § 7; 1990 1st ex.s. c 9 § 407.]

Notes:

Finding--Severability--1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

RCW 28A.600.370 High school students' options--Postsecondary credit.

Any state institution of higher education may award postsecondary credit for college level academic and vocational courses successfully completed by a student while in high school and taken at an institution of higher education. The state institution of higher education shall not charge a fee for the award of the credits.

[1994 c 205 § 8; 1990 1st ex.s. c 9 § 408.]

Notes:

Finding--Severability--1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

RCW 28A.600.380 High school students' options--School district not responsible for transportation.

Transportation to and from the institution of higher education is not the responsibility of the school district.

[1994 c 205 § 9; 1990 1st ex.s. c 9 § 409.]

Notes:

Finding--Severability--1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

RCW 28A.600.385 High school students' options--Cooperative agreements with community colleges in Oregon and Idaho.

(1) School districts in Washington and community colleges in Oregon and Idaho may enter into cooperative agreements under chapter 39.34 RCW for the purpose of allowing eleventh and twelfth grade students who are enrolled in the school districts to earn high school and college credit concurrently.

(2) Except as provided in subsection (3) of this section, if a school district exercises the authority granted in subsection (1) of this section, the provisions of RCW 28A.600.310 through 28A.600.360 and 28A.600.380 through 28A.600.400 shall apply to the agreements.

(3) A school district may enter an agreement in which the community college agrees to accept an amount less than the state-wide uniform rate under RCW 28A.600.310(2) if the community college does not charge participating students tuition and fees. A school district may not pay a per-credit rate in excess of the state-wide uniform rate under RCW 28A.600.310(2).

(4) To the extent feasible, the agreements shall permit participating students to attend the community college without paying any tuition and fees. The agreements shall not permit the

community college to charge participating students nonresident tuition and fee rates.

(5) The agreements shall ensure that participating students are permitted to enroll only in courses that are transferable to one or more institutions of higher education as defined in RCW 28B.10.016.

[1998 c 63 § 2.]

Notes:

Finding--1998 c 63: "The legislature finds that students may have difficulty attending community college for the purpose of the running start program due to the distance of the nearest community college. In these cases, it may be more advantageous for students in border counties to attend community colleges in neighboring states. The legislature encourages school districts to pursue interagency agreements with community colleges in neighboring states when it is in the best interests of the student's educational progress." [1998 c 63 § 1.]

RCW 28A.600.390 High school students' options--Rules.

The superintendent of public instruction, the state board for community and technical colleges, and the higher education coordinating board shall jointly develop and adopt rules governing RCW 28A.600.300 through 28A.600.380, if rules are necessary. The rules shall be written to encourage the maximum use of the program and shall not narrow or limit the enrollment options under RCW 28A.600.300 through 28A.600.380.

[1994 c 205 § 10; 1990 1st ex.s. c 9 § 410.]

Notes:

Finding--Severability--1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

RCW 28A.600.400 High school students' options--Existing agreements not affected.

RCW 28A.600.300 through 28A.600.390 are in addition to and not intended to adversely affect agreements between school districts and institutions of higher education in effect on April 11, 1990, and in the future.

[1994 c 205 § 11; 1990 1st ex.s. c 9 § 412.]

Notes:

Finding--Severability--1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

RCW 28A.600.410 Alternatives to suspension--Encouraged.

School districts are encouraged to find alternatives to suspension including reducing the length of a student's suspension conditioned by the commencement of counseling or other treatment services. Consistent with current law, the conditioning of a student's suspension does not obligate the school district to pay for the counseling or other treatment services except for those stipulated and agreed to by the district at the inception of the suspension.

[1992 c 155 § 1.]

RCW 28A.600.415 Alternatives to suspension--Community service encouraged--Information provided to school districts.

(1) The superintendent of public instruction shall encourage school districts to utilize community service as an alternative to student suspension. Community service shall include the provision of volunteer services by students in social and educational organizations including, but not limited to, hospitals, fire and police stations, nursing homes, food banks, day care organizations, and state and local government offices.

(2) At a minimum, by February 1, 1993, the superintendent shall prepare and distribute information to school districts regarding existing programs, the potential benefits and considerations of using community service as an alternative to suspension, and recommended guidelines for starting new programs. The superintendent also shall address, and attempt to clarify and resolve, any potential liability, supervision, and transportation issues associated with using community service as an alternative to suspension.

[1992 c 155 § 2.]

RCW 28A.600.420 Firearms on school premises, transportation, or facilities--Penalty--Exemptions.

(1) Any elementary or secondary school student who is determined to have carried a firearm onto, or to have possessed a firearm on, public elementary or secondary school premises, public school-provided transportation, or areas of facilities while being used exclusively by public schools, shall be expelled from school for not less than one year under RCW 28A.600.010. The superintendent of the school district, educational service district, state school for the deaf, or state school for the blind may modify the expulsion of a student on a case-by-case basis.

(2) For purposes of this section, "firearm" means a firearm as defined in 18 U.S.C. Sec. 921, and a "firearm" as defined in RCW 9.41.010.

(3) This section shall be construed in a manner consistent with the individuals with disabilities education act, 20 U.S.C. Sec. 1401 et seq.

(4) Nothing in this section prevents a public school district, educational service district, the state school for the deaf, or the state school for the blind if it has expelled a student from such student's regular school setting from providing educational services to the student in an alternative setting.

(5) This section does not apply to:

(a) Any student while engaged in military education authorized by school authorities in which rifles are used but not other firearms; or

(b) Any student while involved in a convention, showing, demonstration, lecture, or firearms safety course authorized by school authorities in which the rifles of collectors or instructors are handled or displayed but not other firearms; or

(c) Any student while participating in a rifle competition authorized by school authorities.

(6) A school district may suspend or expel a student for up to one year subject to subsections (1), (3), (4), and (5) of this section, if the student acts with malice as defined under RCW 9A.04.110 and displays an instrument that appeared [appears] to be a firearm, on public elementary or secondary school premises, public school-provided transportation, or areas of facilities while being used exclusively by public schools.

[1997 c 265 § 5; 1995 c 335 § 304; 1995 c 87 § 2.]

Notes:

Severability--1997 c 265: See note following RCW 13.40.160.

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

RCW 28A.600.455 Gang activity--Suspension or expulsion.

(1) A student who is enrolled in a public school or an alternative school may be suspended or expelled if the student is a member of a gang and knowingly engages in gang activity on school grounds.

(2) "Gang" means a group which: (a) Consists of three or more persons; (b) has identifiable leadership; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

[1997 c 266 § 2.]

Notes:

Findings--Intent--1997 c 266: "The legislature finds that the children of this state have the right to an effective public education and that both students and educators have the need to be safe and secure in the classroom if learning is to occur. The legislature also finds, however, that children in many of our public schools are forced to focus on the threat and message of violence contained in many aspects of our society and reflected through and in gang violence activities on school campuses.

The legislature recognizes that the prevalence of weapons, including firearms and dangerous knives, is an increasing problem that is spreading rapidly even to elementary schools throughout the state. Gang-related apparel and regalia compound the problem by easily concealing weapons that threaten and intimidate students and school personnel. These threats have resulted in tragic and unnecessary bloodshed over the past two years and must be eradicated from the system if student and staff security is to be restored on school campuses. Many educators believe that school dress significantly influences student behavior in both positive and negative ways. Special school dress up and color days signify school spirit and provide students with a sense of unity. Schools that have adopted school uniforms report a feeling of togetherness, greater school pride, and better student behavior in and out of the classroom. This sense of unity provides students with the positive attitudes needed to avert the pressures of gang involvement.

The legislature also recognizes there are other more significant factors that impact school safety such as the pervasive use of drugs and alcohol in school. In addition to physical safety zones, schools should also be drug-free zones that expressly prohibit the sale, use, or possession of illegal drugs on school property. Students involved in drug-related activity are unable to benefit fully from educational opportunities and are disruptive to the learning environment of their fellow students. Schools must be empowered to make decisions that positively impact student learning by eradicating drug use and possession on their campuses. This flexibility should also be afforded to schools as they deal with other harmful substance abuse activities engaged in by their students.

Toward this end, the legislature recognizes the important role of the classroom teacher who must be empowered to restore discipline and safety in the classroom. Teachers must have the ability to control the conduct of students to ensure that their mission of educating students may be achieved. Disruptive behavior must not be allowed to continue to divert attention, time, and resources from educational activities.

The legislature therefore intends to define gang-related activities as criminal behavior disruptive not only to the learning environment but to society as a whole, and to provide educators with the authority to restore order and safety to the student learning environment, eliminate the influence of gang activities, and eradicate drug and substance abuse on school campuses, thus empowering educators to regain control of our classrooms and provide our students with the best educational opportunities available in our schools.

The legislature also finds that students and school employees have been subjected to violence such as rapes, assaults, or harassment that has not been gang or drug-related criminal activity. The legislature intends that all violence and harassment directed at students and school personnel be eradicated in public schools." [1997 c 266 § 1.]

Severability--1997 c 266: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1997 c 266 § 16.]

RCW 28A.600.460 Classroom discipline--Policies--Classroom placement of student offenders--Data on disciplinary actions.

(1) School district boards of directors shall adopt policies that restore discipline to the classroom. Such policies must provide for at least the following: Allowing each teacher to take disciplinary action to correct a student who disrupts normal classroom activities, abuses or insults a teacher as prohibited by RCW 28A.635.010, willfully disobeys a teacher, uses abusive or foul language directed at a school district employee, school volunteer, or another student, violates school rules, or who interferes with an orderly education process. Disciplinary action may include but is not limited to: Oral or written reprimands; written notification to parents of disruptive behavior, a copy of which must be provided to the principal.

(2) A student committing an offense under chapter 9A.36, 9A.40, 9A.46, or 9A.48 RCW when the activity is directed toward the teacher, shall not be assigned to that teacher's classroom for the duration of the student's attendance at that school or any other school where the teacher is assigned.

(3) A student who commits an offense under chapter 9A.36, 9A.40, 9A.46, or 9A.48 RCW, when directed toward another student, may be removed from the classroom of the victim for the duration of the student's attendance at that school or any other school where the victim is enrolled. A student who commits an offense under one of the chapters enumerated in this section against a student or another school employee, may be expelled or suspended.

(4) Nothing in this section is intended to limit the authority of a school under existing law and rules to expel or suspend a student for misconduct or criminal behavior.

(5) All school districts must collect data on disciplinary actions taken in each school. The information shall be made available to the public upon request. This collection of data shall not include personally identifiable information including, but not limited to, a student's social security number, name, or address.

[1997 c 266 § 9.]

Notes:

Findings--Intent--Severability--1997 c 266: See notes following RCW 28A.600.455.

RCW 28A.600.475 Exchange of information with law enforcement and juvenile court

officials--Notification of parents and students.

School districts may participate in the exchange of information with law enforcement and juvenile court officials to the extent permitted by the family educational and privacy rights act of 1974, 20 U.S.C. Sec. 1232g. When directed by court order or pursuant to any lawfully issued subpoena, a school district shall make student records and information available to law enforcement officials, probation officers, court personnel, and others legally entitled to the information. Except as provided in RCW 13.40.480, parents and students shall be notified by the school district of all such orders or subpoenas in advance of compliance with them.

[1998 c 269 § 11; 1992 c 205 § 120.]

Notes:

Intent--Finding--Effective date--1998 c 269: See notes following RCW 72.05.020.

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

Chapter 28A.605 RCW
PARENT ACCESS

Sections

28A.605.010 Removing child from school grounds during school hours.
28A.605.020 Parents' access to classroom or school sponsored activities--Limitation.
28A.605.030 Student education records--Parental review--Release of records--Procedure.

RCW 28A.605.010 Removing child from school grounds during school hours.

The board of directors of each school district by rule or regulation shall set forth proper procedure to ensure that each school within their district is carrying out district policy providing that no child may be removed from any school grounds or building thereon during school hours except by a person so authorized by a parent or legal guardian having legal custody thereof, except that a student may leave secondary school grounds only in accordance with the school district's open campus policy under RCW 28A.600.035. Such rules shall be applicable to school employees or their designees who may not remove, cause to be removed, or allow to be removed, any student from school grounds without authorization from the student's parent or legal guardian unless the employee is: The student's parent, legal guardian, or immediate family member, a school employee providing school bus transportation services in accordance with chapter 28A.160 RCW, a school employee supervising an extracurricular activity in which the student is participating and the employee is providing transportation to or from the activity; or, the student is in need of emergent medical care, and the employee is unable to reach the parent for transportation of the student. School security personnel may remove a student from school grounds without parental authorization for disciplinary reasons.

Nothing in this section shall be construed to limit removal of a student from school grounds by any person acting in his or her official capacity in response to a 911 emergency call.

[1997 c 411 § 1; 1975 1st ex.s. c 248 § 1. Formerly RCW 28A.58.050.]

RCW 28A.605.020 Parents' access to classroom or school sponsored activities--Limitation.

Every school district board of directors shall, after following established procedure, adopt a policy assuring parents access to their child's classroom and/or school sponsored activities for purposes of observing class procedure, teaching material, and class conduct: PROVIDED, That such observation shall not disrupt the classroom procedure or learning activity.

[1979 ex.s. c 250 § 8. Formerly RCW 28A.58.053.]

Notes:

Effective date--Severability--1979 ex.s. c 250: See notes following RCW 28A.150.220.

RCW 28A.605.030 Student education records--Parental review--Release of records--Procedure.

The parent or guardian of a student who is or has been in attendance at a school has the right to review all education records of the student. A school may not release the education records of a student without the written consent of the student's parent or guardian, except as authorized by RCW 28A.600.475 and the family educational and privacy rights act of 1974, 20 U.S.C. Sec. 1232g.

The board of directors of each school district shall establish a procedure for:

(1) Granting the request by a parent or guardian for access to the education records of his or her child; and

(2) Prohibiting the release of student information without the written consent of the student's parent or guardian, after the parent or guardian has been informed what information is being requested, who is requesting the information and why, and what will be done with the information.

The procedure adopted by the school district must be in compliance with the family educational and privacy rights act of 1974, 20 U.S.C. Sec. 1232g.

[1997 c 119 § 1.]

Notes:

Reviser's note: 1997 c 119 directed that this section be added to chapter 28A.600 RCW. This section has been codified in chapter 28A.605 RCW, which relates more directly to parent access to student information.

Chapter 28A.620 RCW
COMMUNITY EDUCATION PROGRAMS

Sections

28A.620.010 Purposes.
28A.620.020 Restrictions--Classes on parenting skills and child abuse prevention encouraged.

RCW 28A.620.010 Purposes.

The purposes of this section and RCW 28A.620.020 are to:

(1) Provide educational, recreational, cultural, and other community services and programs through the establishment of the concept of community education with the community school serving as the center for such activity;

(2) Promote a more efficient and expanded use of existing school buildings and equipment;

(3) Help provide personnel to work with schools, citizens and with other agencies and groups;

(4) Provide a wide range of opportunities for all citizens including programs, if resources are available, to promote parenting skills and promote awareness of the problem of child abuse and methods to avoid child abuse;

(5) As used in this section, "parenting skills" shall include: The importance of consistency in parenting; the value of providing children with a balance of love and firm discipline; the instruction of children in honesty, morality, ethics, and respect for the law; and the necessity of preserving and nurturing the family unit; and

(6) Help develop a sense of community in which the citizens cooperate with the public schools and community agencies and groups to resolve their school and community concerns and to recognize that the schools are available for use by the community day and night, year-round or any time when the programming will not interfere with the preschool through grade twelve program.

[1990 c 33 § 510. Prior: 1985 c 344 § 1; 1985 c 341 § 12; 1979 ex.s. c 120 § 1. Formerly RCW 28A.58.246.]

RCW 28A.620.020 Restrictions--Classes on parenting skills and child abuse prevention encouraged.

Notwithstanding the provisions of RCW 28B.50.250, 28B.50.530 or any other law, rule, or regulation, any school district is authorized and encouraged to provide community education programs in the form of instructional, recreational and/or service programs on a noncredit and nontuition basis, excluding fees for supplies, materials, or instructor costs, for the purpose of stimulating the full educational potential and meeting the needs of the district's residents of all ages, and making the fullest use of the district's school facilities: PROVIDED, That school districts are encouraged to provide programs for prospective parents, prospective foster parents, and prospective adoptive parents on parenting skills, violence prevention, and on the problems of child abuse and methods to avoid child abuse situations: PROVIDED FURTHER, That community education programs shall be consistent with rules and regulations promulgated by the state superintendent of public instruction governing cooperation between common schools, community college districts, and other civic and governmental organizations which shall have been developed in cooperation with the state board for community and technical colleges and

shall be programs receiving the approval of said superintendent.

[1994 sp.s. c 7 § 603; 1985 c 344 § 2; 1979 ex.s. c 120 § 2; 1973 c 138 § 1. Formerly RCW 28A.58.247.]

Notes:

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

Chapter 28A.623 RCW
MEAL PROGRAMS

Sections

28A.623.010 Nonprofit program for elderly--Purpose.
28A.623.020 Nonprofit program for elderly--Authorized--Restrictions.
28A.623.030 Nonprofit program for certain children and students--Conditions and restrictions.

RCW 28A.623.010 Nonprofit program for elderly--Purpose.

The legislature finds that many elderly persons suffer dietary deficiencies and malnutrition due to inadequate financial resources, immobility, lack of interest due to isolation and loneliness, and characteristics of the aging process, such as physiological, social, and psychological changes which result in a way of life too often leading to feelings of rejection, abandonment, and despair. There is a real need as a matter of public policy to provide the elderly citizens with adequate nutritionally sound meals, through which their isolation may be penetrated with the company and the social contacts of their own. It is the declared purpose of RCW 28A.235.120, 28A.623.010, and 28A.623.020 to raise the level of dignity of the aged population where their remaining years can be lived in a fulfillment equal to the benefits they have bestowed, the richness they have added, and the great part they have played in the life of our society and nation.

[1990 c 33 § 511; 1973 c 107 § 1. Formerly RCW 28A.58.720.]

RCW 28A.623.020 Nonprofit program for elderly--Authorized--Restrictions.

The board of directors of any school district may establish or allow for the establishment of a nonprofit meal program for feeding elderly persons residing within the area served by such school district using school facilities, and may authorize the extension of any school food services for the purpose of feeding elderly persons, subject to the following conditions and restrictions:

(1) The charge to such persons for each meal shall not exceed the actual cost of such meal to the school.

(2) The program will utilize methods of administration which will assure that the maximum number of eligible individuals may have an opportunity to participate in such a program, and will coordinate, whenever possible, with the local area agency on aging.

(3) Any nonprofit meal program established pursuant to RCW 28A.235.120, 28A.623.010, and 28A.623.020 may not be operated so as to interfere with the normal educational process within the schools.

(4) No school district funds may be used for the operation of such a meal program.

(5) For purposes of RCW 28A.235.120, 28A.623.010, and 28A.623.020, "elderly persons" shall mean persons who are at least sixty years of age.

[1990 c 33 § 512; 1973 c 107 § 3. Formerly RCW 28A.58.722.]

RCW 28A.623.030 Nonprofit program for certain children and students--Conditions and restrictions.

The board of directors of any school district may establish or allow for the establishment of a nonprofit meal program using school facilities for feeding children who are participating in educational programs or activities conducted by private, nonprofit organizations and entities and students who are attending private elementary and secondary schools, and may authorize the extension of any school food services for the purpose of feeding such children and students, subject to the following conditions and restrictions:

(1) The charge to such persons, organizations, entities or schools for each meal shall be not less than the actual cost of such meal to the school, inclusive of a reasonable charge for overhead and the value of the use of the facilities.

(2) The meal program shall not be operated so as to interfere with the educational process within the school district.

(3) The meal program shall not be operated so as to impair or reduce the provision of food services to students of the school districts.

[1979 c 58 § 2. Formerly RCW 28A.58.724.]

Notes:

Severability--1979 c 58: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 c 58 § 3.]

Chapter 28A.625 RCW
AWARDS

Sections

EXCELLENCE IN EDUCATION

28A.625.010 Short title.
28A.625.020 Recipients--Awards.
28A.625.030 Washington State Christa McAuliffe award for teachers.
28A.625.042 Certificates--Recognition awards.
28A.625.050 Rules.

EMPLOYEE SUGGESTION PROGRAM

28A.625.100 Board of directors of a school district may establish.
28A.625.110 Awards.

COMMENDABLE EMPLOYEE SERVICE
AND RECOGNITION AWARD

28A.625.150 Award program.

MATHEMATICS, ENGINEERING,
AND SCIENCE ACHIEVEMENT

28A.625.200 Findings and intent.
28A.625.210 Mathematics, engineering, and science achievement program--Establishment and administration through University of Washington--Goals.
28A.625.220 Mathematics, engineering, and science achievement program--Coordinator--Staff.
28A.625.230 Coordinator to develop selection standards.
28A.625.240 Local program centers.

SCHOOL IMPROVEMENT AND RESEARCH PROJECTS

28A.625.350 Short title.
28A.625.360 Excellence in teacher preparation award established.
28A.625.370 Award for teacher educator.
28A.625.380 Rules.
28A.625.390 Educational grant--Eligibility--Award.
28A.625.900 Severability--1990 1st ex.s. c 10.

EXCELLENCE IN EDUCATION

RCW 28A.625.010 Short title.

RCW 28A.625.020 through *28A.625.065 may be known and cited as the Washington award for excellence in education program act.

[1995 c 335 § 107; 1990 c 33 § 513; 1986 c 147 § 1. Formerly RCW 28A.03.520.]

Notes:

***Reviser's note:** RCW 28A.625.065 expired June 30, 1998.

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

Commendable employee service and recognition award program: RCW 28A.625.150.

RCW 28A.625.020 Recipients--Awards.

The superintendent of public instruction shall establish an annual award program for excellence in education to recognize teachers, principals, administrators, classified staff, school district superintendents, and school boards for their leadership, contributions, and commitment to

education. The program shall recognize annually:

(1) Five teachers from each congressional district of the state. One individual must be an elementary level teacher, one must be a junior high or middle school level teacher, and one must be a secondary level teacher. Teachers shall include educational staff associates;

(2) Five principals or administrators from the state;

(3) One school district superintendent from the state;

(4) One school district board of directors from the state; and

(5) Three classified staff from each congressional district of the state.

[1991 c 255 § 1. Prior: 1990 c 77 § 1; 1990 c 33 § 514; 1989 c 75 § 1; 1988 c 251 § 1; 1987 1st ex.s. c 2 § 209; 1986 c 147 § 2. Formerly RCW 28A.03.523.]

Notes:

Intent--Severability--Effective date--1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

RCW 28A.625.030 Washington State Christa McAuliffe award for teachers.

The award for teachers under the Washington award for excellence in education program shall be named the "Washington State Christa McAuliffe Award, in honor and memory of Sharon Christa Corrigan McAuliffe." As the first teacher and private citizen selected nationally to voyage into space, Christa McAuliffe exemplified what is exciting and positive about the teaching profession. Her contributions within the scope of the nation's education system helped to show that education can and should be a vital and dynamic experience for all participants. Christa McAuliffe's chosen profession encompasses learning by discovery and her desire to make new discoveries was reflected by her participation in the nation's space program.

The selection of Christa McAuliffe as the first teacher in space was directly linked to Washington state in that then superintendent of public instruction Dr. Frank Brouillet both appointed and served as a member of the national panel which selected Christa McAuliffe.

The tragic loss of the life of Christa McAuliffe on the flight of the space shuttle Challenger on January 28, 1986, will be remembered through the legacy she gave to her family, friends, relatives, students, colleagues, the education profession, and the nation: A model example of striving toward excellence.

[1991 c 255 § 2; 1986 c 147 § 3. Formerly RCW 28A.03.526.]

RCW 28A.625.042 Certificates--Recognition awards.

(1) All recipients of the Washington award for excellence in education shall receive a certificate presented by the governor and the superintendent of public instruction, or their designated representatives, at a public ceremony or ceremonies in appropriate locations.

(2) In addition to the certificate under subsection (1) of this section, the award for teachers, classified employees, superintendents employed by second class school districts, and principals or administrators shall include a recognition award of at least two thousand five hundred dollars. The amount of the recognition award for superintendents employed by first

class school districts shall be at least one thousand dollars. The recognition award shall not be considered compensation for the purposes of RCW 28A.400.200.

(3) In addition to the certificate under subsection (1) of this section, the award for the school board shall include a recognition award not to exceed two thousand five hundred dollars. The school board must use its recognition award for an educational purpose.

[1994 c 279 § 4.]

Notes:

Effective date--1994 c 279 § 4: "Section 4 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect April 1, 1994." [1994 c 279 § 6.]

Severability--1994 c 279: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1994 c 279 § 7.]

RCW 28A.625.050 Rules.

The superintendent of public instruction shall adopt rules under chapter 34.05 RCW to carry out the purposes of RCW 28A.625.010 through *28A.625.065. These rules shall include establishing the selection criteria for the Washington award for excellence in education program. The superintendent is encouraged to consult with teachers, educational staff associates, principals, administrators, classified employees, superintendents, and school board members in developing the selection criteria. Notwithstanding the provisions of RCW 28A.625.020 (1) and (2), such rules may allow for the selection of individuals whose teaching or administrative duties, or both, may encompass multiple grade level or building assignments, or both.

[1995 c 335 § 108; 1991 c 255 § 8; 1990 c 33 § 516; 1988 c 251 § 2; 1986 c 147 § 5. Formerly RCW 28A.03.532.]

Notes:

***Reviser's note:** RCW 28A.625.065 expired June 30, 1998.

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

EMPLOYEE SUGGESTION PROGRAM

RCW 28A.625.100 Board of directors of a school district may establish.

The board of directors of any school district may establish and maintain an employee suggestion program to encourage and reward meritorious suggestions by certificated and classified school employees. The program shall be designed to promote efficiency or economy in the performance of any function of the school district. Each board establishing an employee suggestion program shall establish procedures for the proper administration of the program.

[1986 c 143 § 1. Formerly RCW 28A.02.320.]

Notes:

Effective date--1986 c 143: "This act shall take effect on August 1, 1986." [1986 c 143 § 4.]

RCW 28A.625.110 Awards.

The board of directors of the school district shall make the final determination as to whether an employee suggestion award will be made and shall determine the nature and extent of the award. The award shall not be a regular or supplemental compensation program for all employees and the suggestion must, in fact, result in actual savings greater than the award amount. Any moneys which may be awarded to an employee as part of an employee suggestion program shall not be considered salary or compensation for the purposes of RCW 28A.400.200 or chapter 41.40 RCW.

[1990 c 33 § 519; 1987 1st ex.s. c 2 § 207; 1986 c 143 § 2. Formerly RCW 28A.02.325.]

Notes:

Intent--Severability--Effective date--1987 1st ex.s. c 2: See notes following RCW 84.52.0531.
Effective date--1986 c 143: See note following RCW 28A.625.100.

COMMENDABLE EMPLOYEE SERVICE AND RECOGNITION AWARD

RCW 28A.625.150 Award program.

The board of directors of any school district may establish a commendable employee service and recognition award program for certificated and classified school employees. The program shall be designed to recognize exemplary service, special achievements, or outstanding contributions by an individual in the performance of his or her duties as an employee of the school district. The board of directors of the school district shall determine the extent and type of any nonmonetary award. The value of any nonmonetary award shall not be deemed salary or compensation for the purposes of RCW 28A.400.200 or chapter 41.32 RCW.

[1990 c 33 § 520; 1987 1st ex.s. c 2 § 210; 1985 c 399 § 2. Formerly RCW 28A.58.842.]

Notes:

Intent--Severability--Effective date--1987 1st ex.s. c 2: See notes following RCW 84.52.0531.
Award for excellence in education program: RCW 28A.625.020 through 28A.625.050.

MATHEMATICS, ENGINEERING, AND SCIENCE ACHIEVEMENT

RCW 28A.625.200 Findings and intent.

The legislature finds that high technology is important to the state's economy and the welfare of its citizens. The legislature finds that certain groups, as characterized by sex or ethnic background, are traditionally underrepresented in mathematics, engineering, and the science-related professions in this state. The legislature finds that women and minority students have been traditionally discouraged from entering the fields of science and mathematics including teaching in these fields. The legislature finds that attitudes and knowledges acquired during the kindergarten through eighth grade prepare students to succeed in high school science and mathematics programs and that special skills necessary for these fields need to be acquired

during the ninth through twelfth grades. It is the intent of the legislature to promote a mathematics, engineering, and science achievement program to help increase the number of people in these fields and teaching in these fields from groups underrepresented in these fields.

[1989 c 66 § 1; 1984 c 265 § 1. Formerly RCW 28A.03.430.]

Notes:

Implementation--Funding required--1984 c 265: "Implementation of this act shall be subject to funds being appropriated or otherwise available for such purposes." [1984 c 265 § 6.]

RCW 28A.625.210 Mathematics, engineering, and science achievement program--Establishment and administration through University of Washington--Goals.

A program to increase the number of people from groups underrepresented in the fields of mathematics, engineering, and the physical sciences in this state shall be established by the University of Washington. The program shall be administered through the University of Washington and designed to:

(1) Encourage students in the targeted groups in the common schools, with a particular emphasis on those students in middle and junior high schools and the sixth through twelfth grades, to acquire the academic skills needed to study mathematics, engineering, or related sciences at an institution of higher education;

(2) Promote the awareness of career opportunities including the career opportunities of teaching in the fields of science and mathematics and the skills necessary to achieve those opportunities among students sufficiently early in their educational careers to permit and encourage the students to acquire the skills;

(3) Promote cooperation among institutions of higher education, the superintendent of public instruction and local school districts in working towards the goals of the program; and

(4) Solicit contributions of time and resources from public and private institutions of higher education, high schools, middle and junior high schools, and private business and industry.

[1990 c 286 § 1; 1989 c 66 § 2; 1984 c 265 § 2. Formerly RCW 28A.03.432.]

Notes:

Implementation--Funding required--1984 c 265: See note following RCW 28A.625.200.

RCW 28A.625.220 Mathematics, engineering, and science achievement program--Coordinator--Staff.

A coordinator shall be hired to administer the program. Additional staff as necessary may be hired.

[1984 c 265 § 3. Formerly RCW 28A.03.434.]

Notes:

Implementation--Funding required--1984 c 265: See note following RCW 28A.625.200.

RCW 28A.625.230 Coordinator to develop selection standards.

The coordinator shall develop standards and criteria for selecting students who

participate in the program which may include predictive instruments to ascertain aptitude and probability of success. The standards shall include requirements that students take certain courses, maintain a certain grade point average, and participate in activities sponsored by the program. Women and students from minority groups, which are traditionally underrepresented in mathematics and science-related professions and which meet the requirements established by the coordinator shall be selected.

[1984 c 265 § 4. Formerly RCW 28A.03.436.]

Notes:

Implementation--Funding required--1984 c 265: See note following RCW 28A.625.200.

RCW 28A.625.240 Local program centers.

The coordinator shall establish local program centers throughout the state to implement RCW 28A.625.210 through 28A.625.230. Each center shall be managed by a center director. Additional staff as necessary may be hired.

[1990 c 33 § 521; 1984 c 265 § 5. Formerly RCW 28A.03.438.]

Notes:

Implementation--Funding required--1984 c 265: See note following RCW 28A.625.200.

SCHOOL IMPROVEMENT AND RESEARCH PROJECTS

RCW 28A.625.350 Short title.

RCW 28A.625.360 through 28A.625.390 may be known and cited as the Washington award for excellence in teacher preparation act.

[1990 1st ex.s. c 10 § 1.]

Notes:

Finding--1990 1st ex.s. c 10: "The legislature finds that excellence in teacher preparation requires increased cooperation and coordination between institutions of higher education and school districts as it relates to the preparation of students into the profession of teaching. The legislature further finds that an increase in the level of such cooperation and coordination in selecting, training, and supervising excellent "cooperating" teachers, and the development of new school and university partnerships, will be beneficial to the teaching profession, and will enhance the ability of all new teachers to perform at a more competent level during their initial teaching experience." [1990 1st ex.s. c 10 § 6.]

RCW 28A.625.360 Excellence in teacher preparation award established.

(1) The state board of education shall establish an annual award program for excellence in teacher preparation to recognize higher education teacher educators for their leadership, contributions, and commitment to education.

(2) The program shall recognize annually one teacher preparation faculty member from one of the teacher preparation programs approved by the state board of education.

[1990 1st ex.s. c 10 § 2.]

Notes:

Finding--1990 1st ex.s. c 10: See note following RCW 28A.625.350.

RCW 28A.625.370 Award for teacher educator.

The award for the teacher educator shall include:

(1) A certificate presented to the teacher educator by the governor, the president of the state board of education, and the superintendent of public instruction at a public ceremony; and

(2) A grant to the professional education advisory board of the institution from which the teacher educator is selected, which grant shall not exceed two thousand five hundred dollars and which grant shall be awarded under RCW 28A.625.390.

[1990 1st ex.s. c 10 § 3.]

Notes:

Finding--1990 1st ex.s. c 10: See note following RCW 28A.625.350.

RCW 28A.625.380 Rules.

The state board of education shall adopt rules under chapter 34.05 RCW to carry out the purposes of RCW 28A.625.360 through 28A.625.390. These rules shall include establishing the selection criteria for the Washington award for excellence in teacher preparation. The state board of education is encouraged to consult with teacher educators, deans, and professional education advisory board members in developing the selection criteria. The criteria shall include any role performed by nominees relative to implementing innovative developments by the nominee's teacher preparation program and efforts the nominee has made to assist in communicating with legislators, common school teachers and administrators and others about the nominee's teacher preparation program.

[1990 1st ex.s. c 10 § 4.]

Notes:

Finding--1990 1st ex.s. c 10: See note following RCW 28A.625.350.

RCW 28A.625.390 Educational grant--Eligibility--Award.

The professional education advisory board for the institution from which the teacher educator has been selected to receive an award shall be eligible to apply for an educational grant as provided under RCW 28A.625.370. The state board of education shall award the grant after the state board has approved the grant application as long as the written grant application is submitted to the state board within one year after the award is received by the teacher educator. The grant application shall identify the educational purpose toward which the grant shall be used.

[1990 1st ex.s. c 10 § 5.]

Notes:

Finding--1990 1st ex.s. c 10: See note following RCW 28A.625.350.

RCW 28A.625.900 Severability--1990 1st ex.s. c 10.

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

[1990 1st ex.s. c 10 § 10.]

Chapter 28A.630 RCW
TEMPORARY PROVISIONS--SPECIAL PROJECTS

Sections

DEVELOPMENT OF EDUCATIONAL PARAPROFESSIONAL TRAINING PROGRAM

28A.630.400 Paraeducator associate of arts degree.

AT-RISK STUDENTS

28A.630.810 Rules.

SCHOOL-TO-WORK TRANSITION PROJECT

28A.630.881 School-to-work transition project--Findings--Intent--Outreach--Technical assistance.

DEVELOPMENT OF EDUCATIONAL PARAPROFESSIONAL TRAINING PROGRAM

RCW 28A.630.400 Paraeducator associate of arts degree.

(1) The state board of education and the state board for community and technical colleges, in consultation with the superintendent of public instruction, the higher education coordinating board, the state apprenticeship training council, and community colleges, shall adopt rules as necessary under chapter 34.05 RCW to implement the paraeducator associate of arts degree.

(2) As used in this section, a "paraeducator" is an individual who has completed an associate of arts degree for a paraeducator. The paraeducator may be hired by a school district to assist certificated instructional staff in the direct instruction of children in small and large groups, individualized instruction, testing of children, recordkeeping, and preparation of materials. The paraeducator shall work under the direction of instructional certificated staff.

(3) The training program for a paraeducator associate of arts degree shall include, but is not limited to, the general requirements for receipt of an associate of arts degree and training in the areas of introduction to childhood education, orientation to children with disabilities,

fundamentals of childhood education, creative activities for children, instructional materials for children, fine art experiences for children, the psychology of learning, introduction to education, child health and safety, child development and guidance, first aid, and a practicum in a school setting.

(4) Consideration shall be given to transferability of credit earned in this program to teacher preparation programs at colleges and universities.

[1995 c 335 § 202; 1995 c 77 § 27; 1991 c 285 § 2; 1989 c 370 § 1. Formerly RCW 28A.04.180.]

Notes:

Reviser's note: This section was amended by 1995 c 77 § 27 and by 1995 c 335 § 202, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

AT-RISK STUDENTS

RCW 28A.630.810 Rules.

The superintendent of public instruction shall adopt rules as necessary under chapter 34.05 RCW to carry out the provisions of chapter 233, Laws of 1989.

[1989 c 233 § 17. Formerly RCW 28A.120.800.]

SCHOOL-TO-WORK TRANSITION PROJECT

RCW 28A.630.881 School-to-work transition project--Findings--Intent--Outreach--Technical assistance.

(1) The legislature finds that students who do not prepare for postsecondary education, training, and employment are more likely to become dependent on state assistance programs than those who do make such preparation and that long-term employment and earning outcomes for youth can be significantly improved through school-to-work transition efforts, particularly through work-based learning experiences. The legislature intends that every effort be made to involve all youth in preparation for postsecondary education, training, and employment, including out-of-school youth.

(2) Washington is engaged in developing school-to-work transitions for all youth, which involves preparation for postsecondary education, training, and employment and requires outreach to out-of-school youth. All school-to-work transition projects in the state, therefore, whether funded by state or federal funds, shall contain an outreach component directed toward school-age youth not currently enrolled in school and demonstrate the involvement of all in-school youth in preparation for postsecondary education or training or employment. At the time a school-to-work grant is made, the superintendent of public instruction shall withhold twenty percent of the grant award and release the funds upon a showing that the project has satisfactorily included outreach to out-of-school youth and progress in involving students not

traditionally engaged in preparation for postsecondary education, training, or employment.

(3) The office of the superintendent of public instruction shall provide technical assistance to ensure that school districts establish and operate outreach efforts under this section, and to include out-of-school youth in school-to-work efforts within available funds.

[1997 c 58 § 304.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Chapter 28A.635 RCW
OFFENSES RELATING TO SCHOOL PROPERTY AND PERSONNEL

Sections

28A.635.010 Abusing or insulting teachers, liability for--Penalty.
28A.635.020 Willfully disobeying school administrative personnel or refusing to leave public property, violations, when--Penalty.
28A.635.030 Disturbing school, school activities or meetings--Penalty.
28A.635.040 Examination questions--Disclosing--Penalty.
28A.635.050 Certain corrupt practices of school officials--Penalty.
28A.635.060 Defacing or injuring school property--Liability of pupil, parent, or guardian--Withholding grades, diploma, or transcripts--Suspension and restitution--Voluntary work program as alternative--Rights protected.
28A.635.070 Property, failure of officials or employees to account for--Mutilation by--Penalties.
28A.635.080 Director's connivance to employ uncertified teachers--Liability.
28A.635.090 Interference by force or violence--Penalty.
28A.635.100 Intimidating any administrator, teacher, classified employee, or student by threat of force or violence unlawful.
28A.635.110 Violations under RCW 28A.635.090 and 28A.635.100--Disciplinary authority exception.
28A.635.120 Violations under RCW 28A.635.090 and 28A.635.100--Penalty.

Notes:

Educational employment relations act: Chapter 41.59 RCW.

RCW 28A.635.010 Abusing or insulting teachers, liability for--Penalty.

Any person who shall insult or abuse a teacher anywhere on the school premises while such teacher is carrying out his or her official duties, shall be guilty of a misdemeanor, the penalty for which shall be a fine of not less than ten dollars nor more than one hundred dollars.

[1990 c 33 § 536; 1984 c 258 § 314; 1969 ex.s. c 199 § 55; 1969 ex.s. c 223 § 28A.87.010. Prior: 1909 c 97 p 360 § 11; RRS § 5054; prior: 1903 c 156 § 11; 1897 c 118 § 169; 1890 p 383 § 86. Formerly RCW 28A.87.010, 28.87.010.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes

following RCW 3.30.010.

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

RCW 28A.635.020 Willfully disobeying school administrative personnel or refusing to leave public property, violations, when--Penalty.

(1) It shall be unlawful for any person to willfully disobey the order of the chief administrative officer of a public school district, or of an authorized designee of any such administrator, to leave any motor vehicle, building, grounds or other property which is owned, operated or controlled by the school district if the person so ordered is under the influence of alcohol or drugs, or is committing, threatens to imminently commit or incites another to imminently commit any act which would disturb or interfere with or obstruct any lawful task, function, process or procedure of the school district or any lawful task, function, process or procedure of any student, official, employee or invitee of the school district. The order of a school officer or designee acting pursuant to this subsection shall be valid if the officer or designee reasonably believes a person ordered to leave is under the influence of alcohol or drugs, is committing acts, or is creating a disturbance as provided in this subsection.

(2) It shall be unlawful for any person to refuse to leave public property immediately adjacent to a building, grounds or property which is owned, operated or controlled by a school district when ordered to do so by a law enforcement officer if such person is engaging in conduct which creates a substantial risk of causing injury to any person, or substantial harm to property, or such conduct amounts to disorderly conduct under RCW 9A.84.030.

(3) Nothing in this section shall be construed to prohibit or penalize activity consisting of the lawful exercise of freedom of speech, freedom of press and the right to peaceably assemble and petition the government for a redress of grievances: PROVIDED, That such activity neither does or threatens imminently to materially disturb or interfere with or obstruct any lawful task, function, process or procedure of the school district, or any lawful task, function, process or procedure of any student, official, employee or invitee of the school district: PROVIDED FURTHER, That such activity is not conducted in violation of a prohibition or limitation lawfully imposed by the school district upon entry or use of any motor vehicle, building, grounds or other property which is owned, operated or controlled by the school district.

(4) Any person guilty of violating this section shall be deemed guilty of a gross misdemeanor punishable as provided in chapter 9A.20 RCW.

[1997 c 266 § 6; 1981 c 36 § 1; 1975-'76 2nd ex.s. c 100 § 1. Formerly RCW 28A.87.055.]

Notes:

Findings--Intent--Severability--1997 c 266: See notes following RCW 28A.600.455.

Severability--1975-'76 2nd ex.s. c 100: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 100 § 3.]

RCW 28A.635.030 Disturbing school, school activities or meetings--Penalty.

Any person who shall willfully create a disturbance on school premises during school hours or at school activities or school meetings shall be guilty of a misdemeanor, the penalty for which shall be a fine in any sum not more than fifty dollars.

[1984 c 258 § 315; 1969 ex.s. c 199 § 57; 1969 ex.s. c 223 § 28A.87.060. Prior: 1909 c 97 p 361 § 12; RRS § 5055; prior: 1903 c 156 § 12; 1897 c 118 § 170; 1890 p 383 § 87. Formerly RCW 28A.87.060, 28.87.060.]

Notes:

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

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

RCW 28A.635.040 Examination questions--Disclosing--Penalty.

Any person having access to any question or questions prepared for the examination of teachers or common school pupils, who shall directly or indirectly disclose the same before the time appointed for the use of the questions in the examination of such teachers or pupils, or who shall directly or indirectly assist any person to answer any question submitted, shall be guilty of a misdemeanor, the penalty for which shall be a fine in any sum not less than one hundred nor more than five hundred dollars.

[1984 c 258 § 316; 1969 ex.s. c 199 § 58; 1969 ex.s. c 223 § 28A.87.070. Prior: 1909 c 97 p 357 § 1; RRS § 5043; prior: 1903 c 156 § 1; 1897 c 118 § 159. Formerly RCW 28A.87.070, 28.87.070.]

Notes:

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

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

RCW 28A.635.050 Certain corrupt practices of school officials--Penalty.

Except as otherwise provided in chapter 42.23 RCW, it shall be unlawful for any member of the state board of education, the superintendent of public instruction or any employee of the superintendent's office, any educational service district superintendent, any school district superintendent or principal, or any director of any school district, to request or receive, directly or indirectly, anything of value for or on account of his or her influence with respect to any act or proceeding of the state board of education, the office of the superintendent of public instruction, any office of educational service district superintendent or any school district, or any of these, when such act or proceeding shall inure to the benefit of those offering or giving the thing of value.

Any willful violation of the provisions of this section shall be a misdemeanor and punished as such.

[1990 c 33 § 537; 1975 1st ex.s. c 275 § 143; 1969 ex.s. c 176 § 150; 1969 ex.s. c 223 § 28A.87.090. Prior: 1917 c 126 § 1; RRS § 5050. Formerly RCW 28A.87.090, 28.87.090.]

Notes:

Rights preserved--Severability--1969 ex.s. c 176: See notes following RCW 28A.310.010.

RCW 28A.635.060 Defacing or injuring school property--Liability of pupil, parent, or guardian--Withholding grades, diploma, or transcripts--Suspension and restitution--Voluntary work program as alternative--Rights protected.

(1) Any pupil who defaces or otherwise injures any school property, or property belonging to a school contractor, employee, or another student, is subject to suspension and punishment. If any property of the school district, a contractor of the district, an employee, or another student has been lost or willfully cut, defaced, or injured, the school district may withhold the grades, diploma, and transcripts of the pupil responsible for the damage or loss until the pupil or the pupil's parent or guardian has paid for the damages. If the student is suspended, the student may not be readmitted until the student or parents or legal guardian has made payment in full or until directed by the superintendent of schools. If the property damaged is a school bus owned and operated by or contracted to any school district, a student suspended for the damage may not be permitted to enter or ride any school bus until the student or parent or legal guardian has made payment in full or until directed by the superintendent. When the pupil and parent or guardian are unable to pay for the damages, the school district shall provide a program of voluntary work for the pupil in lieu of the payment of monetary damages. Upon completion of voluntary work the grades, diploma, and transcripts of the pupil shall be released. The parent or guardian of such pupil shall be liable for damages as otherwise provided by law.

(2) Before any penalties are assessed under this section, a school district board of directors shall adopt procedures which insure that pupils' rights to due process are protected.

(3) If the department of social and health services or a child-placing agency licensed by the department has been granted custody of a child, that child's records, if requested by the department or agency, are not to be withheld for nonpayment of school fees or any other reason.

[1997 c 266 § 13; 1994 c 304 § 1; 1993 c 347 § 3; 1989 c 269 § 6; 1982 c 38 § 1; 1969 ex.s. c 223 § 28A.87.120. Prior: 1909 c 97 p 361 § 41; RRS § 5057; prior: 1903 c 156 § 14; 1897 c 118 § 172; 1890 p 372 § 48. Formerly RCW 28A.87.120, 28.87.120.]

Notes:

Findings--Intent--Severability--1997 c 266: See notes following RCW 28A.600.455.

Effective date--1994 c 304: "This act shall take effect July 1, 1994." [1994 c 304 § 4.]

Action against parent for willful injury to property by minor--Monetary limitation--Common law liability preserved: RCW 4.24.190.

RCW 28A.635.070 Property, failure of officials or employees to account for--Mutilation by--Penalties.

Any school district official or employee who shall refuse or fail to deliver to his or her qualified successor all books, papers, and records pertaining to his or her position, or who shall willfully mutilate or destroy any such property, or any part thereof, shall be guilty of a misdemeanor, the penalty for which shall be a fine not to exceed one hundred dollars: PROVIDED, That for each day there is a refusal or failure to deliver to a successor books, papers and records, a separate offense shall be deemed to have occurred.

[1990 c 33 § 538; 1984 c 258 § 317; 1969 ex.s. c 199 § 60; 1969 ex.s. c 223 § 28A.87.130. Prior: 1909 c 97 p 359 § 7, part; RRS § 5049, part; prior: 1907 c 240 § 16, part; 1903 c 156 § 7, part; 1897 c 118 § 165, part. Formerly RCW 28A.87.130, 28.87.130, part.]

Notes:

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

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

RCW 28A.635.080 Director's connivance to employ uncertified teachers--Liability.

Any school district director who shall aid in or give his or her consent to the employment of a teacher who is not the holder of a valid teacher's certificate issued under authority of chapter 28A.410 RCW authorizing him or her to teach in the school district by which employed shall be personally liable to his or her district for any loss which it may sustain by reason of the employment of such person.

[1990 c 33 § 539; 1969 ex.s. c 223 § 28A.87.135. Prior: 1909 c 97 p 359 § 7, part; RRS § 5049, part; prior: 1907 c 240 § 16, part; 1903 c 156 § 7, part; 1897 c 118 § 165, part. Formerly RCW 28A.87.135, 28.87.130, part, 28.87.160.]

RCW 28A.635.090 Interference by force or violence--Penalty.

It shall be unlawful for any person, singly or in concert with others, to interfere by force or violence with any administrator, teacher, classified employee, person under contract with the school or school district, or student of any common school who is in the peaceful discharge or conduct of his or her duties or studies. Any such interference by force or violence committed by a student shall be grounds for immediate suspension or expulsion of the student.

[1996 c 321 § 3; 1990 c 33 § 540; 1988 c 2 § 1; 1971 c 45 § 3. Formerly RCW 28A.87.230.]

RCW 28A.635.100 Intimidating any administrator, teacher, classified employee, or student by threat of force or violence unlawful.

It shall be unlawful for any person, singly or in concert with others, to intimidate by threat of force or violence any administrator, teacher, classified employee, or student of any common school who is in the peaceful discharge or conduct of his or her duties or studies.

[1990 c 33 § 541; 1988 c 2 § 2; 1971 c 45 § 4. Formerly RCW 28A.87.231.]

RCW 28A.635.110 Violations under RCW 28A.635.090 and 28A.635.100--Disciplinary authority exception.

The crimes defined in RCW 28A.635.090 and 28A.635.100 shall not apply to school administrators, teachers, or classified employees who are engaged in the reasonable exercise of their disciplinary authority.

[1990 c 33 § 542; 1988 c 2 § 3; 1971 c 45 § 5. Formerly RCW 28A.87.232.]

RCW 28A.635.120 Violations under RCW 28A.635.090 and 28A.635.100--Penalty.

Any person guilty of violating RCW 28A.635.090 and 28A.635.100 shall be deemed guilty of a gross misdemeanor and, upon conviction thereon, shall be fined not more than five hundred dollars, or imprisoned in jail not more than six months or both such fine and imprisonment.

[1990 c 33 § 543; 1971 c 45 § 6. Formerly RCW 28A.87.233.]

Notes:

Severability--1971 c 45: See note following RCW 28B.10.570.

Chapter 28A.640 RCW
SEXUAL EQUALITY

Sections

28A.640.010 Purpose--Discrimination prohibited.
28A.640.020 Regulations, guidelines to eliminate discrimination--Scope--Sexual harassment policies.
28A.640.030 Administration.
28A.640.040 Civil relief for violations.
28A.640.050 Enforcement--Superintendent's orders, scope.
28A.640.900 Chapter supplementary.

Notes:

Discrimination--Separation of sexes in dormitories, residence halls, etc.: RCW 49.60.222.

RCW 28A.640.010 Purpose--Discrimination prohibited.

Inequality in the educational opportunities afforded women and girls at all levels of the public schools in Washington state is a breach of Article XXXI, section 1, Amendment 61, of the Washington state Constitution, requiring equal treatment of all citizens regardless of sex. This violation of rights has had a deleterious effect on the individuals affected and on society. Recognizing the benefit to our state and nation of equal educational opportunities for all students, discrimination on the basis of sex for any student in grades K-12 of the Washington public schools is prohibited.

[1975 1st ex.s. c 226 § 1. Formerly RCW 28A.85.010.]

Notes:

Severability--1975 1st ex.s. c 226: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 226 § 8.]

RCW 28A.640.020 Regulations, guidelines to eliminate discrimination--Scope--Sexual harassment policies.

(1) The superintendent of public instruction shall develop regulations and guidelines to eliminate sex discrimination as it applies to public school employment, counseling and guidance services to students, recreational and athletic activities for students, access to course offerings, and in textbooks and instructional materials used by students.

(a) Specifically with respect to public school employment, all schools shall be required to:

(i) Maintain credential requirements for all personnel without regard to sex;

(ii) Make no differentiation in pay scale on the basis of sex;

(iii) Assign school duties without regard to sex except where such assignment would involve duty in areas or situations, such as but not limited to a shower room, where persons might be disrobed;

(iv) Provide the same opportunities for advancement to males and females; and

(v) Make no difference in conditions of employment including, but not limited to, hiring practices, leaves of absence, hours of employment, and assignment of, or pay for, instructional and noninstructional duties, on the basis of sex.

(b) Specifically with respect to counseling and guidance services for students, they shall be made available to all students equally. All certificated personnel shall be required to stress access to all career and vocational opportunities to students without regard to sex.

(c) Specifically with respect to recreational and athletic activities, they shall be offered to all students without regard to sex. Schools may provide separate teams for each sex. Schools which provide the following shall do so with no disparities based on sex: Equipment and supplies; medical care; services and insurance; transportation and per diem allowances; opportunities to receive coaching and instruction; laundry services; assignment of game officials; opportunities for competition, publicity and awards; scheduling of games and practice times including use of courts, gyms, and pools: PROVIDED, That such scheduling of games and practice times shall be determined by local administrative authorities after consideration of the public and student interest in attending and participating in various recreational and athletic activities. Each school which provides showers, toilets, or training room facilities for athletic purposes shall provide comparable facilities for both sexes. Such facilities may be provided either as separate facilities or shall be scheduled and used separately by each sex.

The superintendent of public instruction shall also be required to develop a student survey to distribute every three years to each local school district in the state to determine student interest for male/female participation in specific sports.

(d) Specifically with respect to course offerings, all classes shall be required to be available to all students without regard to sex: PROVIDED, That separation is permitted within any class during sessions on sex education or gym classes.

(e) Specifically with respect to textbooks and instructional materials, which shall also include, but not be limited to, reference books and audio-visual materials, they shall be required

to adhere to the guidelines developed by the superintendent of public instruction to implement the intent of this chapter: PROVIDED, That this subsection shall not be construed to prohibit the introduction of material deemed appropriate by the instructor for educational purposes.

(2)(a) By December 31, 1994, the superintendent of public instruction shall develop criteria for use by school districts in developing sexual harassment policies as required under (b) of this subsection. The criteria shall address the subjects of grievance procedures, remedies to victims of sexual harassment, disciplinary actions against violators of the policy, and other subjects at the discretion of the superintendent of public instruction. Disciplinary actions must conform with collective bargaining agreements and state and federal laws. The superintendent of public instruction also shall supply sample policies to school districts upon request.

(b) By June 30, 1995, every school district shall adopt and implement a written policy concerning sexual harassment. The policy shall apply to all school district employees, volunteers, parents, and students, including, but not limited to, conduct between students.

(c) School district policies on sexual harassment shall be reviewed by the superintendent of public instruction considering the criteria established under (a) of this subsection as part of the monitoring process established in RCW 28A.640.030.

(d) The school district's sexual harassment policy shall be conspicuously posted throughout each school building, and provided to each employee. A copy of the policy shall appear in any publication of the school or school district setting forth the rules, regulations, procedures, and standards of conduct for the school or school district.

(e) Each school shall develop a process for discussing the district's sexual harassment policy. The process shall ensure the discussion addresses the definition of sexual harassment and issues covered in the sexual harassment policy.

(f) "Sexual harassment" as used in this section means unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature if:

(i) Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining an education or employment;

(ii) Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's education or employment; or

(iii) That conduct or communication has the purpose or effect of substantially interfering with an individual's educational or work performance, or of creating an intimidating, hostile, or offensive educational or work environment.

[1994 c 213 § 1; 1975 1st ex.s. c 226 § 2. Formerly RCW 28A.85.020.]

Notes:

Severability--1975 1st ex.s. c 226: See note following RCW 28A.640.010.

RCW 28A.640.030 Administration.

The office of the superintendent of public instruction shall be required to monitor the compliance by local school districts with this chapter, shall establish a compliance timetable and

regulations for enforcement of this chapter, and shall establish guidelines for affirmative action programs to be adopted by all school districts.

[1975 1st ex.s. c 226 § 3. Formerly RCW 28A.85.030.]

Notes:

Severability--1975 1st ex.s. c 226: See note following RCW 28A.640.010.

RCW 28A.640.040 Civil relief for violations.

Any person aggrieved by a violation of this chapter, or aggrieved by the violation of any regulation or guideline adopted hereunder, shall have a right of action in superior court for civil damages and such equitable relief as the court shall determine.

[1975 1st ex.s. c 226 § 4. Formerly RCW 28A.85.040.]

Notes:

Severability--1975 1st ex.s. c 226: See note following RCW 28A.640.010.

RCW 28A.640.050 Enforcement--Superintendent's orders, scope.

The superintendent of public instruction shall have the power to enforce and obtain compliance with the provisions of this chapter and the regulations and guidelines adopted pursuant thereto by appropriate order made pursuant to chapter 34.05 RCW, which order, by way of illustration, may include, the termination of all or part of state apportionment or categorical moneys to the offending school district, the termination of specified programs in which violations may be flagrant within the offending school district, the institution of a mandatory affirmative action program within the offending school district, and the placement of the offending school district on probation with appropriate sanctions until compliance is achieved.

[1975 1st ex.s. c 226 § 5. Formerly RCW 28A.85.050.]

Notes:

Severability--1975 1st ex.s. c 226: See note following RCW 28A.640.010.

RCW 28A.640.900 Chapter supplementary.

This chapter shall be supplementary to, and shall not supersede, existing law and procedures and future amendments thereto relating to unlawful discrimination based on sex.

[1975 1st ex.s. c 226 § 6. Formerly RCW 28A.85.900.]

Notes:

Severability--1975 1st ex.s. c 226: See note following RCW 28A.640.010.

Chapter 28A.645 RCW

APPEALS FROM BOARD

Sections

28A.645.010 Appeals--Notice of--Scope--Time limitation.
28A.645.020 Transcript filed, certified.
28A.645.030 Appeal to be heard de novo and expeditiously.
28A.645.040 Certified copy of decision to county assessor when school district boundaries changed.

Notes:
Educational employment relations act: Chapter 41.59 RCW.

RCW 28A.645.010 Appeals--Notice of--Scope--Time limitation.

Any person, or persons, either severally or collectively, aggrieved by any decision or order of any school official or board, within thirty days after the rendition of such decision or order, or of the failure to act upon the same when properly presented, may appeal the same to the superior court of the county in which the school district or part thereof is situated, by filing with the secretary of the school board if the appeal is from board action or failure to act, otherwise with the proper school official, and filing with the clerk of the superior court, a notice of appeal which shall set forth in a clear and concise manner the errors complained of.

Appeals by teachers, principals, supervisors, superintendents, or other certificated employees from the actions of school boards with respect to discharge or other action adversely affecting their contract status, or failure to renew their contracts for the next ensuing term shall be governed by the appeal provisions of chapters 28A.400 and 28A.405 RCW therefor and in all other cases shall be governed by chapter 28A.645 RCW.

[1990 c 33 § 544; 1971 ex.s. c 282 § 40; 1969 ex.s. c 34 § 17; 1969 ex.s. c 223 § 28A.88.010. Prior: 1961 c 241 § 9; 1909 c 97 p 362 § 1; RRS § 5064. Formerly RCW 28A.88.010, 28.88.010.] [SLC-RO-1.]

Notes:
Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.
RCW 28A.645.010 not applicable to contract renewal of school superintendent: RCW 28A.400.010.

RCW 28A.645.020 Transcript filed, certified.

Within twenty days of service of the notice of appeal, the school board, at its expense, or the school official, at such official's expense, shall file the complete transcript of the evidence and the papers and exhibits relating to the decision for which a complaint has been filed. Such filings shall be certified to be correct.

[1971 ex.s. c 282 § 41. Formerly RCW 28A.88.013.]

Notes:
Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.

RCW 28A.645.030 Appeal to be heard de novo and expeditiously.

Any appeal to the superior court shall be heard de novo by the superior court. Such appeal shall be heard expeditiously.

[1971 ex.s. c 282 § 42. Formerly RCW 28A.88.015.]

Notes:

Severability--1971 ex.s. c 282: See note following RCW 28A.310.010.

RCW 28A.645.040 Certified copy of decision to county assessor when school district boundaries changed.

In cases of appeal resulting in the change of any school district boundaries the decision shall within five days thereafter be also certified by the proper officer to the county assessor of the county, or to the county assessors of the counties, wherein the territory may lie.

[1969 ex.s. c 223 § 28A.88.090. Prior: 1909 c 97 p 364 § 8; RRS § 5071. Formerly RCW 28A.88.090, 28.88.090.]

Chapter 28A.650 RCW
EDUCATION TECHNOLOGY

Sections

28A.650.005 Findings--Intent.
28A.650.010 Definitions.
28A.650.015 Education technology plan--Educational technology advisory committee.
28A.650.020 Regional educational technology support centers--Advisory councils.
28A.650.025 Distribution of funds for regional educational technology support centers.
28A.650.030 Distribution of funds to expand the education state-wide network.
28A.650.035 Education technology account.
28A.650.040 Rules.
28A.650.900 Findings--Intent--Part headings not law--1993 c 336.
28A.650.901 Findings--1993 c 336.

RCW 28A.650.005 Findings--Intent.

The legislature recognizes that up-to-date tools will help students learn. Workplace technology requirements will continue to change and students should be knowledgeable in the use of technologies.

Furthermore, the legislature finds that the Washington systemic initiative is a broad-based effort to promote widespread public literacy in mathematics, science, and technology. An important component of the systemic initiative is the universal electronic access to information by students. It is the intent of the legislature that components of RCW 28A.650.010 through 28A.650.025 will support the state-wide systemic reform effort in

mathematics, science, and technology as envisioned by the Washington systemic initiative.

[1993 c 336 § 701.]

RCW 28A.650.010 Definitions.

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

(1) "Education technology" or "technology" means the effective use of electronic and optical tools, including telephones, and electronic and optical pathways in helping students learn.

(2) "Network" means integrated linking of education technology systems in schools for transmission of voice, data, video, or imaging, or a combination of these.

[1993 c 336 § 702.]

RCW 28A.650.015 Education technology plan--Educational technology advisory committee.

(1) The superintendent of public instruction, to the extent funds are appropriated, shall develop and implement a Washington state K-12 education technology plan. The technology plan shall be updated on at least a biennial basis, shall be developed to coordinate and expand the use of education technology in the common schools of the state. The plan shall be consistent with applicable provisions of chapter 43.105 RCW. The plan, at a minimum, shall address:

(a) The provision of technical assistance to schools and school districts for the planning, implementation, and training of staff in the use of technology in curricular and administrative functions;

(b) The continued development of a network to connect school districts, institutions of higher learning, and other sources of on-line information; and

(c) Methods to equitably increase the use of education technology by students and school personnel throughout the state.

(2) The superintendent of public instruction shall appoint an educational technology advisory committee to assist in the development and implementation of the technology plan in subsection (1) of this section. The committee shall include, but is not limited to, persons representing: The state board of education, the commission on student learning, the department of information services, educational service districts, school directors, school administrators, school principals, teachers, classified staff, higher education faculty, parents, students, business, labor, scientists and mathematicians, the higher education coordinating board, the work force training and education coordinating board, and the state library.

[1995 c 335 § 507; 1994 c 245 § 2; 1993 c 336 § 703.]

Notes:

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

RCW 28A.650.020 Regional educational technology support centers--Advisory councils.

Educational service districts shall establish, subject to available funding, regional educational technology support centers for the purpose of providing ongoing educator training, school district cost-benefit analysis, long-range planning, network planning, distance learning access support, and other technical and programmatic support. Each educational service district shall establish a representative advisory council to advise the educational service district in the expenditure of funds provided to the technology support centers.

[1993 c 336 § 705.]

Notes:

Reviser's note: 1993 c 336 directed that this section be added to chapter 28A.310 RCW. This section has been codified in chapter 28A.650 RCW, which relates more directly to educational technology.

RCW 28A.650.025 Distribution of funds for regional educational technology support centers.

The superintendent of public instruction, to the extent funds are appropriated, shall distribute funds to educational service districts on a grant basis for the regional educational technology support centers established in RCW 28A.650.020.

[1993 c 336 § 706.]

RCW 28A.650.030 Distribution of funds to expand the education state-wide network.

The superintendent of public instruction, to the extent funds are appropriated, shall distribute funds to the Washington school information processing cooperative and to school districts on a grant basis, from moneys appropriated for the purposes of this section, for equipment, networking, and software to expand the current K-12 education state-wide network.

[1993 c 336 § 707.]

RCW 28A.650.035 Education technology account.

(1) The superintendent of public instruction may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of educational technology and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

(2) The education technology account is hereby established in the custody of the state treasurer. The superintendent of public instruction shall deposit in the account all moneys received from gifts, grants, or endowments for education technology. Moneys in the account may be spent only for education technology. Disbursements from the account shall be on authorization of the superintendent of public instruction or the superintendent's designee. The account is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements.

[1993 c 336 § 708.]

RCW 28A.650.040 Rules.

The superintendent of public instruction shall adopt rules as necessary under chapter 34.05 RCW governing the operation and scope of this chapter.

[1993 c 336 § 709.]

RCW 28A.650.900 Findings--Intent--Part headings not law--1993 c 336.

See notes following RCW 28A.150.210.

RCW 28A.650.901 Findings--1993 c 336.

See note following RCW 28A.150.210.

Chapter 28A.655 RCW
ACADEMIC ACHIEVEMENT AND ACCOUNTABILITY

Sections

28A.655.005 Findings.
28A.655.010 Washington commission on student learning--Definitions.
28A.655.020 Academic achievement and accountability commission.
28A.655.030 Academic achievement and accountability commission--Powers and duties.
28A.655.050 Reading goals--Mathematics goals.
28A.655.060 Essential academic learning requirements--State-wide academic assessment system--Certificate of mastery--Educational pathways--Accountability--Reports and recommendations--Washington commission on student learning, creation and expiration.
28A.655.070 Identification of knowledge and skills--Development and revision of learning requirements and assessments.
28A.655.090 Washington assessment of student learning--Reporting requirements.
28A.655.100 Performance goals--Reporting requirements.
28A.655.110 Annual school performance report--Model report form.
28A.655.130 Accountability implementation funds.
28A.655.140 Technical assistance.
28A.655.150 Consolidation of requirements for categorical grant programs--Use of electronic applications and reporting.
28A.655.180 Waivers for educational restructuring programs--Study by joint select committee on education restructuring--Report to legislature.
28A.655.182 Joint select committee on education restructuring.
28A.655.184 Annual report.
28A.655.186 Review of laws and reporting requirements--Report to the legislature.
28A.655.188 Commission on student learning, superintendent of public instruction, state board of education, higher education coordinating board, and state board for community and technical colleges--Annual reports to joint select committee.
28A.655.190 Final report.
28A.655.900 Transfer of powers, duties, and functions.
28A.655.901 Part headings and captions not law--1999 c 388.

28A.655.902 Severability--1999 c 388.

RCW 28A.655.005 Findings.

The legislature finds that the purpose of Washington's accountability system is to improve student learning and student achievement of the essential academic learning requirement standards so that each individual student will be given the opportunity to become a responsible citizen and successfully live, learn, and work in the twenty-first century. To achieve this purpose, the accountability system should be based on student achievement and continuous improvement at all levels of Washington's education system and on a fundamental principle that all public school students have access to curriculum and instruction that is aligned to the standards.

The legislature further finds that the accountability system should rely on local responsibility and leadership. Districts and schools should be expected to improve and be evaluated based on their improvement over time. Districts should recognize exceptional progress and work closely with schools needing assistance.

The legislature further finds that the accountability system must be simple to use and understand. Consequences must be predictable and fair. Differences among students, schools, and districts should be recognized and respected as the system is implemented. There should be a balance of each student's right to privacy and the public's right to know the overall levels of learning and achievement at the school, district, and state levels. In addition, the accountability system should be continuously reviewed and improved as more is learned about how schools operate to meet the learning needs of Washington's students.

[1999 c 388 § 1.]

RCW 28A.655.010 Washington commission on student learning--Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW *28A.630.885 and 28A.300.130.

(1) "Commission" means the commission on student learning created in *RCW 28A.630.885.

(2) "Student learning goals" mean[s] the goals established in RCW 28A.150.210.

(3) "Essential academic learning requirements" means more specific academic and technical skills and knowledge, based on the student learning goals, as determined under *RCW 28A.630.885(3)(a). Essential academic learning requirements shall not limit the instructional strategies used by schools or school districts or require the use of specific curriculum.

(4) "Performance standards" or "standards" means the criteria used to determine if a student has successfully learned the specific knowledge or skill being assessed as determined under *RCW 28A.630.885(3)(b). The standards should be set at internationally competitive levels.

(5) "Assessment system" or "student assessment system" means a series of assessments used to determine if students have successfully learned the essential academic learning requirements. The assessment system shall be developed under *RCW 28A.630.885(3)(b).

(6) "Performance-based education system" means an education system in which a significantly greater emphasis is placed on how well students are learning, and significantly less emphasis is placed on state-level laws and rules that dictate how instruction is to be provided. The performance-based education system does not require that schools use an outcome-based instructional model. Decisions regarding how instruction is provided are to be made, to the greatest extent possible, by schools and school districts, not by the state.

[1993 c 336 § 201. Formerly RCW 28A.630.883.]

Notes:

***Reviser's note:** RCW 28A.630.885 was recodified as RCW 28A.655.060 pursuant to 1999 c 388 § 607.

Findings--Intent--Part headings not law--1993 c 336: See notes following RCW 28A.150.210.

Findings--1993 c 336: See note following RCW 28A.630.879.

RCW 28A.655.020 Academic achievement and accountability commission.

(1) The academic achievement and accountability commission is established.

(2) The primary purpose of the commission is to provide oversight of the state's educational accountability system.

(3) The commission shall consist of nine members selected as follows:

(a) One member shall be the superintendent of public instruction or the superintendent's designee; and

(b) Eight members shall be appointed by the governor. Four of the members shall be selected as follows: Each major caucus of the house of representatives and the senate shall submit a list of three names. The lists may not include the names of members of the legislature. The governor shall select a member from each list provided by each caucus. All members appointed by the governor shall be subject to confirmation by the senate.

(4) The governor shall appoint a chair from among the commission members.

(5) Appointees shall be individuals who are supportive of educational improvement, who have a positive record of service, and who will devote sufficient time to the responsibilities of the commission to ensure that the objectives of the commission are achieved. The commission shall be composed of a balance of individuals from within and outside the public education system. The commission shall include educators, business leaders, and parents.

(6) The governor shall appoint its initial commission members by July 1, 1999. The first meeting of the commission shall be convened by the superintendent of public instruction no later than July 30, 1999.

(7) Appointed members shall serve for terms of four years, with the terms expiring on June 30th of the fourth year of the term. However, in the case of the initial members, four members shall serve four-year terms, two members shall serve three-year terms, and two members shall serve two-year terms, with each of the terms expiring on June 30th of the applicable year. Appointees may be reappointed to serve more than one term.

(8) The governor shall fill any vacancy in appointments that may occur. When filling a vacancy of a member nominated by a major caucus of the legislature, the governor shall select the new member from a list of three names submitted by the same caucus that provided the list from which the retiring member was appointed.

[1999 c 388 § 101.]

Notes:

Effective dates--1999 c 388 §§ 101, 502, and 604: "(1) Section 101 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1999.

(2) Sections 502 and 604 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [May 18, 1999]." [1999 c 388 § 608.]

RCW 28A.655.030 Academic achievement and accountability commission--Powers and duties.

The powers and duties of the academic achievement and accountability commission shall include, but are not limited to the following:

(1) For purposes of state-wide accountability, the commission shall:

(a) Adopt and revise performance improvement goals in reading, writing, science, and mathematics by subject and grade level as the commission deems appropriate to improve student learning, once assessments in these subjects are required state-wide. The goals shall be in addition to any goals adopted in RCW 28A.655.050. The commission may also revise any goal adopted in RCW 28A.655.050. The commission shall adopt the goals by rule. However, before each goal is implemented, the commission shall present the goal to the education committees of the house of representatives and the senate for the committees' review and comment in a time frame that will permit the legislature to take statutory action on the goal if such action is deemed warranted by the legislature;

(b) Identify the scores students must achieve in order to meet the standard on the Washington assessment of student learning and determine student scores that identify levels of student performance below and beyond the standard. The commission shall set such performance standards and levels in consultation with the superintendent of public instruction and after consideration of any recommendations that may be developed by any advisory committees that may be established for this purpose;

(c) Adopt objective, systematic criteria to identify successful schools and school districts and recommend to the superintendent of public instruction schools and districts to be recognized for two types of accomplishments, student achievement and improvements in student achievement. Recognition for improvements in student achievement shall include consideration of one or more of the following accomplishments:

(i) An increase in the percent of students meeting standards. The level of achievement required for recognition may be based on the achievement goals established by the legislature under RCW 28A.655.050 and the commission under (a) of this subsection;

(ii) Positive progress on an improvement index that measures improvement in all levels of the assessment; and

(iii) Improvements despite challenges such as high levels of mobility, poverty, English as a second language learners, and large numbers of students in special populations as measured by either the percent of students meeting the standard, or the improvement index.

When determining the baseline year or years for recognizing individual schools, the commission may use the assessment results from the initial years the assessments were administered, if doing so with individual schools would be appropriate;

(d) Adopt objective, systematic criteria to identify schools and school districts in need of assistance and those in which significant numbers of students persistently fail to meet state standards. In its deliberations, the commission shall consider the use of all state-wide mandated criterion-referenced and norm-referenced standardized tests;

(e) Identify schools and school districts in which state intervention measures will be needed and a range of appropriate intervention strategies, beginning no earlier than June 30, 2001, and after the legislature has authorized a set of intervention strategies. Beginning no earlier than June 30, 2001, and after the legislature has authorized a set of intervention strategies, at the request of the commission, the superintendent shall intervene in the school or school district and take corrective actions. This chapter does not provide additional authority for the commission or the superintendent of public instruction to intervene in a school or school district;

(f) Identify performance incentive systems that have improved or have the potential to improve student achievement;

(g) Annually review the assessment reporting system to ensure fairness, accuracy, timeliness, and equity of opportunity, especially with regard to schools with special circumstances and unique populations of students, and a recommendation to the superintendent of public instruction of any improvements needed to the system;

(h) Annually report by December 1st to the legislature, the governor, the superintendent of public instruction, and the state board of education on the progress, findings, and recommendations of the commission. The report may include recommendations of actions to help improve student achievement;

(i) By December 1, 2000, and by December 1st annually thereafter, report to the education committees of the house of representatives and the senate on the progress that has been made in achieving the reading goal under RCW 28A.655.050 and any additional goals adopted by the commission;

(j) Coordinate its activities with the state board of education and the office of the superintendent of public instruction;

(k) Seek advice from the public and all interested educational organizations in the conduct of its work; and

(l) Establish advisory committees, which may include persons who are not members of the commission;

(2) Holding meetings and public hearings, which may include regional meetings and hearings;

(3) Hiring necessary staff and determining the staff's duties and compensation. However, the office of the superintendent of public instruction shall provide staff support to the commission until the commission has hired its own staff, and shall provide most of the technical assistance and logistical support needed by the commission thereafter. The office of the superintendent of public instruction shall be the fiscal agent for the commission. The commission may direct the office of the superintendent of public instruction to enter into

subcontracts, within the commission's resources, with school districts, teachers, higher education faculty, state agencies, business organizations, and other individuals and organizations to assist the commission in its deliberations; and

(4) Receiving per diem and travel allowances as permitted under RCW 43.03.050 and 43.03.060.

[1999 c 388 § 102.]

RCW 28A.655.050 Reading goals--Mathematics goals.

(1) Each school district board of directors shall:

(a) Select the reading standard results on either the 1997 or 1998 fourth grade Washington assessment of student learning as the school district's initial baseline reading standard. Districts may select the 1997 results only if all of the elementary schools with fourth grade students administered the assessment;

(b) By December 15, 2001, select the mathematics standard results on the 1998, 1999, or 2000 fourth grade Washington assessment of student learning as the school district's fourth grade baseline mathematics standard, using for its baseline a year in which all of the elementary schools with fourth grade students administered the assessment;

(c) Establish three-year, district-wide goals to increase, by the end of the 2000-01 school year, the percentage of students who meet or exceed the reading standard, and by the 2003-04 school year, the percentage of students who meet or exceed the mathematics standard on the fourth grade Washington assessment of student learning. The three-year percentage increase goal in each subject may not be less than the district's total percentage of students who did not meet the baseline standard in each subject multiplied by twenty-five percent;

(d) Specify the annual district-wide percentage improvement increments to meet the goals; and

(e) Direct each elementary school to establish three-year goals for its fourth grade students, subject to approval by the board. The aggregate of the elementary school goals must meet or exceed the district-wide goals established by the board.

(2) By December 15, 2001, each school district board of directors shall:

(a) Select the mathematics standard results on the 1998, 1999, 2000, or 2001 seventh grade Washington assessment of student learning as the school district's seventh grade baseline mathematics standard;

(b) Establish a three-year district-wide goal to increase, by the end of the 2003-04 school year, the percentage of students who meet or exceed the mathematics standard, on the seventh grade Washington assessment of student learning. The district shall select for its baseline a year in which all of the schools with seventh grade students administered the assessment. The percentage increase goal may not be less than the district's total percentage of students who did not meet the baseline standard in mathematics multiplied by twenty-five percent;

(c) Specify the annual district-wide percentage improvement increments necessary to meet the goal; and

(d) Direct each middle or junior high school, as appropriate, to establish a mathematics

goal for its seventh grade students, subject to approval by the board. The aggregate of the middle or junior high school goals must meet or exceed the district-wide goals established by the board in each subject.

(3) Schools and school districts in which ten or fewer students are eligible to be assessed in a grade level are not required to establish numerical improvement goals and performance relative to the goals.

[1999 c 388 § 201; 1998 c 319 § 101. Formerly RCW 28A.630.887.]

Notes:

Part headings not law--1998 c 319: "Part headings used in this act are not any part of the law." [1998 c 319 § 401.]

RCW 28A.655.060 Essential academic learning requirements--State-wide academic assessment system--Certificate of mastery--Educational pathways--Accountability--Reports and recommendations--Washington commission on student learning, creation and expiration.

(1) The Washington commission on student learning is hereby established. The primary purposes of the commission are to identify the knowledge and skills all public school students need to know and be able to do based on the student learning goals in RCW 28A.150.210, to develop student assessment and school accountability systems, to review current school district data reporting requirements and make recommendations on what data is necessary for the purposes of accountability and meeting state information needs, and to take other steps necessary to develop a performance-based education system. The commission shall include three members of the state board of education, three members appointed by the governor before July 1, 1992, and five members appointed no later than June 1, 1993, by the governor elected in the November 1992 election. The governor shall appoint a chair from the commission members, and fill any vacancies in gubernatorial appointments that may occur. The state board of education shall fill any vacancies of state board of education appointments that may occur. In making the appointments, educators, business leaders, and parents shall be represented, and nominations from statewide education, business, and parent organizations shall be requested. Efforts shall be made to ensure that the commission reflects the racial and ethnic diversity of the state's K-12 student population and that the major geographic regions in the state are represented. Appointees shall be qualified individuals who are supportive of educational restructuring, who have a positive record of service, and who will devote sufficient time to the responsibilities of the commission to ensure that the objectives of the commission are achieved.

(2) The commission shall establish advisory committees. Membership of the advisory committees shall include, but not necessarily be limited to, professionals from the office of the superintendent of public instruction and the state board of education, and other state and local educational practitioners and student assessment specialists.

(3) The commission, with the assistance of the advisory committees, shall:

(a) Develop essential academic learning requirements based on the student learning goals in RCW 28A.150.210. Essential academic learning requirements shall be developed, to the

extent possible, for each of the student learning goals in RCW 28A.150.210. Goals one and two shall be considered primary. Essential academic learning requirements for RCW 28A.150.210(1), goal one, and the mathematics component of RCW 28A.150.210(2), goal two, shall be completed no later than March 1, 1995. Essential academic learning requirements that incorporate the remainder of RCW 28A.150.210 (2), (3), and (4), goals two, three, and four, shall be completed no later than March 1, 1996. To the maximum extent possible, the commission shall integrate goal four and the knowledge and skill areas in the other goals in the development of the essential academic learning requirements;

(b)(i) The commission and superintendent of public instruction shall develop a statewide academic assessment system for use in the elementary, middle, and high school years designed to determine if each student has learned the essential academic learning requirements identified in (a) of this subsection. The academic assessment system shall include a variety of assessment methods, including criterion-referenced and performance-based measures. Performance standards for determining if a student has successfully completed an assessment shall be determined by the commission and the superintendent of public instruction in consultation with the advisory committees required in subsection (2) of this section.

(ii) The assessment system shall be designed so that the results under the assessment system are used by educators as tools to evaluate instructional practices, and to initiate appropriate educational support for students who have not learned the essential academic learning requirements at the appropriate periods in the student's educational development.

(iii) Assessments measuring the essential academic learning requirements shall be available for voluntary use by school districts and shall be required to be administered by school districts according to the following schedule unless the legislature takes action to delay or prevent implementation of the assessment system and essential academic learning requirements.

	Assessments available for voluntary use (School years)	**Assessments required to be administered (School years)**
Reading, Writing, Communication, Mathematics		
- Elementary school	1996-97	1997-98
- Middle school	1997-98	2000-01
- High school	1998-99	2000-01
Science		
- High school	2002-03	2003-04
- Middle school	2002-03	2003-04

- Elementary school	2003-04	2004-05
Social Studies		
- Elementary, middle, and high school	2004-05	2007-08
Arts		
- Middle and high school	2005-06	2008-09
- Elementary school	2005-06	2009-10
Health, Fitness		
- Middle and high school	2005-06	2008-09
- Elementary school	2005-06	2009-10

The completed assessments and assessments still in development shall be transferred by the commission on student learning to the superintendent of public instruction by June 30, 1999.

(iv) To the maximum extent possible, the commission and the superintendent of public instruction shall integrate knowledge and skill areas in development of the assessments.

Assessments for goals three and four of RCW 28A.150.210 shall be integrated in the essential academic learning requirements and assessments for goals one and two.

(v) The commission on student learning may modify the essential academic learning requirements and the assessments, as needed, before June 30, 1999. The superintendent of public instruction may modify the essential academic learning requirements and the assessments, as needed, after June 30, 1999. The commission and superintendent shall, upon request, provide opportunities for the education committees of the house of representatives and the senate to review the assessments and proposed modifications to the essential academic learning requirements before the modifications are adopted.

(vi) The commission and the superintendent of public instruction shall develop assessments that are directly related to the essential academic learning requirements, and are not biased toward persons with different learning styles, racial or ethnic backgrounds, or on the basis of gender;

(c) After a determination is made by the state board of education that the high school assessment system has been implemented and that it is sufficiently reliable and valid, successful completion of the high school assessment shall lead to a certificate of mastery. The certificate of mastery shall be obtained by most students at about the age of sixteen, and is evidence that the student has successfully mastered the essential academic learning requirements during his or her

educational career. The certificate of mastery shall be required for graduation but shall not be the only requirement for graduation. The commission shall make recommendations to the state board of education regarding the relationship between the certificate of mastery and high school graduation requirements. Upon achieving the certificate of mastery, schools shall provide students with the opportunity to pursue career and educational objectives through educational pathways that emphasize integration of academic and vocational education. Educational pathways may include, but are not limited to, programs such as work-based learning, school-to-work transition, tech prep, vocational-technical education, running start, and preparation for technical college, community college, or university education. Any middle school, junior high school, or high school using educational pathways shall ensure that all participating students will continue to have access to the courses and instruction necessary to meet admission requirements at baccalaureate institutions. Students shall be allowed to enter the educational pathway of their choice. Before accepting a student into an educational pathway, the school shall inform the student's parent of the pathway chosen, the opportunities available to the student through the pathway, and the career objectives the student will have exposure to while pursuing the pathway. Parents and students dissatisfied with the opportunities available through the selected educational pathway shall be provided with the opportunity to transfer the student to any other pathway provided in the school. Schools may not develop educational pathways that retain students in high school beyond the date they are eligible to graduate, and may not require students who transfer between pathways to complete pathway requirements beyond the date the student is eligible to graduate;

(d) Consider methods to address the unique needs of special education students when developing the assessments in (b) and (c) of this subsection;

(e) Consider methods to address the unique needs of highly capable students when developing the assessments in (b) and (c) of this subsection;

(f) Develop recommendations on the time, support, and resources, including technical assistance, needed by schools and school districts to help students achieve the essential academic learning requirements. These recommendations shall include an estimate for the legislature, superintendent of public instruction, and governor on the expected cost of implementing the academic assessment system;

(g) Develop recommendations for consideration by the higher education coordinating board for adopting college and university entrance requirements for public school students that are consistent with the essential academic learning requirements and the certificate of mastery;

(h) Review current school district data reporting requirements for the purposes of accountability and meeting state information needs. The commission on student learning shall report recommendations to the joint select committee on education restructuring by September 15, 1996, on:

(i) What data is necessary to compare how school districts are performing before the essential academic learning requirements and the assessment system are implemented with how school districts are performing after the essential academic learning requirements and the assessment system are implemented; and

(ii) What data is necessary pertaining to school district reports under the accountability

systems developed by the commission on student learning under this section;

(i) Recommend to the legislature, governor, state board of education, and superintendent of public instruction:

(i) A statewide accountability system to monitor and evaluate accurately and fairly at elementary, middle, and high schools the level of learning occurring in individual schools and school districts with regard to the goals included in RCW 28A.150.210 (1) through (4). The accountability system must assess each school individually against its own baseline, schools with similar characteristics, and schools statewide. The system shall include school-site, school district, and state-level accountability reports;

(ii) A school assistance program to help schools and school districts that are having difficulty helping students meet the essential academic learning requirements as measured by performance on the elementary, middle school, and high school assessments;

(iii) A system to intervene in schools and school districts in which significant numbers of students persistently fail to learn the essential academic learning requirements or meet the standards established for the elementary, middle school, and high school assessments; and

(iv) An awards program to provide incentives to school staff to help their students learn the essential academic learning requirements, with each school being assessed individually against its own baseline, schools with similar characteristics, and the statewide average. Incentives shall be based on the rate of percentage change of students achieving the essential academic learning requirements and progress on meeting the statewide average. School staff shall determine how the awards will be spent.

The commission shall make recommendations regarding a statewide accountability system for reading in grades kindergarten through four by November 1, 1997. Recommendations for an accountability system in the other subject areas and grade levels shall be made no later than June 30, 1999;

(j) Report annually by December 1st to the legislature, the governor, the superintendent of public instruction, and the state board of education on the progress, findings, and recommendations of the commission; and

(k) Make recommendations to the legislature and take other actions necessary or desirable to help students meet the student learning goals.

(4) The commission shall coordinate its activities with the state board of education and the office of the superintendent of public instruction.

(5) The commission shall seek advice broadly from the public and all interested educational organizations in the conduct of its work, including holding periodic regional public hearings.

(6) The commission shall select an entity to provide staff support and the office of the superintendent of public instruction shall provide administrative oversight and be the fiscal agent for the commission. The commission may direct the office of the superintendent of public instruction to enter into subcontracts, within the commission's resources, with school districts, teachers, higher education faculty, state agencies, business organizations, and other individuals and organizations to assist the commission in its deliberations.

(7) Members of the commission shall be reimbursed for travel expenses as provided in

RCW 43.03.050 and 43.03.060.

(8)(a) By September 30, 1997, the commission on student learning, the state board of education, and the superintendent of public instruction shall jointly present recommendations to the education committees of the house of representatives and the senate regarding the high school assessments, the certificate of mastery, and high school graduation requirements.

In preparing recommendations, the commission on student learning shall convene an ad hoc working group to address questions, including:

(i) What type of document shall be used to identify student performance and achievement and how will the document be described?

(ii) Should the students be required to pass the high school assessments in all skill and content areas, or only in select skill and content areas, to graduate?

(iii) How will the criteria for establishing the standards for passing scores on the assessments be determined?

(iv) What timeline should be used in phasing-in the assessments as a graduation requirement?

(v) What options may be used in demonstrating how the results of the assessments will be displayed in a way that is meaningful to students, parents, institutions of higher education, and potential employers?

(vi) Are there other or additional methods by which the assessments could be used to identify achievement such as endorsements, standards of proficiency, merit badges, or levels of achievement?

(vii) Should the assessments and certificate of mastery be used to satisfy college or university entrance criteria for public school students? If yes, how should these methods be phased-in?

(b) The ad hoc working group shall report its recommendations to the commission on student learning, the state board of education, and the superintendent of public instruction by June 15, 1997. The commission shall report the ad hoc working group's recommendations to the education committees of the house of representatives and senate by July 15, 1997. Final recommendations of the commission on student learning, the state board of education, and the superintendent of public instruction shall be presented to the education committees of the house of representatives and the senate by September 30, 1997.

(9) The Washington commission on student learning shall expire on June 30, 1999.

[2001 2nd sp.s. c 20 § 1; 1999 c 373 § 501; 1998 c 225 § 1; 1997 c 268 § 1. Prior: 1995 c 335 § 505; 1995 c 209 § 1; 1994 c 245 § 13; prior: 1993 c 336 § 202; 1993 c 334 § 1; 1992 c 141 § 202. Formerly RCW 28A.630.885.]

NOTES:

Part headings not law--1999 c 373: See note following RCW 28A.300.310.

Effective date--1997 c 268: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 6, 1997]." [1997 c 268 § 3.]

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

Findings--Intent--Part headings not law--1993 c 336: See notes following RCW 28A.150.210.

Findings--1993 c 336: See note following RCW 28A.630.879.

Effective date--1993 c 334: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 12, 1993]." [1993 c 334 § 2.]

Findings--Part headings--Severability--1992 c 141: See notes following RCW 28A.410.040.

RCW 28A.655.070 Identification of knowledge and skills--Development and revision of learning requirements and assessments.

(1) The superintendent of public instruction shall identify the knowledge and skills all public school students need to know and be able to do based on the student learning goals in RCW 28A.150.210, develop student assessments, and implement the accountability recommendations and requests regarding assistance, rewards, and recognition of the academic achievement and accountability commission.

(2) The superintendent of public instruction shall periodically revise the essential academic learning requirements, as needed, based on the student learning goals in RCW 28A.150.210. Goals one and two shall be considered primary. To the maximum extent possible, the superintendent shall integrate goal four and the knowledge and skill areas in the other goals in the essential academic learning requirements.

(3) In consultation with the academic achievement and accountability commission, the superintendent of public instruction shall maintain and continue to develop and revise a state-wide academic assessment system for use in the elementary, middle, and high school years designed to determine if each student has mastered the essential academic learning requirements identified in subsection (1) of this section. The academic assessment system shall include a variety of assessment methods, including criterion-referenced and performance-based measures.

(4) The assessment system shall be designed so that the results under the assessment system are used by educators as tools to evaluate instructional practices, and to initiate appropriate educational support for students who have not mastered the essential academic learning requirements at the appropriate periods in the student's educational development.

(5) To the maximum extent possible, the superintendent shall integrate knowledge and skill areas in development of the assessments.

(6) Assessments for goals three and four of RCW 28A.150.210 shall be integrated in the essential academic learning requirements and assessments for goals one and two.

(7) The superintendent shall develop assessments that are directly related to the essential academic learning requirements, and are not biased toward persons with different learning styles, racial or ethnic backgrounds, or on the basis of gender.

(8) The superintendent shall consider methods to address the unique needs of special education students when developing the assessments under this section.

(9) The superintendent shall consider methods to address the unique needs of highly capable students when developing the assessments under this section.

[1999 c 388 § 501.]

RCW 28A.655.090 Washington assessment of student learning--Reporting requirements.

(1) By September 10, 1998, and by September 10th each year thereafter, the

superintendent of public instruction shall report to schools, school districts, and the legislature on the results of the Washington assessment of student learning and state-mandated norm-referenced standardized tests.

(2) The reports shall include the assessment results by school and school district, and include changes over time. For the Washington assessment of student learning, results shall be reported as follows:

(a) The percentage of students meeting the standards;

(b) The percentage of students performing at each level of the assessment; and

(c) A learning improvement index that shows changes in student performance within the different levels of student learning reported on the Washington assessment of student learning.

(3) The reports shall contain data regarding the different characteristics of schools, such as poverty levels, percent of English as a second language students, dropout rates, attendance, percent of students in special education, and student mobility so that districts and schools can learn from the improvement efforts of other schools and districts with similar characteristics.

(4) The reports shall contain student scores on mandated tests by comparable Washington schools of similar characteristics.

(5) The reports shall contain information on public school choice options available to students, including vocational education.

(6) The reports shall be posted on the superintendent of public instruction's internet web site.

(7) To protect the privacy of students, the results of schools and districts that test fewer than ten students in a grade level shall not be reported. In addition, in order to ensure that results are reported accurately, the superintendent of public instruction shall maintain the confidentiality of state-wide data files until the superintendent determines that the data are complete and accurate.

(8) The superintendent of public instruction shall monitor the percentage and number of special education and limited English-proficient students exempted from taking the assessments by schools and school districts to ensure the exemptions are in compliance with exemption guidelines.

[1999 c 388 § 301; 1998 c 319 § 301. Formerly RCW 28A.630.889.]

Notes:

Part headings not law--1998 c 319: See note following RCW 28A.655.050.

RCW 28A.655.100 Performance goals--Reporting requirements.

Each school district board of directors shall:

(1)(a) Annually report to parents and to the community in a public meeting and annually report in writing the following information:

(i) District-wide and school-level performance improvement goals;

(ii) Student performance relative to the goals; and

(iii) District-wide and school-level plans to achieve the goals, including curriculum and instruction, parental or guardian involvement, and resources available to parents and guardians

to help students meet the state standards;

(b) Report annually in a news release to the local media the district's progress toward meeting the district-wide and school-level goals; and

(c) Include the school-level goals, student performance relative to the goals, and a summary of school-level plans to achieve the goals in each school's annual school performance report under RCW 28A.655.110.

(2) School districts in which ten or fewer students in the district or in a school in the district are eligible to be assessed in a grade level are not required to report numerical improvement goals and performance relative to the goals, but are required to report to parents and the community their plans to improve student achievement.

[1999 c 388 § 302.]

RCW 28A.655.110 Annual school performance report--Model report form.

(1) Beginning with the 1994-95 school year, to provide the local community and electorate with access to information on the educational programs in the schools in the district, each school shall publish annually a school performance report and deliver the report to each parent with children enrolled in the school and make the report available to the community served by the school. The annual performance report shall be in a form that can be easily understood and be used by parents, guardians, and other members of the community who are not professional educators to make informed educational decisions. As data from the assessments in RCW 28A.655.060 becomes available, the annual performance report should enable parents, educators, and school board members to determine whether students in the district's schools are attaining mastery of the student learning goals under RCW 28A.150.210, and other important facts about the schools' performance in assisting students to learn. The annual report shall make comparisons to a school's performance in preceding years and shall include school level goals under RCW 28A.655.050, student performance relative to the goals and the percentage of students performing at each level of the assessment, a comparison of student performance at each level of the assessment to the previous year's performance, and information regarding school-level plans to achieve the goals.

(2) The annual performance report shall include, but not be limited to: (a) A brief statement of the mission of the school and the school district; (b) enrollment statistics including student demographics; (c) expenditures per pupil for the school year; (d) a summary of student scores on all mandated tests; (e) a concise annual budget report; (f) student attendance, graduation, and dropout rates; (g) information regarding the use and condition of the school building or buildings; (h) a brief description of the learning improvement plans for the school; and (i) an invitation to all parents and citizens to participate in school activities.

(3) The superintendent of public instruction shall develop by June 30, 1994, and update periodically, a model report form, which shall also be adapted for computers, that schools may use to meet the requirements of subsections (1) and (2) of this section. In order to make school performance reports broadly accessible to the public, the superintendent of public instruction, to the extent feasible, shall make information on each school's report available on or through the

superintendent's internet web site.

[1999 c 388 § 303; 1993 c 336 § 1006. Formerly RCW 28A.320.205.]

Notes:

Findings--Intent--Part headings not law--1993 c 336: See notes following RCW 28A.150.210.

Findings--1993 c 336: See note following RCW 28A.150.210.

Reading goals: RCW 28A.655.050.

RCW 28A.655.130 Accountability implementation funds.

(1) To the extent funds are appropriated, the office of the superintendent of public instruction annually shall allocate accountability implementation funds to school districts. The purposes of the funds are to: Develop and update student learning improvement plans; implement curriculum materials and instructional strategies; provide staff professional development to implement the selected curricula and instruction; develop and implement assessment strategies and training in assessment scoring; and fund other activities intended to improve student learning for all students, including students with diverse needs. Activities funded by the allocations must be consistent with the school or district improvement plan, designed to improve the ability of teachers and other instructional certificated and classified staff to assist students in meeting the essential academic learning requirements, and designed to achieve state and local accountability goals. Activities funded by the allocations shall be designed to protect the teachers' instructional time with students and minimize the use of substitute teachers.

(2) Schools receiving funds shall develop, update as needed, and keep on file a school student learning improvement plan to achieve the student learning goals and essential academic learning requirements and to implement the assessment system as it is developed. The plan shall delineate how the accountability implementation funds will be used to accomplish the requirements of this section. The plan shall be made available to the public and to others upon request.

(3) The amount of allocations shall be determined in the omnibus appropriations act.

(4) The state schools for the deaf and blind are eligible to receive allocations under this section.

(5) The superintendent of public instruction may adopt timelines and rules as necessary under chapter 34.05 RCW to administer the program, and require that schools and districts submit reports regarding the use of the funds.

[1999 c 388 § 402.]

RCW 28A.655.140 Technical assistance.

(1) In order to increase the availability and quality of technical assistance state-wide, the superintendent of public instruction, subject to available funding, may employ school improvement coordinators and school improvement specialists to provide assistance to schools and districts. The improvement specialists shall serve on a rotating basis and shall not be

permanent employees.

(2) The types of assistance provided by the improvement coordinators and specialists may include, but need not be limited to:

(a) Assistance to schools to use student performance data and develop improvement plans based on those data;

(b) Consultation with schools and districts concerning their performance on the Washington assessment of student learning and other assessments;

(c) Consultation concerning curricula that aligns with the essential academic learning requirements and the Washington assessment of student learning and that meets the needs of diverse learners;

(d) Assistance in the identification and implementation of research-based instructional practices;

(e) Staff training that emphasizes effective instructional strategies and classroom-based assessment;

(f) Assistance in developing and implementing family and community involvement programs; and

(g) Other assistance to schools and school districts intended to improve student learning.

[1999 c 388 § 403.]

RCW 28A.655.150 Consolidation of requirements for categorical grant programs--Use of electronic applications and reporting.

The superintendent of public instruction, in consultation with school district personnel, shall consolidate and streamline the planning, application, and reporting requirements for major state and federal categorical and grant programs. The superintendent also shall take actions to increase the use of online electronic applications and reporting.

[1999 c 388 § 602.]

RCW 28A.655.180 Waivers for educational restructuring programs--Study by joint select committee on education restructuring--Report to legislature.

(1) The state board of education, where appropriate, or the superintendent of public instruction, where appropriate, may grant waivers to districts from the provisions of statutes or rules relating to: The length of the school year; student-to-teacher ratios; and other administrative rules that in the opinion of the state board of education or the opinion of the superintendent of public instruction may need to be waived in order for a district to implement a plan for restructuring its educational program or the educational program of individual schools within the district.

(2) School districts may use the application process in RCW 28A.305.140 or *28A.300.138 to apply for the waivers under subsection (1) of this section.

(3) The joint select committee on education restructuring shall study which waivers of state laws or rules are necessary for school districts to implement education restructuring. The

committee shall study whether the waivers are used to implement specific essential academic learning requirements and student learning goals. The committee shall study the availability of waivers under the schools for the twenty-first century program created by chapter 525, Laws of 1987, and the use of those waivers by schools participating in that program. The committee shall also study the use of waivers authorized under RCW 28A.305.140. The committee shall report its findings to the legislature by December 1, 1997.

[(1997 c 431 § 23 expired June 30, 1999); 1995 c 208 § 1. Formerly RCW 28A.630.945.]

Notes:

***Reviser's note:** RCW 28A.300.138 was repealed by 1999 c 388 § 603.

RCW 28A.655.182 Joint select committee on education restructuring. *(Expires December 1, 2001.)*

(1) There is hereby created a joint select committee on education restructuring composed of twelve members as follows:

(a) Six members of the senate, three from each of the major caucuses, to be appointed by the president of the senate; and

(b) Six members of the house of representatives, three from each of the major caucuses, to be appointed by the speaker of the house of representatives.

(2) Staff support shall be provided by senate committee services and house of representatives office of program research as mutually agreed by the cochairs of the joint select committee. The cochairs shall be designated by the speaker of the house of representatives and the president of the senate.

(3) The expenses of the committee members shall be paid by the legislature under chapter 44.04 RCW.

(4) The committee shall seek advice from educators, business and labor leaders, parents, and others during its deliberations.

[1993 c 336 § 1001. Formerly RCW 28A.630.950.]

Notes:

Expiration date--1993 c 336 §§ 1001-1005: "Sections 1001 through 1005 of this act shall expire December 1, 2001." [1993 c 336 § 1010.]

Findings--Intent--Part headings not law--1993 c 336: See notes following RCW 28A.150.210.

Findings--1993 c 336: See note following RCW 28A.630.879.

RCW 28A.655.184 Annual report. *(Expires December 1, 2001.)*

The joint select committee on education restructuring shall monitor, review, and annually report to the full legislature upon the enactment and implementation of education restructuring in Washington both at the state and local level, including the following:

(1) The progress of the commission on student learning in the completion of its tasks as designated in *RCW 28A.630.885 and in any subsequent legislation relating to education restructuring;

(2) The success of the center for [the] improvement of student learning established under RCW 28A.300.130;

(3) The number of school districts seeking waivers from basic education act requirements under RCW 28A.305.140 or other legislation, and the success of alternative programs pursued by those school districts;

(4) The progress and success of the commission on student learning, the superintendent of public instruction, the state board of education, the higher education coordinating board, and the state board for community and technical colleges in carrying out *RCW 28A.630.885(3)(g), and any subsequent legislation relating to education restructuring; and

(5) Such other areas as the committee may deem appropriate.

[1993 c 336 § 1002. Formerly RCW 28A.630.951.]

Notes:

***Reviser's note:** RCW 28A.630.885 was recodified as RCW 28A.655.060 pursuant to 1999 c 388 § 607.

Expiration date--1993 c 336 §§ 1001-1005: See note following RCW 28A.655.182.

Findings--Intent--Part headings not law--1993 c 336: See notes following RCW 28A.150.210.

Findings--1993 c 336: See note following RCW 28A.150.210.

RCW 28A.655.186 Review of laws and reporting requirements--Report to the legislature. *(Expires December 1, 2001.)*

(1) In addition to the duties in *RCW 28A.630.951, the joint select committee on education restructuring shall review all laws pertaining to K-12 public education and to educator preparation and certification with the intent of identifying laws that inhibit the achievement of the new system of performance-based education. The select committee shall report to the legislature by November 15, 1994. The laws pertaining to home schooling and private schools shall not be reviewed in this study.

(2) The joint select committee on education restructuring shall review the school district data reporting requirements for the purposes of accountability and meeting state information needs reported by the commission on student learning under *RCW 28A.630.885. The joint select committee shall report its recommendations to the legislature by January 1996.

[1995 c 335 § 506; 1994 c 245 § 4; 1993 c 336 § 1003. Formerly RCW 28A.630.952.]

Notes:

***Reviser's note:** RCW 28A.630.951 and 28A.630.885 were recodified as RCW 28A.655.184 and 28A.655.060, respectively, pursuant to 1999 c 388 § 607.

Expiration date--1995 c 335 § 506: "Section 506 of this act shall expire December 1, 2001." [1995 c 335 § 804.]

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

Expiration date--1994 c 245 § 4: "Section 4 of this act shall expire December 1, 2001." [1994 c 245 § 16.]

Expiration date--1993 c 336 §§ 1001-1005: See note following RCW 28A.655.182.

Findings--Intent--Part headings not law--1993 c 336: See notes following RCW 28A.150.210.

Findings--1993 c 336: See note following RCW 28A.150.210.

RCW 28A.655.188 Commission on student learning, superintendent of public instruction, state board of education, higher education coordinating board, and state board for community and technical colleges--Annual reports to joint select committee. ***(Expires December 1, 2001.)***

By September 1, 1994, and each September 1st thereafter, the commission on student learning, the superintendent of public instruction, the state board of education, the higher education coordinating board, and the state board for community and technical colleges shall each report to the joint select committee on education restructuring regarding their progress in completing tasks as designated in chapter 336, Laws of 1993, and tasks in any subsequent legislation relating to education restructuring.

[1993 c 336 § 1004. Formerly RCW 28A.630.953.]

Notes:

Expiration date--1993 c 336 §§ 1001-1005: See note following RCW 28A.655.182.
Findings--Intent--Part headings not law--1993 c 336: See notes following RCW 28A.150.210.
Findings--1993 c 336: See note following RCW 28A.150.210.

RCW 28A.655.190 Final report. ***(Expires December 1, 2001.)***

The joint select committee on education restructuring shall submit its final report to the legislature by December 31, 2001.

[1993 c 336 § 1005. Formerly RCW 28A.630.954.]

Notes:

Expiration date--1993 c 336 §§ 1001-1005: See note following RCW 28A.655.182.
Findings--Intent--Part headings not law--1993 c 336: See notes following RCW 28A.150.210.
Findings--1993 c 336: See note following RCW 28A.150.210.

RCW 28A.655.900 Transfer of powers, duties, and functions.

(1) Beginning July 1, 1999, the powers, duties, and functions of the commission on student learning are transferred to the academic achievement and accountability commission or to the superintendent of public instruction as appropriate under the transfer of duties made from the commission on student learning to the academic achievement and accountability commission or the superintendent of public instruction under chapter 388, Laws of 1999. All references to the commission on student learning in the Revised Code of Washington shall be construed to mean the academic achievement and accountability commission when addressing the duties, activities, or functions regarding the accountability system under chapter 388, Laws of 1999. All references to the commission on student learning in the Revised Code of Washington shall be construed to mean the superintendent of public instruction when addressing the duties, activities, or functions regarding the essential academic learning requirements, the standards, or the assessments addressed under chapter 388, Laws of 1999.

(2) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the commission on student learning shall be delivered to the custody of the academic achievement and accountability commission or the superintendent of public instruction, as appropriate. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the commission on student learning shall be made available to the academic achievement and accountability commission or the superintendent of public instruction, as appropriate.

(3) The transfer of the powers, duties, functions, and personnel of the commission on student learning shall not affect the validity of any act performed before May 18, 1999.

[1999 c 388 § 502.]

Notes:

Effective dates--1999 c 388 §§ 101, 502, and 604: See note following RCW 28A.655.020.

RCW 28A.655.901 Part headings and captions not law--1999 c 388.

Part headings and section captions used in this act are not any part of the law.

[1999 c 388 § 605.]

RCW 28A.655.902 Severability--1999 c 388.

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

[1999 c 388 § 609.]

Chapter 28A.660 RCW
ALTERNATIVE ROUTE TEACHER CERTIFICATION

Sections

28A.660.005 Findings--Declaration.
28A.660.010 Partnership grant program.
28A.660.020 Proposals--Funding.
28A.660.030 Partnership grants--Selection--Administration.
28A.660.040 Routes.
28A.660.050 Conditional scholarship program.
28A.660.060 Employment of certain personnel not affected.
28A.660.900 Expiration of chapter.
28A.660.901 Program evaluations--Contingency.

RCW 28A.660.005 Findings--Declaration. *(Expires June 30, 2005.)*

The legislature finds and declares:

(1) Teacher qualifications and effectiveness are the most important influences on student learning in schools.

(2) Preparation of individuals to become well-qualified, effective teachers must be high quality.

(3) Teachers who complete high-quality alternative route programs with intensive field-based experience, adequate coursework, and strong mentorship do as well or better than teachers who complete traditional preparation programs.

(4) High-quality alternative route programs can provide more flexibility and expedience for individuals to transition from their current career to teaching.

(5) High-quality alternative route programs can help school districts fill subject matter shortage areas and areas with shortages due to geographic location.

(6) Regardless of route, all candidates for residency teacher certification must meet the high standards required by the state.

The legislature recognizes widespread concerns about the potential for teacher shortages and finds that classified instructional staff in public schools represent a great untapped resource for recruiting the teachers of the future.

[2001 c 158 § 1.]

RCW 28A.660.010 Partnership grant program. ***(Expires June 30, 2005.)***

There is hereby created a statewide partnership grant program to provide new high-quality alternative routes to residency teacher certification. To the extent funds are appropriated for this specific purpose, funds provided under this partnership grant program shall be used solely for school districts, or consortia of school districts, to partner with state-approved higher education teacher preparation programs to provide one or more of three alternative route programs in RCW 28A.660.040, aimed at recruiting candidates to teaching in subject matter shortage areas and areas with shortages due to geographic location. Districts, or consortia of districts, may also include their educational service districts in their partnership grant program. Partnership programs receiving grants may enroll candidates as early as January 2002.

[2001 c 158 § 2.]

RCW 28A.660.020 Proposals--Funding. ***(Expires June 30, 2005.)***

(1) Each district or consortia of school districts applying for state funds through this program shall submit a proposal to the Washington professional educator standards board specifying:

(a) The route or routes the partnership program intends to offer and a detailed description of how the routes will be structured and operated by the partnership;

(b) The number of candidates that will be enrolled per route;

(c) An identification, indication of commitment, and description of the role of approved teacher preparation programs that are partnering with the district or consortia of districts;

(d) An assurance of district provision of adequate training for mentor teachers either through participation in a state mentor training academy or district-provided training that meets state-established mentor-training standards specific to the mentoring of alternative route candidates;

(e) An assurance that significant time will be provided for mentor teachers to spend with the alternative route teacher candidates throughout the internship. Partnerships must provide each candidate with intensive classroom mentoring until such time as the candidate demonstrates the competency necessary to manage the classroom with less intensive supervision and guidance from a mentor;

(f) A description of the rigorous screening process for applicants to alternative route programs, including entry requirements specific to each route, as provided in RCW 28A.660.040; and

(g) The design and use of a teacher development plan for each candidate. The plan shall specify the alternative route coursework and training required of each candidate and shall be developed by comparing the candidate's prior experience and coursework with the state's new performance-based standards for residency certification and adjusting any requirements accordingly. The plan may include the following components:

(i) A minimum of one-half of a school year, and an additional significant amount of time if necessary, of intensive mentorship, starting with full-time mentoring and progressing to increasingly less intensive monitoring and assistance as the intern demonstrates the skills necessary to take over the classroom with less intensive support. For route one and two candidates, before the supervision is diminished, the mentor of the teacher candidate at the school and the supervisor of the teacher candidate from the higher education teacher preparation program must both agree that the teacher candidate is ready to manage the classroom with less intensive supervision. For route three candidates, the mentor of the teacher candidate shall make the decision;

(ii) Identification of performance indicators based on the knowledge and skills standards required for residency certification by the state board of education;

(iii) Identification of benchmarks that will indicate when the standard is met for all performance indicators;

(iv) A description of strategies for assessing candidate performance on the benchmarks;

(v) Identification of one or more tools to be used to assess a candidate's performance once the candidate has been in the classroom for about one-half of a school year; and

(vi) A description of the criteria that would result in residency certification after about one-half of a school year but before the end of the program.

(2) Districts may apply for program funds to pay stipends to both mentor teachers and interns during their mentored internship. For both intern stipends and accompanying mentor stipends, the per intern district request for funds may not exceed the amount designated by the BA+0 cell on the statewide teacher salary allocation schedule. This amount shall be prorated for internships and mentorships that last less than a full school year. Interns in the program for a full year shall be provided a stipend of at least eighty percent of the amount generated by the BA+0 cell on the statewide teacher salary allocation schedule. This amount shall be prorated for internships that last less than a full school year.

[2001 c 158 § 3.]

RCW 28A.660.030 Partnership grants--Selection--Administration. ***(Expires June 30,***

2005.)

(1) The professional educator standards board, with support from the office of the superintendent of public instruction, shall select school districts and consortia of school districts to receive partnership grants from funds appropriated by the legislature for this purpose. Factors to be considered in selecting proposals include:

(a) The degree to which the district, or consortia of districts in partnership, are currently experiencing teacher shortages;

(b) The degree to which the proposal addresses criteria specified in RCW 28A.660.020 and is in keeping with specifications of program routes in RCW 28A.660.040;

(c) The cost-effectiveness of the proposed program; and

(d) Any demonstrated district and in-kind contributions to the program.

(2) Selection of proposals shall also take into consideration the need to ensure an adequate number of candidates for each type of route in order to evaluate their success.

(3) Funds appropriated for the partnership grant program in this chapter shall be administered by the office of the superintendent of public instruction.

[2001 c 158 § 4.]

RCW 28A.660.040 Routes. ***(Expires June 30, 2005.)***

Partnership grants funded under this chapter shall operate one to three specific route programs. Successful completion of the program shall make a candidate eligible for residency teacher certification. For route one and two candidates, the mentor of the teacher candidate at the school and the supervisor of the teacher candidate from the higher education teacher preparation program must both agree that the teacher candidate has successfully completed the program. For route three candidates, the mentor of the teacher candidate shall make the determination that the candidate has successfully completed the program.

(1) Partnership grant programs seeking funds to operate route one programs shall enroll currently employed classified instructional employees with transferable associate degrees seeking residency teacher certification with endorsements in special education, bilingual education, or English as a second language. It is anticipated that candidates enrolled in this route will complete both their baccalaureate degree and requirements for residency certification in two years or less, including a mentored internship to be completed in the final year. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including three years of successful student interaction and leadership as a classified instructional employee;

(b) Successful passage of the statewide basic skills exam, when available; and

(c) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers.

(2) Partnership grant programs seeking funds to operate route two programs shall enroll currently employed classified staff with baccalaureate degrees seeking residency teacher certification in subject matter shortage areas and areas with shortages due to geographic location. Candidates enrolled in this route must complete a mentored internship complemented by flexibly scheduled training and coursework offered at a local site, such as a school or educational service

district, or online or via video-conference over the K-20 network, in collaboration with the partnership program's higher education partner. In addition, partnership grant programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including three years of successful student interaction and leadership as classified staff;

(b) A baccalaureate degree from a regionally accredited institution of higher education. The individual's college or university grade point average may be considered as a selection factor;

(c) Successful completion of the content test, once the state content test is available;

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of the statewide basic skills exam, when available.

(3) Partnership grant programs seeking funds to operate route three programs shall enroll individuals with baccalaureate degrees, who are not employed in the district at the time of application, or who hold emergency substitute certificates. When selecting candidates for certification through route three, districts shall give priority to individuals who are seeking residency teacher certification in subject matter shortage areas or shortages due to geographic locations. For route three only, the districts may include additional candidates in nonshortage subject areas if the candidates are seeking endorsements with a secondary grade level designation as defined by rule by the state board of education. The districts shall disclose to candidates in nonshortage subject areas available information on the demand in those subject areas. Cohorts of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship, followed, if necessary, by a second summer teaching academy. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) Five years' experience in the work force;

(b) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

(c) Successful completion of the content test, once the state content test is available;

(d) External validation of qualifications, including demonstrated successful experience with students or children, such as references [reference] letters and letters of support from previous employers;

(e) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(f) Successful passage of statewide basic skills exams, when available.

[2001 c 158 § 5.]

RCW 28A.660.050 Conditional scholarship program. ***(Expires June 30, 2005.)***

The alternative route conditional scholarship program is created under the following guidelines:

(1) The program shall be administered by the higher education coordinating board. In administering the program, the higher education coordinating board has the following powers

and duties:

(a) To adopt necessary rules and develop guidelines to administer the program;

(b) To collect and manage repayments from participants who do not meet their service obligations; and

(c) To accept grants and donations from public and private sources for the program.

(2) Participation in the alternative route conditional scholarship program is limited to classified staff in routes one and two of the partnership grant programs under RCW 28A.660.040. The Washington professional educator standards board shall select classified staff to receive conditional scholarships.

(3) In order to receive conditional scholarship awards, recipients shall be accepted and maintain enrollment in alternative certification routes through the partnership grant program, as provided in RCW 28A.660.040. Recipients must continue to make satisfactory progress towards completion of the alternative route certification program and receipt of a residency teaching certificate.

(4) For the purpose of this chapter, a conditional scholarship is a loan that is forgiven in whole or in part in exchange for service as a certificated teacher employed in a Washington state K-12 public school. The state shall forgive one year of loan obligation for every two years a recipient teaches in a public school. Recipients that fail to continue a course of study leading to residency teacher certification or cease to teach in a public school in the state of Washington in their endorsement area are required to repay the remaining loan principal with interest.

(5) Recipients who fail to fulfill the required teaching obligation are required to repay the remaining loan principal with interest and any other applicable fees. The higher education coordinating board shall adopt rules to define the terms for repayment, including applicable interest rates, fees, and deferments.

(6) To the extent funds are appropriated for this specific purpose, the annual amount of the scholarship is the annual cost of tuition for the alternative route certification program in which the recipient is enrolled, not to exceed four thousand dollars. The board may adjust the annual award by the average rate of resident undergraduate tuition and fee increases at the state universities as defined in RCW 28B.10.016.

(7) The higher education coordinating board may deposit all appropriations, collections, and any other funds received for the program in this chapter in *the student loan account authorized in RCW 28B.102.060.

[2001 c 158 § 6.]

NOTES:

***Reviser's note:** RCW 28B.102.060 requires that funds received under RCW 28B.102.060 be deposited with the higher education coordinating board, but does not authorize the student loan account.

RCW 28A.660.060 Employment of certain personnel not affected. *(Expires June 30, 2005.)*

School districts or approved private schools' ability to employ personnel under certification for emergency or temporary, substitute, or provisional duty as authorized by chapter

28A.410 RCW are not affected by the provisions of this chapter.

[2001 c 158 § 10.]

RCW 28A.660.900 Expiration of chapter.

This chapter expires June 30, 2005.

[2001 c 158 § 7.]

RCW 28A.660.901 Program evaluations--Contingency. ***(Expires June 30, 2005.)***

The Washington state institute for public policy shall submit to the education and fiscal committees of the legislature, the governor, the state board of education, and the Washington professional educator standards board, an interim evaluation of partnership grant programs funded under this chapter by December 1, 2002, and a final evaluation by December 1, 2004. *If specific funding for the purposes of this section, referencing this section and this act by bill or chapter number, is not provided by June 30, 2001, in the omnibus appropriations act, this section is null and void.

[2001 c 158 § 8.]

NOTES:

***Reviser's note:** This section was funded by 2001 2nd sp.s. c 7 § 501(2)(c)(i), the omnibus appropriations act.

Chapter 28A.690 RCW
AGREEMENT ON QUALIFICATIONS OF PERSONNEL

Sections

28A.690.010 Compact entered into--Terms.
28A.690.020 Superintendent as "designated state official", compact administrator--Board to approve text of contracts.
28A.690.030 True copies of contracts filed in office of superintendent--Publication.

RCW 28A.690.010 Compact entered into--Terms.

The Interstate Agreement on Qualifications of Educational Personnel is hereby enacted into law and entered into by this state with all other states legally joining therein in the form substantially as follows:

The contracting states solemnly agree that:

Article I

1. The states party to this Agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person

wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this Agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

2. The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states or origin, can increase the available educational resources. Participation in this compact can increase the availability of educational manpower.

Article II

As used in this Agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

1. "Educational personnel" means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.

2. "Designated state official" means the education official of a state selected by that state to negotiate and enter into, on behalf of his or her state, contracts pursuant to this Agreement.

3. "Accept," or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.

4. "State" means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

5. "Originating State" means a state (and the subdivision thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to Article III.

6. "Receiving State" means a state (and the subdivisions thereof) which accept educational personnel in accordance with the terms of a contract made pursuant to Article III.

Article III

1. The designated state official of a party state may make one or more contracts on behalf of his or her state with one or more other party states providing for the acceptance of educational

personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this Agreement. A designated state official may enter into a contract pursuant to this Article only with states in which he or she finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in his or her own state.

2. Any such contract shall provide for:

(a) Its duration.

(b) The criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state.

(c) Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.

(d) Any other necessary matters.

3. No contract made pursuant to this Agreement shall be for a term longer than five years but any such contract may be renewed for like or lesser periods.

4. Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this Agreement shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January 1, 1954.

5. The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

6. A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

Article IV

1. Nothing in this Agreement shall be construed to repeal or otherwise modify any law or regulation of a party state relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that state.

2. To the extent that contracts made pursuant to this Agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

Article V

The party states agree that:

1. They will, so far as practicable, prefer the making of multilateral contracts pursuant to Article III of this Agreement.

2. They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

Article VI

The designated state officials of any party state may meet from time to time as a group to evaluate progress under the Agreement, and to formulate recommendations for changes.

Article VII

Nothing in this Agreement shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.

Article VIII

1. This Agreement shall become effective when enacted into law by two states. Thereafter it shall become effective as to any state upon its enactment of this Agreement.

2. Any party state may withdraw from this Agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

3. No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

Article IX

This Agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Agreement shall be severable and if any phrase, clause, sentence, or provision of this Agreement is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Agreement shall be held contrary to the constitution of any state participating therein, the Agreement shall remain in full force and effect as to the state affected as to all severable matters.

[1990 c 33 § 545; 1969 ex.s. c 283 § 4. Formerly RCW 28A.93.010, 28.93.010.]

Notes:

Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28A.690.020 Superintendent as "designated state official", compact administrator--Board to approve text of contracts.

The "designated state official" for this state under Article II of RCW 28A.690.010 shall be the superintendent of public instruction, who shall be the compact administrator and who shall have power to promulgate rules to carry out the terms of this compact. The superintendent of public instruction shall enter into contracts pursuant to Article III of the Agreement only with the approval of the specific text thereof by the state board of education.

[1990 c 33 § 546; 1969 ex.s. c 283 § 5. Formerly RCW 28A.93.020, 28.93.020.]

Notes:

Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28A.690.030 True copies of contracts filed in office of superintendent--Publication.

True copies of all contracts made on behalf of this state pursuant to the Agreement as provided in RCW 28A.690.010 shall be kept on file in the office of the superintendent of public instruction. The superintendent of public instruction shall publish all such contracts in convenient form.

[1990 c 33 § 547; 1969 ex.s. c 283 § 6. Formerly RCW 28A.93.030, 28.93.030.]

Notes:

Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

Chapter 28A.900 RCW
CONSTRUCTION

Sections

28A.900.010 Repeals and savings.
28A.900.030 Continuation of existing law.
28A.900.040 Provisions to be construed in pari materia.
28A.900.050 Title, chapter, section headings not part of law.
28A.900.060 Invalidity of part of title not to affect remainder.
28A.900.070 "This code" defined.
28A.900.080 Effective date--1969 ex.s. c 223.
28A.900.100 Purpose--1990 c 33.
28A.900.101 Statutory references--1990 c 33.
28A.900.102 Severability--1990 c 33.
28A.900.103 Subheadings not law--1990 c 33.

28A.900.105 Effect of repeal--1995 c 335.

RCW 28A.900.010 Repeals and savings.

See 1969 ex.s. c 223 § 28A.98.010. Formerly RCW 28A.98.010.

RCW 28A.900.030 Continuation of existing law.

The provisions of this title, Title 28A RCW, insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. Nothing in this 1969 code revision of Title 28 RCW shall be construed as authorizing any new bond issues or new or additional appropriations of moneys but the bond issue authorizations herein contained shall be construed only as continuations of bond issues authorized by prior laws herein repealed and reenacted, and the appropriations of moneys herein contained are continued herein for historical purposes only and this 1969 act shall not be construed as a reappropriation thereof and no appropriation contained herein shall be deemed to be extended or revived hereby and such appropriation shall lapse or shall have lapsed in accordance with the original enactment: PROVIDED, That this 1969 act shall not operate to terminate, extend or otherwise affect any appropriation for the biennium commencing July 1, 1967, and ending June 30, 1969.

[1969 ex.s. c 223 § 28A.98.030. Formerly RCW 28A.98.030.]

RCW 28A.900.040 Provisions to be construed in pari materia.

The provisions of this title, Title 28A RCW, shall be construed in pari materia even though as a matter of prior legislative history they were not originally enacted in the same statute. The provisions of this title shall also be construed in pari materia with the provisions of Title 28B RCW, and with other laws relating to education. This section shall not operate retroactively.

[1969 ex.s. c 223 § 28A.98.040. Formerly RCW 28A.98.040.]

RCW 28A.900.050 Title, chapter, section headings not part of law.

Title headings, chapter headings, and section or subsection headings, as used in this title, Title 28A RCW, do not constitute any part of the law.

[1969 ex.s. c 223 § 28A.98.050. Formerly RCW 28A.98.050.]

RCW 28A.900.060 Invalidity of part of title not to affect remainder.

If any provision of this title, Title 28A RCW, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to

other persons or circumstances is not affected.

[1969 ex.s. c 223 § 28A.98.060. Formerly RCW 28A.98.060.]

RCW 28A.900.070 "This code" defined.

As used in this title, Title 28A RCW, "this code" means Titles 28A and 28B RCW.

[1969 ex.s. c 223 § 28A.98.070. Formerly RCW 28A.98.070.]

RCW 28A.900.080 Effective date--1969 ex.s. c 223.

Title 28A RCW shall be effective July 1, 1970.

[1969 ex.s. c 223 § 28A.98.080. Formerly RCW 28A.98.080.]

RCW 28A.900.100 Purpose--1990 c 33.

(1) The purpose of chapter 33, Laws of 1990 is to reorganize Title 28A RCW. There are three goals to this reorganization: (a) To place related sections in chapters organized by subject matter; (b) to make all terms gender neutral; and (c) to clarify existing language. Chapter 33, Laws of 1990 is technical in nature and is not intended to make substantive changes in the meaning, interpretation, court construction, or constitutionality of any provision of Title 28A RCW or other statutory provisions included in chapter 33, Laws of 1990 and rules adopted under those provisions.

(2) Chapter 33, Laws of 1990 shall not have the effect of terminating or in any way modifying any proceedings or liability, civil or criminal, which exists on June 7, 1990.

[1990 c 33 § 1.]

RCW 28A.900.101 Statutory references--1990 c 33.

(1) The code reviser shall correct all statutory references to code sections recodified by *section 4 of this act.

(2)(a) References to "RCW 28A.47.732 through 28A.47.748" in Title 28A RCW have intentionally not been changed since those code sections were repealed by chapter 189, Laws of 1983. These references are not being eliminated because it is not the purpose of this act to correct obsolete references.

(b) References to "RCW 28A.58.095" in Title 28A RCW have intentionally not been changed since that code section was repealed by chapter 2, Laws of 1987 1st ex. sess. These references are not being eliminated because it is not the purpose of this act to correct obsolete references.

[1990 c 33 § 2.]

Notes:

***Reviser's note:** Section 4 of this act is an uncodified section that recodifies sections in Title 28A RCW.

RCW 28A.900.102 Severability--1990 c 33.

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

[1990 c 33 § 603.]

RCW 28A.900.103 Subheadings not law--1990 c 33.

Subheadings as used in this act do not constitute any part of the law.

[1990 c 33 § 3.]

RCW 28A.900.105 Effect of repeal--1995 c 335.

The repeal of any programs that are not funded as of July 23, 1995, is not intended to comment on the value of the services provided by the programs. The repeal of statutes in chapter 335, Laws of 1995 does not affect the general authority of school districts to provide services to accomplish the purposes of these programs. The deletion or repeal of language that permitted school districts to carry out specific activities that would be within their general authority is not intended to affect the general authority of school districts to continue to carry out those activities.

[1995 c 335 § 801.]

Notes:

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

Title 28B RCW
HIGHER EDUCATION

Chapters

28B.04 Displaced homemaker act.
28B.06 Project even start.
28B.07 Washington higher education facilities authority.
28B.10 Colleges and universities generally.
28B.12 State work-study program.
28B.13 1974 Bond issue for capital improvements.
28B.14 1975 Bond issue for capital improvements.
28B.14B 1977 Bond issue for capital improvements.
28B.14C 1977 Bond act for the refunding of outstanding limited obligation revenue bonds.
28B.14D 1979 Bond issue for capital improvements.
28B.14E 1979 Bond issue for capital improvements.
28B.14F Bond issues for capital improvements.
28B.14G 1981 Bond issue for capital improvements (1981 c 233).

28B.15 College and university fees.
28B.16 State higher education personnel law.
28B.20 University of Washington.
28B.25 Joint center for higher education.
28B.30 Washington State University.
28B.31 1977 Washington State University buildings and facilities financing act.
28B.35 Regional universities.
28B.38 Spokane intercollegiate research and technology institute.
28B.40 The Evergreen State College.
28B.45 Branch campuses.
28B.50 Community and technical colleges.
28B.52 Collective bargaining--Academic personnel in community colleges.
28B.56 1972 Community colleges facilities aid--Bond issue.
28B.57 1975 Community college special capital projects bond act.
28B.58 1975 Community college general capital projects bond act.
28B.59 1976 Community college capital projects bond act.
28B.59B 1977 Community college capital projects bond act.
28B.59C 1979 Community college capital projects bond act.
28B.59D 1981 Community college capital projects bond act.
28B.63 Commercial activities by institutions of higher education.
28B.65 High-technology education and training.
28B.70 Western regional higher education compact.
28B.80 Higher education coordinating board.
28B.85 Degree-granting institutions.
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28B.101 Educational opportunity grant program--Placebound students.
28B.102 Future teachers conditional scholarship program.
28B.103 National guard conditional scholarship program.
28B.106 College savings bond program.
28B.108 American Indian endowed scholarship program.
28B.109 Washington international exchange scholarship program.
28B.110 Gender equality in higher education.
28B.115 Health professional conditional scholarship program.
28B.120 Washington fund for innovation and quality in higher education program.
28B.125 Health personnel resources.
28B.130 Transportation demand management programs.
28B.135 Child care for higher education students.
28B.900 Construction.

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Actions by public corporation in corporate name: RCW 4.08.110.
Alcohol, pure ethyl, purchase of: RCW 66.16.010.
Attorney general, supervision of prosecuting attorney: RCW 36.27.020(3).
Blind, school for: Chapter 72.40 RCW.
Bomb threats, penalty: RCW 9.61.160.
Boxing, kickboxing, martial arts, and wrestling events
exemptions for: RCW 67.08.015.
physical examination of contestants, urinalysis: RCW 67.08.090.
Buildings, earthquake standards for construction: RCW 70.86.020, 70.86.030.
Businesses and professions generally, examinations for licenses for: Title 18 RCW.
Condemnation: Chapter 8.16 RCW.
Conveyance of real property by public bodies--Recording: RCW 65.08.095.
Crimes relating to
bomb threats: RCW 9.61.160.
discrimination to deny public accommodations because of race, color or creed: RCW 9.91.010.
Discrimination--Separation of sexes in dormitories, residence halls, etc.: RCW 49.60.222.
Discrimination to deny public accommodations because of race, color or creed, penalty: RCW 9.91.010.
Drivers' training schools generally: Chapter 46.82 RCW.
Earthquake standards for construction: RCW 70.86.020, 70.86.030.
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Elementary or secondary school activities, admission tax exclusion: RCW 36.38.010.
Employees, qualifications to hold public office: RCW 42.04.020.
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Establishment and maintenance of schools guaranteed: State Constitution Art. 26 § 4.
Fiscal year defined: RCW 1.16.030.
Free from sectarian control: State Constitution Art. 9 § 4, Art. 26 § 4.
Garnishment: Chapter 6.27 RCW.
Hospitalization and medical aid for public employees and dependents--Premiums, governmental contributions authorized: RCW 41.04.180, 41.04.190.
Information and research services of colleges and universities, authority for school districts to obtain: RCW 28A.320.110.
Information technology: RCW 43.105.200.
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parks and recreation commission, relinquishment of control over school lands: RCW 79A.05.175.
sale of educational lands, board of natural resources to fix value: RCW 79.01.092.
sale of generally: State Constitution Art. 16 §§ 2-4.
sale or lease of land and valuable materials, supervision and control of department of natural resources over: RCW 79.01.094.
state lands, included in: RCW 79.01.004.
state parks and recreation, relinquishment of control over state lands: RCW 79A.05.175.
Legal adviser, prosecuting attorney as: RCW 36.27.020(2), (3).

Medical schools, requisites for accreditation and approval: RCW 18.71.055.
Meetings, minutes of governmental bodies, open to public: Chapter 42.32 RCW.
Motor vehicles, speed regulations when passing public school: RCW 46.61.440.
Open to all children of state: State Constitution Art. 9 § 1, Art. 26 § 4.
Periodicals, purchase of, manner of payment: RCW 42.24.035.
Printing contracts for outside state work, labor requirements: RCW 43.78.150.
Printing must be done within state, exception: RCW 43.78.130, 43.78.140.
Public bodies may retain collection agencies to collect public debts--Fees: RCW 19.16.500.
Public lands: Title 79 RCW.
Public school system, what included in: State Constitution Art. 9 § 2.
Pupils, residence or absence does not affect right to vote: State Constitution Art. 6 § 4.
Purchases, periodicals, postage, manner of payment: RCW 42.24.035.
Religion, control of schools by, free from: State Constitution Art. 9 § 4, Art. 26 § 4.
Savings and loan associations, school savings accounts, priority in liquidation distribution: RCW 33.40.050.
Sectarian control, free from: State Constitution Art. 9 § 4.
State school
for blind: Chapter 72.40 RCW.
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State toxicological laboratories: RCW 68.50.107.
Student enrollment forecasts, biennial report of department of community, trade, and economic development: RCW 43.62.050.
System of schools to be established by state: State Constitution Art. 9 § 2.
Technical schools, included in public school system: State Constitution Art. 9 § 2.
Warrants
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Chapter 28B.04 RCW
DISPLACED HOMEMAKER ACT

Sections

28B.04.010 Short title.
28B.04.020 Legislative findings--Purpose.
28B.04.030 Definitions.
28B.04.040 Multipurpose service centers--Contracts for--Rules embodying standards for--Funds for.
28B.04.050 Multipurpose service centers--Referral to services by--Displaced homemakers as staff.
28B.04.060 Contracting for specific programs.
28B.04.080 Consultation and cooperation with other agencies--Agency report of available services and funds therefor--Board as clearinghouse for information and resources.
28B.04.085 Displaced homemaker program advisory committee.
28B.04.090 Considerations when awarding contracts.
28B.04.100 Percentage of funding for centers or program to be provided by administering organization.
28B.04.110 Acceptance and use of contributions authorized--Qualifications.
28B.04.120 Discrimination prohibited.

RCW 28B.04.010 Short title.

This chapter may be known and cited as the "displaced homemaker act."

[1979 c 73 § 1.]

RCW 28B.04.020 Legislative findings--Purpose.

The legislature finds that homemakers are an unrecognized part of the work force who make an invaluable contribution to the strength, durability, and purpose of our state.

The legislature further finds that there is an increasing number of persons in this state who, having fulfilled a role as homemaker, find themselves "displaced" in their middle years through divorce, death of spouse, disability of spouse, or other loss of family income of a spouse. As a consequence, displaced homemakers are very often left with little or no income; they are ineligible for categorical welfare assistance; they are subject to the highest rate of unemployment of any sector of the work force; they face continuing discrimination in employment because of their age and lack of recent paid work experience; they are ineligible for unemployment insurance because they have been engaged in unpaid labor in the home; they are ineligible for social security benefits because they are too young, and many never qualify because they have been divorced from the family wage earner; they may have lost beneficiaries' rights under employer's pension and health plans through divorce or death of spouse; and they are often unacceptable to private health insurance plans because of their age.

It is the purpose of this chapter to establish guidelines under which the higher education coordinating board shall contract to establish multipurpose service centers and programs to provide necessary training opportunities, counseling, and services for displaced homemakers so that they may enjoy the independence and economic security vital to a productive life.

[1985 c 370 § 36; 1982 1st ex.s. c 15 § 1; 1979 c 73 § 2.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

RCW 28B.04.030 Definitions.

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

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

(2) "Center" means a multipurpose service center for displaced homemakers as described in RCW 28B.04.040.

(3) "Program" means those programs described in RCW 28B.04.050 which provide direct, outreach, and information and training services which serve the needs of displaced homemakers.

(4) "Displaced homemaker" means an individual who:

(a) Has worked in the home for ten or more years providing unsalaried household services for family members on a full-time basis; and

(b) Is not gainfully employed;

(c) Needs assistance in securing employment; and

(d) Has been dependent on the income of another family member but is no longer supported by that income, or has been dependent on federal assistance but is no longer eligible for that assistance, or is supported as the parent of minor children by public assistance or spousal support but whose children are within two years of reaching their majority.

[1985 c 370 § 37; 1979 c 73 § 3.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

RCW 28B.04.040 Multipurpose service centers--Contracts for--Rules embodying standards for--Funds for.

(1) The board, in consultation with state and local governmental agencies, community groups, and local and national organizations concerned with displaced homemakers, shall receive applications and may contract with public or private nonprofit organizations to establish multipurpose service centers for displaced homemakers. In determining sites and administering agencies or organizations for the centers, the board shall consider the experience and capabilities of the public or private nonprofit organizations making application to provide services to a center.

(2) The board shall issue rules prescribing the standards to be met by each center in accordance with the policies set forth in this chapter. Continuing funds for the maintenance of each center shall be contingent upon the determination by the board that the center is in compliance with the contractual conditions and with the rules prescribed by the board.

[1985 c 370 § 38; 1982 1st ex.s. c 15 § 2; 1979 c 73 § 4.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

RCW 28B.04.050 Multipurpose service centers--Referral to services by--Displaced homemakers as staff.

(1) Each center contracted for under this chapter shall include or provide information and referral to the following services:

(a) Job counseling services which shall:

(i) Be specifically designed for displaced homemakers;

(ii) Counsel displaced homemakers with respect to appropriate job opportunities; and

(iii) Take into account and build upon the skills and experience of a homemaker and emphasize job readiness as well as skill development;

(b) Job training and job placement services which shall:

(i) Emphasize short-term training programs and programs which expand upon homemaking skills and volunteer experience and which lead to gainful employment;

(ii) Develop, through cooperation with state and local government agencies and private employers, model training and placement programs for jobs in the public and private sectors;

(iii) Assist displaced homemakers in gaining admission to existing public and private job training programs and opportunities, including vocational education and apprenticeship training programs; and

(iv) Assist in identifying community needs and creating new jobs in the public and private sectors;

(c) Health counseling services, including referral to existing health programs, with respect to:

(i) General principles of preventative health care;

(ii) Health care consumer education, particularly in the selection of physicians and health care services, including, but not limited to, health maintenance organizations and health insurance;

(iii) Family health care and nutrition;

(iv) Alcohol and drug abuse; and

(v) Other related health care matters;

(d) Financial management services which provide information and assistance with respect to insurance, taxes, estate and probate problems, mortgages, loans, and other related financial matters;

(e) Educational services, including:

(i) Outreach and information about courses offering credit through secondary or postsecondary education programs, and other re-entry programs, including bilingual programming where appropriate; and

(ii) Information about such other programs as are determined to be of interest and benefit to displaced homemakers by the board;

(f) Legal counseling and referral services; and

(g) Outreach and information services with respect to federal and state employment, education, health, public assistance, and unemployment assistance programs which the board determines would be of interest and benefit to displaced homemakers.

(2) The staff positions of each multipurpose center contracted for in accordance with RCW 28B.04.040, including supervisory, technical, and administrative positions, shall, to the maximum extent possible, be filled by displaced homemakers.

[1985 c 370 § 39; 1982 1st ex.s. c 15 § 3; 1979 c 73 § 5.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

RCW 28B.04.060 Contracting for specific programs.

The board may contract, where appropriate, with public or private nonprofit groups or organizations serving the needs of displaced homemakers for programs designed to:

(1) Provide direct services to displaced homemakers, including job counseling, job training and placement, health counseling, financial management, educational counseling, legal counseling, and referral services as described in RCW 28B.04.050;

(2) Provide state-wide outreach and information services for displaced homemakers; and

(3) Provide training opportunities for persons serving the needs of displaced homemakers, including those persons in areas not directly served by programs and centers established under this chapter.

[1985 c 370 § 40; 1982 1st ex.s. c 15 § 4; 1979 c 73 § 6.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

RCW 28B.04.080 Consultation and cooperation with other agencies--Agency report of available services and funds therefor--Board as clearinghouse for information and resources.

(1) The board shall consult and cooperate with the department of social and health services; the *state board for community college education; the superintendent of public instruction; the **commission for vocational education; the employment security department; the department of labor and industries; sponsoring agencies under the federal comprehensive employment and training act (87 Stat. 839; 29 U.S.C. Sec. 801 et seq.), and any other persons or agencies as the board deems appropriate to facilitate the coordination of centers established under this chapter with existing programs of a similar nature.

(2) Annually on July 1st, each agency listed in subsection (1) of this section shall submit a description of each service or program under its jurisdiction which would support the programs and centers established by this chapter and the funds available for such support.

(3) The board shall serve as a clearinghouse for displaced homemaker information and resources and shall compile and disseminate state-wide information to the centers, related agencies, and interested persons upon request.

[1985 c 370 § 42; 1982 1st ex.s. c 15 § 6; 1979 c 73 § 8.]

Notes:

Reviser's note: *(1) The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

**(2) The commission on vocational education and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1986, and repealed June 30, 1987. See 1983 c 197 §§ 17 and 43.

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

RCW 28B.04.085 Displaced homemaker program advisory committee.

(1) The executive coordinator of the higher education coordinating board shall establish

an advisory committee, to be known as the displaced homemaker program advisory committee.

(2) The advisory committee shall be advisory to the executive coordinator and staff of the board.

(3) Committee membership shall not exceed twenty-two persons and shall be geographically and generally representative of the state. At least one member of the advisory committee shall either be or recently have been a displaced homemaker.

(4) Functions of the advisory committee shall be:

(a) To provide advice on all aspects of administration of the displaced homemaker program, including content of program rules, guidelines, and application procedures;

(b) To assist in coordination of activities under the displaced homemaker program with related activities of other state and federal agencies, with particular emphasis on facilitation of coordinated funding.

[1987 c 230 § 2.]

Notes:

Effective date--1987 c 230: See note following RCW 36.18.010.

RCW 28B.04.090 Considerations when awarding contracts.

In the awarding of contracts under this chapter, consideration shall be given to need, geographic location, population ratios, and the extent of existing services.

[1979 c 73 § 9.]

RCW 28B.04.100 Percentage of funding for centers or program to be provided by administering organization.

Thirty percent of the funding for the centers and programs under this chapter shall be provided by the organization administering the center or program. Contributions in-kind, whether materials and supplies, physical facilities, or personal services, may be considered as all or part of the funding provided by the organization.

[1979 c 73 § 10.]

RCW 28B.04.110 Acceptance and use of contributions authorized--Qualifications.

The board may, in carrying out this chapter, accept, use, and dispose of contributions of money, services, and property: PROVIDED, That funds generated within individual centers may be retained and utilized by those centers. All moneys received by the board or any employee thereof pursuant to this section shall be deposited in a depository approved by the state treasurer. Disbursements of such funds shall be on authorization of the board or a duly authorized representative thereof. In order to maintain an effective expenditure and revenue control such funds shall be subject in all respects to chapter 43.88 RCW, but no appropriation shall be required to permit expenditure of such funds.

[1985 c 370 § 43; 1979 c 73 § 11.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

RCW 28B.04.120 Discrimination prohibited.

No person in this state, on the ground of sex, age, race, color, religion, national origin, or the presence of any sensory, mental, or physical handicap, shall be excluded from participating in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this chapter.

[1979 c 73 § 12.]

Chapter 28B.06 RCW
PROJECT EVEN START

Sections

28B.06.010 Intent--Short title.
28B.06.020 Definitions.
28B.06.030 Adult literacy program--Basic skills instruction--Credit toward work and training requirement--Rules.
28B.06.040 Preference for existing programs before developing new programs.

RCW 28B.06.010 Intent--Short title.

(1) Parents can be the most effective teachers for their children. Providing illiterate or semiliterate parents with opportunities to acquire basic skills and child development knowledge will enhance their ability to assist and support their children in the learning process, and will enhance children's learning experiences in the formal education environment by providing children with the motivation and positive home environment which contribute to enhanced academic performance.

(2) This chapter may be known and cited as project even start.

[1995 c 335 § 301; 1990 c 33 § 505; 1987 c 518 § 104. Formerly RCW 28A.610.010, 28A.130.010.]

Notes:

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.
Intent--1994 c 166; 1987 c 518: See note following RCW 28A.215.150.
Severability--1987 c 518: See note following RCW 28A.215.150.

RCW 28B.06.020 Definitions.

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

"Parent" or "parents" means a parent who has less than an eighth grade ability in one or more of the basic skill areas of reading, language arts, or mathematics, as measured by a standardized test, and who has a child or children enrolled in: (1) The state early childhood education and assistance program; (2) a federal head start program; (3) a state or federally funded elementary school basic skills program serving students who have scored below the national average on a standardized test in one or more of the basic skill areas of reading, language arts, or mathematics; or (4) a cooperative preschool at a community or technical college.

[1995 c 335 § 302; 1990 c 33 § 506; 1987 c 518 § 105. Formerly RCW 28A.610.020, 28A.130.012.]

Notes:

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.
Intent--1994 c 166; 1987 c 518: See note following RCW 28A.215.150.
Severability--1987 c 518: See note following RCW 28A.215.150.

RCW 28B.06.030 Adult literacy program--Basic skills instruction--Credit toward work and training requirement--Rules.

(1) The state board for community and technical colleges, in consultation with the department of community, trade, and economic development, the department of social and health services, the superintendent of public instruction, and community-based, nonprofit providers of adult literacy services, shall develop an adult literacy program to serve eligible parents as defined under *RCW 28A.610.020. The program shall give priority to serving parents with children who have not yet enrolled in school or are in grades kindergarten through three.

(2) In addition to providing basic skills instruction to eligible parents, the program may include other program components which may include transportation, child care, and such other directly necessary activities as may be necessary to accomplish the purposes of this chapter.

(3) Parents who elect to participate in training or work programs, as a condition of receiving public assistance, shall have the hours spent in parent participation programs, conducted as part of a federal head start program, or the state early childhood education and assistance program under RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908, or parent literacy programs under this chapter, counted toward the fulfillment of their work and training obligation for the receipt of public assistance.

(4) State funds as may be appropriated for project even start shall be used solely to expand and complement, but not supplant, federal funds for adult literary programs.

(5) The state board for community and technical colleges shall adopt rules as necessary to carry out the purposes of this chapter.

[1995 c 335 § 303; 1990 c 33 § 507; 1987 c 518 § 106. Formerly RCW 28A.610.030, 28A.130.014.]

Notes:

***Reviser's note:** RCW 28A.610.020 was recodified as RCW 28B.06.020 pursuant to 1995 c 335 § 306.
Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.
Intent--1994 c 166; 1987 c 518: See note following RCW 28A.215.150.

Severability--1987 c 518: See note following RCW 28A.215.150.

RCW 28B.06.040 Preference for existing programs before developing new programs.

The state board for community and technical colleges is authorized and directed, whenever possible, to fund or cooperatively work with existing adult literacy programs and parenting related programs offered through the common school and community and technical college systems or community-based, nonprofit organizations to provide services for eligible parents before developing and funding new adult literacy programs to carry out the purposes of project even start.

[1996 c 11 § 1; 1987 c 518 § 107. Formerly RCW 28A.610.040, 28A.130.016.]

Notes:

Intent--1994 c 166; 1987 c 518: See note following RCW 28A.215.150.
Severability--1987 c 518: See note following RCW 28A.215.150.

Chapter 28B.07 RCW
WASHINGTON HIGHER EDUCATION FACILITIES AUTHORITY

Sections

28B.07.010 Intent.
28B.07.020 Definitions.
28B.07.030 Washington higher education facilities authority--Created--Members--Chairperson--Records--Quorum--Compensation and travel expenses.
28B.07.040 Powers and duties.
28B.07.050 Special obligation bonds--Issuance--Personal liability--Debt limit.
28B.07.060 Bonds--Special obligations--Payment--Funds--Segregation of proceeds and moneys.
28B.07.070 Agreements with participant--Participant's payment of certain costs and expenses.
28B.07.080 Moneys deemed trust funds--Agreement or trust indenture with bank or trust company authorized.
28B.07.090 Holders or owners of bonds--Trustees--Enforcement of rights--Purchase at foreclosure sale.
28B.07.100 Bonds are securities--Legal investments.
28B.07.110 Projects or financing--Exemption from certain restrictions on procedures for awarding contracts.
28B.07.120 Bond counsel--Selection.
28B.07.130 Underwriters--Selection.
28B.07.900 Chapter supplemental--Application of other laws.
28B.07.910 Construction--1983 c 169.
28B.07.920 Severability--1983 c 169.

RCW 28B.07.010 Intent.

The legislature finds that the state has a vital interest in ensuring that higher education institutions are maintained in the state in sufficient numbers and located in such locations, as to be accessible to as many citizens as possible. Adequate educational opportunities are essential to

the economic, intellectual, and social well-being of the state and its people. Washington's independently-governed private nonprofit higher education institutions are a necessary part of the state's higher educational resources. They provide educational diversity and choice for all residents of the communities in which they are located, communities which may not otherwise be served directly by a public baccalaureate-granting college or university.

The legislature further finds that some of the factors that contribute to educational costs are beyond the control of these higher education institutions and their governing boards. The factors include the need to modify facilities to render the facilities accessible to the handicapped or disabled, the necessity of modernizing structures to keep them safe and efficient, and the demands of energy conservation and resource utilization. Many of these needs are associated with the public functions these institutions perform and the requirements of the state and federal governments. Compounding the problem is the fact that the cost of these renovations are borne entirely by the institutions.

Because these institutions serve an important public purpose addressing both the needs of individuals and the needs of the state, and because the performance of that public function can be facilitated at no expense or liability to the state, the legislature declares it to be the public policy of the state of Washington to enable the building, providing, and utilization of modern, well-equipped, efficient, and reasonably priced higher educational facilities, as well as the improvement, expansion, and modernization of such facilities, in a manner that will minimize the capital cost of construction, financing, and use of such facilities. The intention of this policy is to improve and ensure the quality and range of educational services available to the citizens of this state. The intent of the legislature is to accomplish these and related purposes, and this chapter shall be liberally construed in order to further these goals.

[1983 c 169 § 1.]

RCW 28B.07.020 Definitions.

As used in this chapter, the following words and terms shall have the following meanings, unless the context otherwise requires:

(1) "Authority" means the Washington higher education facilities authority created under RCW 28B.07.030 or any board, body, commission, department or officer succeeding to the principal functions of the authority or to whom the powers conferred upon the authority shall be given by law.

(2) "Bonds" means bonds, notes, commercial paper, certificates of indebtedness, or other evidences of indebtedness of the authority issued under this chapter.

(3) "Bond resolution" means any resolution of the authority, adopted under this chapter, authorizing the issuance and sale of bonds.

(4) "Higher education institution" means a private, nonprofit educational institution, the main campus of which is permanently situated in the state, which is open to residents of the state, which neither restricts entry on racial or religious grounds, which provides programs of education beyond high school leading at least to the baccalaureate degree, and which is accredited by the Northwest Association of Schools and Colleges or by an accrediting

association recognized by the higher education coordinating board.

(5) "Participant" means a higher education institution which, under this chapter, undertakes the financing of a project or projects or undertakes the refunding or refinancing of obligations, mortgages, or advances previously incurred for a project or projects.

(6) "Project" means any land or any improvement, including, but not limited to, buildings, structures, fixtures, utilities, machinery, excavations, paving, and landscaping, and any interest in such land or improvements, and any personal property pertaining or useful to such land and improvements, which are necessary, useful, or convenient for the operation of a higher education institution, including but not limited to, the following: Dormitories or other multi-unit housing facilities for students, faculty, officers, or employees; dining halls; student unions; administration buildings; academic buildings; libraries; laboratories; research facilities; computer facilities; classrooms; athletic facilities; health care facilities; maintenance, storage, or utility facilities; parking facilities; or any combination thereof, or any other structures, facilities, or equipment so related.

(7) "Project cost" means any cost related to the acquisition, construction, improvement, alteration, or rehabilitation by a participant or the authority of any project and the financing of the project through the authority, including, but not limited to, the following costs paid or incurred: Costs of acquisition of land or interests in land and any improvement; costs of contractors, builders, laborers, materialmen, and suppliers of tools and equipment; costs of surety and performance bonds; fees and disbursements of architects, surveyors, engineers, feasibility consultants, accountants, attorneys, financial consultants, and other professionals; interest on bonds issued by the authority during any period of construction; principal of and interest on interim financing of any project; debt service reserve funds; depreciation funds, costs of the initial start-up operation of any project; fees for title insurance, document recording, or filing; fees of trustees and the authority; taxes and other governmental charges levied or assessed on any project; and any other similar costs. Except as specifically set forth in this definition, the term "project cost" does not include books, fuel, supplies, and similar items which are required to be treated as a current expense under generally accepted accounting principles.

(8) "Trust indenture" means any agreement, trust indenture, or other similar instrument by and between the authority and one or more corporate trustees.

[1985 c 370 § 47; 1983 c 169 § 2.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

RCW 28B.07.030 Washington higher education facilities authority--Created--Members--Chairperson--Records--Quorum--Compensation and travel expenses.

(1) The Washington higher education facilities authority is hereby established as a public body corporate and politic, with perpetual corporate succession, constituting an agency of the state of Washington exercising essential governmental functions. The authority is a "public

body" within the meaning of RCW 39.53.010.

(2) The authority shall consist of seven members as follows: The governor, lieutenant governor, executive director of the higher education coordinating board, and four public members, one of whom shall be the president of a higher education institution at the time of appointment. The public members shall be residents of the state and appointed by the governor, subject to confirmation by the senate, on the basis of their interest or expertise in the provision of higher education and the financing of higher education. The public members of the authority shall serve for terms of four years. The initial terms of the public members shall be staggered in a manner determined by the governor. In the event of a vacancy on the authority due to death, resignation, or removal of one of the public members, and upon the expiration of the term of any public member, the governor shall appoint a successor for a term expiring on the fourth anniversary of the successor's date of the appointment. If any of the state offices are abolished, the resulting vacancy on the authority shall be filled by the state officer who shall succeed substantially to the power and duties of the abolished office. Any public member of the authority may be removed by the governor for misfeasance, malfeasance, wilful neglect of duty, or any other cause after notice and a public hearing, unless such notice and hearing shall be expressly waived in writing.

(3) The governor shall serve as chairperson of the authority. The authority shall elect annually one of its members as secretary. If the governor shall be absent from a meeting of the authority, the secretary shall preside. However, the governor may designate an employee of the governor's office to act on the governor's behalf in all other respects during the absence of the governor at any meeting of the authority. If the designation is in writing and is presented to the person presiding at the meetings of the authority who is included in the designation, the vote of the designee has the same effect as if cast by the governor.

(4) Any person designated by resolution of the authority shall keep a record of the proceedings of the authority and shall be the custodian of all books, documents, and papers filed with the authority, the minute book or a journal of the authority, and the authority's official seal, if any. The person may cause copies to be made of all minutes and other records and documents of the authority, and may give certificates to the effect that such copies are true copies. All persons dealing with the authority may rely upon the certificates.

(5) Four members of the authority constitute a quorum. The authority may act on the basis of a motion except when authorizing the issuance and sale of bonds, in which case the authority shall act by resolution. Bond resolutions and other resolutions shall be adopted upon the affirmative vote of four members of the authority, and shall be signed by those members voting yes. Motions shall be adopted upon the affirmative vote of a majority of a quorum of members present at any meeting of the authority. All actions taken by the authority shall take effect immediately without need for publication or other public notice. A vacancy in the membership of the authority does not impair the power of the authority to act under this chapter.

(6) The members of the authority shall be compensated in accordance with RCW 43.03.240 and shall be entitled to reimbursement, solely from the funds of the authority, for travel expenses as determined by the authority incurred in the discharge of their duties under this chapter.

[1985 c 370 § 48; 1984 c 287 § 62; 1983 c 169 § 3.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Legislative findings--Severability--Effective date--1984 c 287: See notes following RCW 43.03.220.

RCW 28B.07.040 Powers and duties.

The authority is authorized and empowered to do the following, on such terms, with such security and undertakings, subject to such conditions, and in return for such consideration, as the authority shall determine in its discretion to be necessary, useful, or convenient in accomplishing the purposes of this chapter:

(1) To promulgate rules in accordance with chapter 34.05 RCW;

(2) To adopt an official seal and to alter the same at pleasure;

(3) To maintain an office at any place or places as the authority may designate;

(4) To sue and be sued in its own name, and to plead and be impleaded;

(5) To make and execute agreements with participants and others and all other instruments necessary, useful, or convenient for the accomplishment of the purposes of this chapter;

(6) To provide long-term or short-term financing or refinancing to participants for project costs, by way of loan, lease, conditional sales contract, mortgage, option to purchase, or other financing or security device or any such combination;

(7) If, in order to provide to participants the financing or refinancing of project costs described in subsection (6) of this section, the authority deems it necessary or convenient for it to own a project or projects or any part of a project or projects, for any period of time, it may acquire, contract, improve, alter, rehabilitate, repair, manage, operate, mortgage, subject to a security interest, lease, sell, or convey the project;

(8) To fix, revise from time to time, and charge and collect from participants and others rates, rents, fees, charges, and repayments as necessary to fully and timely reimburse the authority for all expenses incurred by it in providing the financing and refinancing and other services under this section and for the repayment, when due, of all the principal of, redemption premium, if any, and interest on all bonds issued under this chapter to provide the financing, refinancing, and services;

(9) To accept and receive funds, grants, gifts, pledges, guarantees, mortgages, trust deeds, and other security instruments, and property from the federal government or the state or other public body, entity, or agency and from any public or private institution, association, corporation, or organization, including participants. It shall not accept or receive from the state or any taxing agency any money derived from taxes, except money to be devoted to the purposes of a project of the state or of a taxing agency;

(10) To open and maintain a bank account or accounts in one or more qualified public depositories in this state and to deposit all or any part of authority funds therein;

(11) To employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers, an executive director, and such other employees

and agents as may be necessary in its judgment to carry out the purposes of this chapter, and to fix their compensation;

(12) To provide financing or refinancing to two or more participants for a single project or for several projects in such combinations as the authority deems necessary, useful, or convenient;

(13) To charge to and equitably apportion among participants the administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter;

(14) To consult with the higher education coordinating board to determine project priorities under the purposes of this chapter; and

(15) To do all other things necessary, useful, or convenient to carry out the purposes of this chapter.

In the exercise of any of these powers, the authority shall incur no expense or liability which shall be an obligation, either general or special, of the state, or a general obligation of the authority, and shall pay no expense or liability from funds other than funds of the authority. Funds of the state shall not be used for such purpose.

[1985 c 370 § 49; 1983 c 169 § 4.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

RCW 28B.07.050 Special obligation bonds--Issuance--Personal liability--Debt limit.

(1) The authority may, from time to time, issue its special obligation bonds in order to carry out the purposes of this chapter and to enable the authority to exercise any of the powers granted to it in this chapter. The bonds shall be issued pursuant to a bond resolution or trust indenture and shall be payable solely out of the special fund or funds created by the authority in the bond resolution or trust indenture. The special fund or funds shall be funded in whole or in part from moneys paid by one or more participants for whose benefit such bonds were issued and from the sources, if any, described in RCW 28B.07.040(9) or from the proceeds of bonds issued by the authority for the purpose of refunding any outstanding bonds of the authority.

(2) The bonds may be secured by:

(a) A first lien against any unexpended proceeds of the bonds;

(b) A first lien against moneys in the special fund or funds created by the authority for their payment;

(c) A first or subordinate lien against the revenue and receipts of the participant or participants which revenue is derived in whole or in part from the project financed by the authority;

(d) A first or subordinate security interest against any real or personal property, tangible or intangible, of the participant or participants, including, but not limited to, the project financed by the authority;

(e) Any other real or personal property, tangible or intangible; or

(f) Any combination of (a) through (e) of this subsection.

Any security interest created against the unexpended bond proceeds and against the special funds created by the authority shall be immediately valid and binding against the moneys and any securities in which the moneys may be invested without authority or trustee possession, and the security interest shall be prior to any party having any competing claim against the moneys or securities, without filing or recording under *Article 9 of the Uniform Commercial Code, Title 62A RCW, and regardless of whether the party has notice of the security interest.

(3) The bonds may be issued as serial bonds or as term bonds or any such combination. The bonds shall bear such date or dates; mature at such time or times; bear interest at such rate or rates, either fixed or variable; be payable at such time or times; be in such denominations; be in such form, either coupon or registered, or both; carry such registration privileges; be made transferable, exchangeable, and interchangeable; be payable in lawful money of the United States of America at such place or places; be subject to such terms of redemption; and be sold at public or private sale, in such manner, at such time, and at such price as the authority shall determine. The bonds shall be executed by the manual or facsimile signatures of the chairperson and the authority's duly-elected secretary or its executive director, and by the trustee if the authority determines to use a trustee. At least one signature shall be manually subscribed. Coupon bonds shall have attached interest coupons bearing the facsimile signatures of the chairperson and the secretary or the executive director.

(4) Any bond resolution, trust indenture, or agreement with a participant relating to bonds issued by the authority or the financing or refinancing made available by the authority may contain provisions, which may be made a part of the contract with the holders or owners of the bonds to be issued, pertaining to the following, among other matters: (a) The security interests granted by the participant to secure repayment of any amounts financed and the performance by the participant of its other obligations in the financing; (b) the security interests granted to the holders or owners of the bonds to secure repayment of the bonds; (c) rentals, fees, and other amounts to be charged, and the sums to be raised in each year through such charges, and the use, investment, and disposition of the sums; (d) the segregation of reserves or sinking funds, and the regulation, investment, and disposition thereof; (e) limitations on the uses of the project; (f) limitations on the purposes to which, or the investments in which, the proceeds of the sale of any issue of bonds may be applied; (g) terms pertaining to the issuance of additional parity bonds; (h) terms pertaining to the incurrence of parity debt; (i) the refunding of outstanding bonds; (j) procedures, if any, by which the terms of any contract with bondholders may be amended or abrogated; (k) acts or failures to act which constitute a default by the participant or the authority in their respective obligations and the rights and remedies in the event of a default; (l) the securing of bonds by a pooling of leases whereby the authority may assign its rights, as lessor, and pledge rents under two or more leases with two or more participants, as lessees; (m) terms governing performance by the trustee of its obligation; or (n) such other additional covenants, agreements, and provisions as are deemed necessary, useful, or convenient by the authority for the security of the holders of the bonds.

(5) Bonds may be issued by the authority to refund other outstanding authority bonds, at or prior to the maturity thereof, and to pay any redemption premium with respect thereto. Bonds issued for such refunding purposes may be combined with bonds issued for the financing or

refinancing of new projects. Pending the application of the proceeds of the refunding bonds to the redemption of the bonds to be redeemed, the authority may enter into an agreement or agreements with a corporate trustee under RCW 28B.07.080 with respect to the interim investment of the proceeds and the application of the proceeds and the earnings on the proceeds to the payment of the principal of and interest on, and the redemption of the bonds to be redeemed.

(6) All bonds and any interest coupons appertaining to the bonds shall be negotiable instruments under Title 62A RCW.

(7) Neither the members of the authority, nor its employees or agents, nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance of the bonds.

(8) The authority may purchase its bonds with any of its funds available for the purchase. The authority may hold, pledge, cancel, or resell the bonds subject to and in accordance with agreements with bondholders.

(9) At no time shall the total outstanding bonded indebtedness of the authority exceed five hundred million dollars.

[1983 c 169 § 5.]

Notes:

***Reviser's note:** Article 62A.9 RCW was repealed in its entirety by 2000 c 250 § 9A-901, effective July 1, 2001. For later enactment, see Article 62A.9A RCW.

RCW 28B.07.060 Bonds--Special obligations--Payment--Funds--Segregation of proceeds and moneys.

Bonds issued under this chapter shall not be deemed to constitute obligations, either general or special, of the state or of any political subdivision of the state, or a pledge of the faith and credit of the state or of any political subdivision, or a general obligation of the authority. The bonds shall be special obligations of the authority and shall be payable solely from the special fund or funds created by the authority in the bond resolution or trust indenture pursuant to which the bonds were issued. The fund or funds shall be funded in whole or in part from moneys paid by one or more participants for whose benefit the bonds were issued, from the sources, if any, under RCW 28B.07.040(9), or from the proceeds of bonds issued by the authority for the purpose of refunding any outstanding bonds of the authority. The issuance of bonds under this chapter shall not obligate, directly, indirectly, or contingently, the state or any political subdivision of the state to levy any taxes or appropriate or expend any funds for the payment of the principal or the interest on the bonds.

Neither the proceeds of bonds issued under this chapter, any moneys used or to be used to pay the principal of or interest on the bonds, nor any moneys received by the authority to defray its administrative costs shall constitute public money or property. All of such moneys shall be kept segregated and set apart from funds of the state and any political subdivision of the state and shall not be subject to appropriation or allotment by the state or subject to the provisions of chapter 43.88 RCW.

[1983 c 169 § 6.]

RCW 28B.07.070 Agreements with participant--Participant's payment of certain costs and expenses.

In connection with any bonds issued by the authority, the authority shall enter into agreements with participants which shall provide for the payment by each participant of amounts which shall be sufficient, together with other revenues available to the authority, if any, to: (1) Pay the participant's share of the administrative costs and expenses of the authority; (2) pay the costs of maintaining, managing, and operating the project or projects financed by the authority, to the extent that the payment of the costs has not otherwise been adequately provided for; (3) pay the principal of, premium, if any, and interest on outstanding bonds of the authority issued in respect of such project or projects as the same shall become due and payable; and (4) create and maintain reserves required or provided for in any bond resolution or trust indenture authorizing the issuance of such bonds of the authority. The payments shall not be subject to supervision or regulation by any department, committee, board, body, bureau, or agency of the state other than the authority.

[1983 c 169 § 7.]

RCW 28B.07.080 Moneys deemed trust funds--Agreement or trust indenture with bank or trust company authorized.

All moneys received by or on behalf of the authority under this chapter, whether as proceeds from the sale of bonds or from participants or from other sources shall be deemed to be trust funds to be held and applied solely as provided in this chapter. The authority, in lieu of receiving and applying the moneys itself, may enter into an agreement or trust indenture with one or more banks or trust companies having the power and authority to conduct trust business in the state to:

(1) Perform all of any part of the obligations of the authority with respect to: (a) Bonds issued by it; (b) the receipt, investment, and application of the proceeds of the bonds and moneys paid by a participant or available from other sources for the payment of the bonds; (c) the enforcement of the obligations of a participant in connection with the financing or refinancing of any project; and (d) other matters relating to the exercise of the authority's powers under this chapter;

(2) Receive, hold, preserve, and enforce any security interest or evidence of security interest granted by a participant for purposes of securing the payment of the bonds; and

(3) Act on behalf of the authority or the holders or owners of bonds of the authority for purposes of assuring or enforcing the payment of the bonds, when due.

[1983 c 169 § 8.]

RCW 28B.07.090 Holders or owners of bonds--Trustees--Enforcement of rights--Purchase at foreclosure sale.

Any holder or owner of bonds of the authority issued under this chapter or any holder of the coupons appertaining to the bonds, and the trustee or trustees under any trust indenture, except to the extent the rights given are restricted by the authority in any bond resolution or trust indenture authorizing the bonds, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any of their respective rights, and may become the purchaser at any foreclosure sale if the person is the highest bidder.

[1983 c 169 § 9.]

RCW 28B.07.100 Bonds are securities--Legal investments.

The bonds of the authority are securities in which all public officers and bodies of this state and all counties, cities, municipal corporations, and political subdivisions, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, insurance companies and associations, and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control.

[1983 c 169 § 10.]

RCW 28B.07.110 Projects or financing--Exemption from certain restrictions on procedures for awarding contracts.

A project or the financing or refinancing thereof pursuant to this chapter shall not be subject to the requirements of any law or rule relating to competitive bidding, lease performance bonds, or other restrictions imposed on the procedure for award of contracts.

[1983 c 169 § 11.]

RCW 28B.07.120 Bond counsel--Selection.

(1) The authority shall adopt written policies to provide for the selection of bond counsel. The policies shall provide for the creation and maintenance of a roster of attorneys whom the authority believes possess the requisite special expertise and professional standing to provide bond counsel opinions which would be accepted by the underwriters, bondholders and other members of the financial community, and which would be in furtherance of the public interest in obtaining the lowest possible interest rates on the bonds issued by the authority. Any attorney may apply to have his or her name placed on the roster, but may not be placed on the roster unless the attorney demonstrates to the authority's satisfaction that the attorney would issue the kind of opinions required by this section.

(2) Prior to selecting an attorney or attorneys to provide bond counsel services, the authority shall provide all attorneys on the roster with a notice of its intentions to select bond

counsel and shall invite each of them to submit to the authority his or her fee schedule for providing bond counsel services. The authority shall have wide discretion in selecting the attorney or attorneys it considers to be most appropriate to provide the services, but in the exercise of this discretion the authority shall consider all submitted fee schedules and the public interest in achieving issuance of bonds on terms most favorable to the authority. At least once every two calendar years, the authority shall select anew an attorney or attorneys to serve as bond counsel. However, the authority may retain an attorney for longer than two years when necessary to complete work on a particular bond issue. An attorney previously retained may be selected again but only after the authority has provided other attorneys on the roster with an opportunity to be selected and has made the fee schedule review required under this subsection. As an alternative to retaining counsel for a period of time, the authority may appoint an attorney to serve as counsel in respect to only a particular bond issue or issues.

[1983 c 169 § 13.]

RCW 28B.07.130 Underwriters--Selection.

(1) The authority shall adopt written policies to provide for the selection of underwriters. The policies shall provide for the creation of a roster of underwriters who the authority believes possess the requisite special expertise and professional standing to provide bond marketing services which would be accepted by bondholders and other members of the financial community, and which would be in furtherance of the public interest in marketing the authority's bonds at the lowest possible costs. Any underwriter may apply to have its name placed on the roster, but may not be placed on the roster unless it demonstrates to the authority's satisfaction that it meets the requirements of this section.

(2) Whenever the authority decides that it needs the services of an underwriter, it shall provide all underwriters on the roster with a notice of its intentions and shall invite each of them to submit to the authority an itemization of its fees and other charges for providing underwriting services on the issue. The itemization shall be by categories designed by the authority. The authority shall have wide discretion in selecting the underwriter it considers to be most appropriate to provide the services, but in the exercise of this discretion the authority shall consider the underwriter's fees and other charges and the public interest in achieving issuance of bonds on terms most favorable to the authority. The authority may adopt rules setting forth conditions under which an institution of higher education may be permitted to exercise the notice and selection procedures set forth in this subsection. These rules shall require the institution to comply with the provisions of this subsection as if it were the authority and to obtain the authority's prior approval of the selection of an underwriter.

[1983 c 169 § 14.]

RCW 28B.07.900 Chapter supplemental--Application of other laws.

This chapter provides a complete, additional, and alternative method for accomplishing the purposes of this chapter and shall be regarded as supplemental and additional to powers

conferred by other laws. The issuance of bonds and refunding bonds under this chapter need not comply with the requirements of any other law applicable to the issuance of bonds.

[1983 c 169 § 15.]

RCW 28B.07.910 Construction--1983 c 169.

This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect its purposes. Insofar as the provisions of this chapter are inconsistent with the provisions of any general or special law, or parts thereof, the provisions of this chapter shall be controlling.

[1983 c 169 § 16.]

RCW 28B.07.920 Severability--1983 c 169.

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

[1983 c 169 § 17.]

Chapter 28B.10 RCW
COLLEGES AND UNIVERSITIES GENERALLY

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NOTES:

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AIDS information: Chapter 70.24 RCW.

Alcohol, pure ethyl, purchase of: RCW 66.16.010.

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Business colleges, excise tax: RCW 82.04.170.

Commercial activities by institutions of higher education--Development of policies governing: Chapter 28B.63 RCW.

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Enrollment forecasts: RCW 43.62.050.
Eye protection, public and private educational institutions: RCW 70.100.010 through 70.100.040.
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Vacation leave for personnel: RCW 43.01.042.
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RCW 28B.10.016 Definitions.

For the purposes of this title:

(1) "State universities" means the University of Washington and Washington State University.

(2) "Regional universities" means Western Washington University at Bellingham, Central Washington University at Ellensburg, and Eastern Washington University at Cheney.

(3) "State college" means The Evergreen State College in Thurston county.

(4) "Institutions of higher education" or "postsecondary institutions" means the state universities, the regional universities, The Evergreen State College, the community colleges, and the technical colleges.

(5) "Governing board" means the board of regents or the board of trustees of the

institutions of higher education.

[1992 c 231 § 1; 1991 c 238 § 113; 1977 ex.s. c 169 § 1.]

Notes:

Effective date--1992 c 231: "This act shall take effect July 1, 1992." [1992 c 231 § 35.]

Effective dates--Severability--1991 c 238: See RCW 28B.50.917 and 28B.50.918.

Tenure or terms, rights, including property rights, not affected--1977 ex.s. c 169: "Nothing in this 1977 amendatory act shall affect the tenure of or the terms of any officials, administrative assistants, faculty members, or other employees of any institution of higher education within this state, whether such institutions have hereinabove in this 1977 amendatory act been redesignated as regional universities or otherwise. Nothing in this 1977 amendatory act shall affect any rights, whether to property or otherwise, existing on or after the effective date of this 1977 amendatory act, the intent of the legislature being solely to redesignate as regional universities certain institutions of higher education within this state." [1977 ex.s. c 169 § 113.]

Statute and RCW designations affected--1977 ex.s. c 169: "It is the intent of the legislature that after the effective date of this 1977 amendatory act, where the names "Western Washington State College", "Central Washington State College", or "Eastern Washington State College" are used in any bill enacted by the legislature or found within the Revised Code of Washington, they shall mean "Western Washington University", "Central Washington University", and "Eastern Washington University", respectively." [1977 ex.s. c 169 § 114.]

Severability--1977 ex.s. c 169: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 169 § 116.]

RCW 28B.10.017 "Eligible student" defined.

"Eligible student" means a student who (1) was enrolled in a Washington college, university, community college, or vocational-technical institute on or after August 2, 1990, and (2) is unable to complete the period of enrollment or academic term in which the student was enrolled because the student was deployed either in the Persian Gulf combat zone, as designated by the president of the United States by executive order, or in another location in support of the Persian Gulf combat zone. An eligible student is required to verify his or her inability to complete an academic term through military service records, movement orders, or a certified letter signed by the student's installation personnel officer.

[1991 c 164 § 1.]

RCW 28B.10.020 Acquisition of property by universities and The Evergreen State College.

The boards of regents of the University of Washington and Washington State University, respectively, and the boards of trustees of Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College, respectively, shall have the power and authority to acquire by exchange, gift, purchase, lease, or condemnation in the manner provided by chapter 8.04 RCW for condemnation of property for public use, such lands, real estate and other property, and interests therein as they may deem necessary for the use of said institutions respectively. However, the purchase or lease of major off-campus facilities is subject to the approval of the higher education coordinating board under

RCW 28B.80.340.

[1985 c 370 § 50; 1977 ex.s. c 169 § 7; 1969 ex.s. c 223 § 28B.10.020. Prior: 1967 c 47 § 16; 1947 c 104 § 1; Rem. Supp. 1947 § 4623-20. Formerly RCW 28.76.020.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.10.022 Authority to enter into financing contracts--Notice.

The boards of regents of the state universities and the boards of trustees of the regional universities, The Evergreen State College, and the *state board for community college education, are severally authorized to enter into financing contracts as provided in chapter 39.94 RCW. Except as provided in this section, financing contracts shall be subject to the approval of the state finance committee. The board of regents of a state university may enter into financing contracts which are payable solely from and secured by all or any component of the fees and revenues of the university derived from its ownership and operation of its facilities not subject to appropriation by the legislature and not constituting "general state revenues," as defined in Article VIII, section 1 of the state Constitution, without the prior approval of the state finance committee. The board of regents shall notify the state finance committee at least sixty days prior to entering into such contract and provide information relating to such contract as requested by the state finance committee.

[1989 c 356 § 6.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

RCW 28B.10.023 Contracts subject to requirements established under office of minority and women's business enterprises.

All contracts entered into under this chapter by institutions of higher education on or after September 1, 1983, are subject to the requirements established under chapter 39.19 RCW.

[1983 c 120 § 10.]

Notes:

Effective date--Applicability--Severability--Conflict with federal requirements--1983 c 120: See RCW 39.19.910, 39.19.920.

RCW 28B.10.025 Purchases of works of art--Procedure.

The Washington state arts commission shall, in consultation with the boards of regents of the University of Washington and Washington State University and with the boards of trustees of the regional universities, The Evergreen State College, and the community college districts, determine the amount to be made available for the purchases of art under RCW 28B.10.027, and payment therefor shall be made in accordance with law. The designation of projects and sites,

the selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts commission in consultation with the board of regents or trustees. However, the costs to carry out the Washington state arts commission's responsibility for maintenance shall not be funded from the moneys referred to under this section, RCW 43.17.200, 43.19.455, or 28A.335.210, but shall be contingent upon adequate appropriations being made for that purpose.

[1990 c 33 § 557; 1983 c 204 § 8; 1977 ex.s. c 169 § 8; 1974 ex.s. c 176 § 4.]

Notes:

Purpose--Statutory references--Severability--1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability--1983 c 204: See note following RCW 43.46.090.

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

Acquisition of works of art for public buildings and lands--Visual arts program established: RCW 43.46.090.

Allocation of moneys for acquisition of works of art--Expenditure by arts commission--Conditions: RCW 43.17.200.

Purchase of works of art--Interagency reimbursement for expenditure by visual arts program: RCW 43.17.205.

State art collection: RCW 43.46.095.

RCW 28B.10.027 Allocation of moneys for acquisition of works of art--Expenditure by arts commission--Conditions.

All universities and colleges shall allocate as a nondeductible item, out of any moneys appropriated for the original construction or any major renovation or remodel work exceeding two hundred thousand dollars of any building, an amount of one-half of one percent of the appropriation to be expended by the Washington state arts commission with the approval of the board of regents or trustees for the acquisition of works of art. The works of art may be placed on public lands of institutions of higher education, integral to or attached to a public building or structure of institutions of higher education, detached within or outside a public building or structure of institutions of higher education, part of a portable exhibition or collection, part of a temporary exhibition, or loaned or exhibited in other public facilities.

In addition to the cost of the works of art the one-half of one percent of the appropriation shall be used to provide for the administration of the visual arts program by the Washington state arts commission and all costs for installation of the work of art. For the purpose of this section building shall not include sheds, warehouses, and other buildings of a temporary nature.

[1983 c 204 § 9.]

Notes:

Severability--1983 c 204: See note following RCW 43.46.090.

RCW 28B.10.029 Property purchase and disposition--Independent printing production and purchasing authority.

(1) An institution of higher education may exercise independently those powers

otherwise granted to the director of general administration in chapter 43.19 RCW in connection with the purchase and disposition of all material, supplies, services, and equipment needed for the support, maintenance, and use of the respective institution of higher education. Property disposition policies followed by institutions of higher education shall be consistent with policies followed by the department of general administration. Purchasing policies and procedures followed by institutions of higher education shall be in compliance with chapters 39.19, 39.29, and 43.03 RCW, and RCW 43.19.1901, 43.19.1906, 43.19.1911, 43.19.1917, 43.19.1937, 43.19.534, 43.19.685, 43.19.700 through 43.19.704, and 43.19.560 through 43.19.637. The community and technical colleges shall comply with RCW 43.19.450. Except for the University of Washington, institutions of higher education shall comply with RCW 43.19.1935, 43.19.19363, and 43.19.19368. If an institution of higher education can satisfactorily demonstrate to the director of the office of financial management that the cost of compliance is greater than the value of benefits from any of the following statutes, then it shall be exempt from them: RCW 43.19.685; 43.19.534; and 43.19.637. Any institution of higher education that chooses to exercise independent purchasing authority for a commodity or group of commodities shall notify the director of general administration. Thereafter the director of general administration shall not be required to provide those services for that institution for the duration of the general administration contract term for that commodity or group of commodities.

(2) An institution of higher education may exercise independently those powers otherwise granted to the public printer in chapter 43.78 RCW in connection with the production or purchase of any printing and binding needed by the respective institution of higher education. Purchasing policies and procedures followed by institutions of higher education shall be in compliance with chapter 39.19 RCW. Any institution of higher education that chooses to exercise independent printing production or purchasing authority shall notify the public printer. Thereafter the public printer shall not be required to provide those services for that institution.

[1998 c 344 § 5; 1998 c 111 § 2; 1996 c 110 § 5; 1993 c 379 § 101.]

Notes:

Reviser's note: This section was amended by 1998 c 111 § 2 and by 1998 c 344 § 5, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent--Findings--1998 c 344: See note following RCW 28B.38.010.

Intent--1993 c 379: "The legislature acknowledges the academic freedom of institutions of higher education, and seeks to improve their efficiency and effectiveness in carrying out their missions. By this act, the legislature intends to increase the flexibility of institutions of higher education to manage personnel, construction, purchasing, printing, and tuition." [1993 c 379 § 1.]

Severability--1993 c 379: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 379 § 407.]

Effective date--1993 c 379: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 379 § 408.]

RCW 28B.10.030 Display of United States flag.

Every board of trustees or board of regents shall cause a United States flag being in good condition to be displayed on the campus of their respective state institution of higher education during the hours of nine o'clock a.m. and four o'clock p.m. on school days, except during inclement weather.

[1969 ex.s. c 223 § 28B.10.030. Prior: 1939 c 17 § 1; RRS § 4531-1. Formerly RCW 28.76.030.]

RCW 28B.10.031 Check cashing privileges.

(1) Any institution of higher education may, at its option and after the approval by governing boards, accept in exchange for cash a payroll check, expense check, financial aid check, or personal check from a student or employee of that institution of higher education in accordance with the following conditions:

(a) The check shall be drawn to the order of cash or bearer and be immediately payable by a drawee financial institution;

(b) The person presenting the check to the institution of higher education shall produce identification that he or she is currently enrolled or employed at the institution of higher education; and

(c) The payroll check, expense check, or financial aid check shall have been issued by the institution of higher education.

(2) In the event that any personal check cashed under this section is dishonored by the drawee financial institution when presented for payment, the institution of higher education, after giving notice of the dishonor to the student or employee and providing an opportunity for a brief adjudicative proceeding, may:

(a) In the case of a student, place a hold on the student's enrollment and transcript records until payment in full of the value of the dishonored check and reasonable collection fees and costs;

(b) In the case of an employee, withhold from the next payroll check or expense check the full amount of the dishonored check plus a collection fee. In the case that the employee no longer is employed by the institution of higher education at time of dishonor, then the institution of higher education may pursue other legal collection efforts that are to be paid by the drawer or endorser of the dishonored check along with the full value of the check.

[1993 c 145 § 1.]

RCW 28B.10.032 Public and private institutions offering teacher preparation programs--Exploration of methods to enhance awareness of teacher preparation programs.

The state's public and private institutions of higher education offering teacher preparation programs and school districts are encouraged to explore ways to facilitate faculty exchanges, and other cooperative arrangements, to generate increased awareness and understanding by higher education faculty of the common school teaching experience and increased awareness and understanding by common school faculty of the teacher preparation programs.

[1987 c 525 § 233.]

NOTES:

Intent--Short title--1987 c 525 §§ 202-233: See notes following RCW 28A.410.040.

Severability--1987 c 525: See note following RCW 28A.300.050.

RCW 28B.10.040 Higher educational institutions to be nonsectarian.

All institutions of higher education supported wholly or in part by state funds, and by whatsoever name so designated, shall be forever free from religious or sectarian control or influence.

[1969 ex.s. c 223 § 28B.10.040. Prior: (i) 1909 c 97 p 242 § 7; RRS § 4559; prior: 1897 c 118 § 188; 1890 p 396 § 5. Formerly RCW 28.77.013; 28.76.040, part. (ii) 1909 c 97 p 243 § 1, part; RRS § 4568, part; prior: 1897 c 118 § 190, part; 1891 c 145 § 1, part. Formerly RCW 28.80.015, part; 28.76.040, part.]

Notes:

Nonsectarian: State Constitution Art. 9 § 4, Art. 26.

RCW 28B.10.042 Personal identifiers--Use of social security numbers prohibited. *(Effective July 1, 2002.)*

(1) Institutions of higher education shall not use the social security number of any student, staff, or faculty for identification except for the purposes of employment, financial aid, research, assessment, accountability, transcripts, or as otherwise required by state or federal law.

(2) Each institution of higher education shall develop a system of personal identifiers for students to be used for grading and other administrative purposes. The personal identifiers may not be social security numbers.

[2001 c 103 § 2.]

NOTES:

Findings--2001 c 103: "The legislature finds that the occurrences of identity theft are increasing. The legislature also finds that widespread use of the federally issued social security numbers has made identity theft more likely to occur." [2001 c 103 § 1.]

Effective date--2001 c 103 § 2: "Section 2 of this act takes effect July 1, 2002." [2001 c 103 § 5.]

RCW 28B.10.0421 Personal identifiers--Funding.

Each institution of higher education shall use its own existing budgetary funds to develop the system for personal identifiers. No new state funds shall be allocated for this purpose.

[2001 c 103 § 4.]

NOTES:

Findings--2001 c 103: See note following RCW 28B.10.042.

RCW 28B.10.044 State support received by students--Information.

(1) The higher education coordinating board shall annually develop information on the approximate amount of state support that students receive. For students at state-supported

colleges and universities, the information shall include the approximate level of support received by students in each tuition category. That information may include consideration of the following: Expenditures included in the educational cost formula, revenue forgiven from waived tuition and fees, state-funded financial aid awarded to students at public institutions, and all or a portion of appropriated amounts not reflected in the educational cost formula for institutional programs and services that may affect or enhance the educational experience of students at a particular institution. For students attending a private college, university, or proprietary school, the information shall include the amount of state-funded financial aid awarded to students attending the institution.

(2) Beginning July 30, 1993, the board shall annually provide information appropriate to each institution's student body to each state-supported four-year institution of higher education and to the state board for community and technical colleges for distribution to community colleges and technical colleges.

(3) Beginning July 30, 1993, the board shall annually provide information on the level of financial aid received by students at that institution to each private university, college, or proprietary school, that enrolls students receiving state-funded financial aid.

(4) Beginning with the 1997 fall academic term, each institution of higher education described in subsection (2) or (3) of this section shall provide to students at the institution information on the approximate amount that the state is contributing to the support of their education. Information provided to students at each state-supported college and university shall include the approximate amount of state support received by students in each tuition category at that institution. The amount of state support shall be based on the information provided by the higher education coordinating board under subsections (1) through (3) of this section. The information shall be provided to students at the beginning of each academic term through one or more of the following: Registration materials, class schedules, tuition and fee billing packets, student newspapers, or via e-mail or kiosk.

[1997 c 48 § 1; 1993 c 250 § 1.]

RCW 28B.10.050 Entrance requirements exceeding minimum requirements.

Except as the legislature shall otherwise specifically direct, the boards of regents and the boards of trustees for the state universities, the regional universities, and The Evergreen State College may establish entrance requirements for their respective institutions of higher education which meet or exceed the minimum entrance requirements established under RCW 28B.80.350(2).

[1985 c 370 § 91; 1984 c 278 § 19; 1977 ex.s. c 169 § 9; 1969 ex.s. c 223 § 28B.10.050. Prior: 1917 c 10 § 9; RRS § 4540. Formerly RCW 28.76.050.]

Notes:

Reviser's note: In 1985 c 370, the legislature amended language that, pursuant to 1984 c 278, was not to take effect until July 1, 1986. The 1985 c 370 amendment to RCW 28B.10.050 takes effect January 1, 1986.

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--1984 c 278: See note following RCW 28A.185.010.
Effective date--1984 c 278: See note following RCW 28A.230.130.
Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.10.055 Credits--State-wide transfer policy and agreement--Establishment.
See RCW 28B.80.280 and 28B.80.290.

RCW 28B.10.100 "Major line" defined.
The term "major line," whenever used in this code, shall be held and construed to mean the development of the work or courses of study in certain subjects to their fullest extent, leading to a degree or degrees in that subject.

[1969 ex.s. c 223 § 28B.10.100. Prior: 1917 c 10 § 1; RRS § 4532. Formerly RCW 28.76.010.]

RCW 28B.10.105 Courses exclusive to the University of Washington.
See RCW 28B.20.060.

RCW 28B.10.106 Courses exclusive to Washington State University.
See RCW 28B.30.060 and 28B.30.065.

RCW 28B.10.115 Major lines common to University of Washington and Washington State University.
The courses of instruction of both the University of Washington and Washington State University shall embrace as major lines, pharmacy, architecture, civil engineering, electrical engineering, mechanical engineering, chemical engineering, and forest management as distinguished from forest products and logging engineering which are exclusive to the University of Washington. These major lines shall be offered and taught at said institutions only.

[1985 c 218 § 1; 1969 ex.s. c 223 § 28B.10.115. Prior: 1963 c 23 § 2; 1961 c 71 § 2; prior: (i) 1917 c 10 § 8; RRS § 4539. (ii) 1917 c 10 § 4; RRS § 4535. Formerly RCW 28.76.080.]

RCW 28B.10.120 Graduate work.
Whenever a course is authorized to be offered and taught by this code, in any of the institutions herein mentioned, as a major line, it shall carry with it the right to offer, and teach graduate work in such major lines.

[1969 ex.s. c 223 § 28B.10.120. Prior: 1917 c 10 § 7; RRS § 4538. Formerly RCW 28.76.100.]

RCW 28B.10.125 Technology literacy--Reports.
(1) Beginning in April 2000, representatives of the public baccalaureate institutions

designated by the council of presidents, in consultation with representatives of the community and technical colleges and representatives of the higher education coordinating board, shall convene an interinstitutional group to begin to: (a) Develop a definition of information and technology literacy; (b) develop strategies or standards by which to measure the achievement of information and technology literacy; and (c) develop a financial assessment of the cost of implementation.

(2) The baccalaureate institutions shall provide the house of representatives and senate committees on higher education with a progress report in January 2001.

(3) By the end of January 2002, the baccalaureate institutions shall deliver to the house of representatives and senate committees on higher education a report detailing: (a) The definition of information and technology literacy; (b) strategies or standards for measurement; (c) institutionally specific plans for implementation; and (d) an evaluation of the feasibility of implementation taking into consideration cost.

(4) If the legislature determines that implementation is feasible, the public baccalaureate institutions shall pilot test strategies to assess and report on information and technology literacy during the 2002-03 academic year.

(5) By the end of January 2004, the institutions shall report to the house of representatives and senate committees on higher education the results of the 2002-03 pilot study.

(6) Implementation of assessment strategies shall begin in the academic year 2003-04.

(7) The higher education coordinating board shall report results to the house of representatives and senate committees on higher education in the 2005 legislative session.

[2000 c 166 § 2.]

Notes:

Findings--2000 c 166: "The legislature finds that competence in information literacy and fluency in information technology are increasingly important in the workplace as well as in day-to-day activities. The legislature finds that to prepare students to meet the challenges of the work force and society, students must be able to effectively manage and apply information from a variety of sources. In addition, the legislature finds that institutions of higher education have the opportunity to provide students with a framework and approach to use information and technology effectively." [2000 c 166 § 1.]

RCW 28B.10.140 Teachers', principals' and superintendents' training courses.

The University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College are each authorized to train teachers and other personnel for whom teaching certificates or special credentials prescribed by the state board of education are required, for any grade, level, department or position of the public schools of the state, except that the training for superintendents, over and above that required for teaching certificates and principals' credentials, shall be given by the University of Washington and Washington State University only.

[1977 ex.s. c 169 § 10; 1969 ex.s. c 223 § 28B.10.140. Prior: 1967 c 47 § 17; 1949 c 34 § 1; Rem. Supp. 1949 § 4618-3. Formerly RCW 28.76.120.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.10.170 College and university fees.

See chapter 28B.15 RCW.

RCW 28B.10.210 Blind students, assistance to--"Blind student" defined.

A blind student is defined for the purpose of RCW 28B.10.210 through 28B.10.220 to be a person who (a) is unable to read because of defective eyesight and (b) is qualified for admission to an institution of higher education within the state by reason of studies previously pursued. Such blind student must have been a resident of the state of Washington for one year next preceding the date upon which he received any benefits under RCW 28B.10.210 through 28B.10.220, and must make a reasonable showing that he does not have resources with which to finance his education. Inability to read because of defective eyesight may be established for the purposes hereof by a letter from a practicing physician specializing in treatment of the eye.

[1969 ex.s. c 223 § 28B.10.210. Prior: 1949 c 232 § 1; 1935 c 154 § 1; Rem. Supp. 1949 § 4542-1. Formerly RCW 28.76.129; 28.76.010, part.]

RCW 28B.10.215 Blind students, assistance to--Allocation of funds.

There is allocated to each and every blind student attending any institution of higher education within the state a sum not to exceed two hundred dollars per quarter, or so much thereof as may be necessary in the opinion of the higher education coordinating board in the state of Washington, to provide said blind student with readers, books, recordings, recorders, or other means of reproducing and imparting ideas, while attending said institution of higher education: PROVIDED, That said allocation shall be made out of any moneys in the general fund not otherwise appropriated.

[1985 c 370 § 51; 1982 1st ex.s. c 37 § 6; 1974 ex.s. c 68 § 1; 1969 ex.s. c 223 § 28B.10.215. Prior: 1955 c 175 § 1; 1949 c 232 § 2; 1935 c 154 § 2; Rem. Supp. 1949 § 4542-2. Formerly RCW 28.76.130.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date--Severability--1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

RCW 28B.10.220 Blind students, assistance to--Administration of funds.

All blind student assistance shall be distributed under the supervision of the higher education coordinating board in the state of Washington. The moneys or any part thereof allocated in the manner referred to in RCW 28B.10.215 shall, for furnishing said books or equipment or supplying said services, be paid by said board directly to the state institution of higher education, directly to such blind student, heretofore mentioned, or to the student's parents, guardian, or some adult person, if the blind student is a minor, designated by said blind student to act as trustee of said funds, as shall be determined by the board.

The board shall have power to prescribe and enforce all rules and regulations necessary

to carry out the provisions of this section and RCW 28B.10.215.

[1985 c 370 § 52; 1982 1st ex.s. c 37 § 7; 1974 ex.s. c 68 § 2; 1969 ex.s. c 223 § 28B.10.220. Prior: 1963 c 33 § 1; 1955 c 175 § 2; prior: (i) 1949 c 232 § 3; 1935 c 154 § 3; Rem. Supp. 1949 § 4542-3. (ii) 1935 c 154 § 4; RRS § 4542-4. Formerly RCW 28.76.140.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date--Severability--1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

RCW 28B.10.265 Waiver from fees--Children of certain citizens missing in action or prisoners of war.

Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may waive all or a portion of the tuition, operating, and services and activities fees for children of any person who was a Washington domiciliary and who within the past eleven years has been determined by the federal government to be a prisoner of war or missing in action in Southeast Asia, including Korea, or who shall become so hereafter, if the children meet such other educational qualifications as such institution of higher education shall deem reasonable and necessary under the circumstances. Applicants for free or reduced tuition shall provide institutional administrative personnel with documentation of their rights under this section.

[1993 sp.s. c 18 § 1; 1992 c 231 § 2; 1985 c 390 § 1; 1973 c 63 § 2; 1972 ex.s. c 17 § 2.]

Notes:

Effective date--1993 sp.s. c 18: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 sp.s. c 18 § 38.]

Effective date--1992 c 231: See note following RCW 28B.10.016.

Effective date--1973 c 63: "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately [March 8, 1973]: PROVIDED, That qualified applicants under sections 1 and 2 of this 1973 amendatory act shall be admitted to such institutions free of tuition and such fees commencing not later than the next succeeding quarter, semester or like educational period beginning after the effective date of this 1973 amendatory act." [1973 c 63 § 3.]

Effective date--1972 ex.s. c 17: "This 1972 act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately [February 19, 1972]: PROVIDED, That qualified applicants under sections 1 and 2 of this 1972 act shall be admitted to such institutions tuition-free commencing not later than the next succeeding quarter, semester or like educational period beginning after the effective date of this 1972 act." [1972 ex.s. c 17 § 3.]

RCW 28B.10.280 Student loans--Federal student aid programs.

The boards of regents of the state universities and the boards of trustees of regional universities, The Evergreen State College, and community college districts may each create student loan funds, and qualify and participate in the National Defense Education Act of 1958 and such other similar federal student aid programs as are or may be enacted from time to time, and to that end may comply with all of the laws of the United States, and all of the rules,

regulations and requirements promulgated pursuant thereto.

[1977 ex.s. c 169 § 11; 1970 ex.s. c 15 § 27; 1969 ex.s. c 222 § 2; 1969 ex.s. c 223 § 28B.10.280. Prior: 1959 c 191 § 1. Formerly RCW 28.76.420.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability--1970 ex.s. c 15: See note following RCW 28A.230.160.

Legislative declaration--Severability--1969 ex.s. c 222: See notes following RCW 28B.10.800.

State educational trust fund--Established--Deposits--Use: RCW 28B.10.821.

RCW 28B.10.281 Student loans--Certain activities may make student ineligible for aid.

Any student who organizes and/or participates in any demonstration, riot or other activity of which the effect is to interfere with or disrupt the normal educational process at such institution shall not be eligible for such aid.

[1969 ex.s. c 222 § 3. Formerly RCW 28.76.421.]

Notes:

Legislative declaration--Severability--1969 ex.s. c 222: See notes following RCW 28B.10.800.

RCW 28B.10.284 Uniform minor student capacity to borrow act.

See chapter 26.30 RCW.

RCW 28B.10.293 Additional charges authorized in collection of debts--Public and private institutions of higher education.

Each state public or private institution of higher education may, in the control and collection of any debt or claim due owing to it, impose reasonable financing and late charges, as well as reasonable costs and expenses incurred in the collection of such debts, if provided for in the note or agreement signed by the debtor.

[1977 ex.s. c 18 § 1.]

RCW 28B.10.295 Educational materials on abuses of, and illnesses consequent from, alcohol.

The boards of regents of the state's universities, the boards of trustees of the respective state colleges, and the boards of trustees of the respective community colleges, with the cooperation of the *state board for community college education, shall make available at some place of prominence within the premises of each campus educational materials on the abuses of alcohol in particular and the illnesses consequent therefrom in general: PROVIDED, That such materials shall be obtained from public or private organizations at no cost to the state.

[1975 1st ex.s. c 164 § 2.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Legislative recognition of community alcohol centers: "The legislature recognizes the invaluable services performed by the community alcohol centers throughout the state, which centers would view making available such educational materials as referred to in section 2 of this act as a part of their community outreach education and preventive program and for which material no fees would be charged." [1975 1st ex.s. c 164 § 1.]

RCW 28B.10.300 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College--Authorized.

The boards of regents of the state universities and the boards of trustees of the regional universities and The Evergreen State College are severally authorized to:

(1) Enter into contracts with persons, firms or corporations for the construction, installation, equipping, repairing, renovating and betterment of buildings and facilities for the following:

(a) dormitories

(b) hospitals

(c) infirmaries

(d) dining halls

(e) student activities

(f) services of every kind for students, including, but not limited to, housing, employment, registration, financial aid, counseling, testing and offices of the dean of students

(g) vehicular parking

(h) student, faculty and employee housing and boarding;

(2) Purchase or lease lands and other appurtenances necessary for the construction and installation of such buildings and facilities and to purchase or lease lands with buildings and facilities constructed or installed thereon suitable for the purposes aforesaid;

(3) Lease to any persons, firms, or corporations such portions of the campus of their respective institutions as may be necessary for the construction and installation of buildings and facilities for the purposes aforesaid and the reasonable use thereof;

(4) Borrow money to pay the cost of the acquisition of such lands and of the construction, installation, equipping, repairing, renovating, and betterment of such buildings and facilities, including interest during construction and other incidental costs, and to issue revenue bonds or other evidence of indebtedness therefor, and to refinance the same before or at maturity and to provide for the amortization of such indebtedness from services and activities fees or from the rentals, fees, charges, and other income derived through the ownership, operation and use of such lands, buildings, and facilities and any other dormitory, hospital, infirmary, dining, student activities, student services, vehicular parking, housing or boarding building or facility at the institution;

(5) Contract to pay as rental or otherwise the cost of the acquisition of such lands and of the construction and installation of such buildings and facilities on the amortization plan; the contract not to run over forty years;

(6) Expend on the amortization plan services and activities fees and/or any part of all of the fees, charges, rentals, and other income derived from any or all revenue-producing lands,

buildings, and facilities of their respective institutions, heretofore or hereafter acquired, constructed or installed, including but not limited to income from rooms, dormitories, dining rooms, hospitals, infirmaries, housing or student activity buildings, vehicular parking facilities, land or the appurtenances thereon, and to pledge such services and activities fees and/or the net income derived through the ownership, operation and use of any lands, buildings or facilities of the nature described in subsection (1) hereof for the payment of part or all of the rental, acquisition, construction, and installation, and the betterment, repair, and renovation or other contract charges, bonds or other evidence of indebtedness agreed to be paid on account of the acquisition, construction, installation or rental of, or the betterment, repair or renovation of, lands, buildings, facilities and equipment of the nature authorized by this section.

[1977 ex.s. c 169 § 13; 1973 1st ex.s. c 130 § 1; 1969 ex.s. c 223 § 28B.10.300. Prior: 1967 ex.s. c 107 § 1; 1963 c 167 § 1; 1961 c 229 § 2; prior: (i) 1950 ex.s. c 17 § 1, part; 1947 c 64 § 1, part; 1933 ex.s. c 23 § 1, part; 1925 ex.s. c 91 § 1, part; Rem. Supp. 1947 § 4543-1, part. (ii) 1947 c 64 § 2, part; 1933 ex.s. c 23 § 2, part; 1925 ex.s. c 91 § 2, part; Rem. Supp. 1947 § 4543-2, part. Formerly RCW 28.76.180.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

Prior bonds validated: See 1961 c 229 § 10.

RCW 28B.10.305 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College--Use of lands, buildings, and facilities.

The lands, buildings, facilities, and equipment acquired, constructed or installed for those purposes shall be used in the respective institutions primarily for:

(1) dormitories

(2) hospitals

(3) infirmaries

(4) dining halls

(5) student activities

(6) services of every kind for students, including, but not limited to housing, employment, registration, financial aid, counseling, testing and offices of the dean of students

(7) vehicular parking

(8) student, faculty and employee housing and boarding.

[1969 ex.s. c 223 § 28B.10.305. Prior: 1967 ex.s. c 107 § 2; 1963 c 167 § 2; 1961 c 229 § 3; prior: 1950 ex.s. c 17 § 1, part; 1947 c 64 § 1, part; 1933 ex.s. c 23 § 1, part; 1925 ex.s. c 91 § 1, part; Rem. Supp. 1947 § 4543-1, part. Formerly RCW 28.76.190.]

RCW 28B.10.310 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College--Bonds--Sale, interest, form, payment, term, execution, negotiability, etc.

Each issue or series of such bonds: Shall be sold at such price and at such rate or rates of

interest; may be serial or term bonds; may mature at such time or times in not to exceed forty years from date of issue; may be sold at public or private sale; may be payable both principal and interest at such place or places; may be subject to redemption prior to any fixed maturities; may be in such denominations; may be payable to bearer or to the purchaser or purchasers thereof or may be registrable as to principal or principal and interest as provided in RCW 39.46.030; may be issued under and subject to such terms, conditions and covenants providing for the payment of the principal thereof and interest thereon, which may include the creation and maintenance of a reserve fund or account to secure the payment of such principal and interest and a provision that additional bonds payable out of the same source or sources may later be issued on a parity therewith, and such other terms, conditions, covenants and protective provisions safeguarding such payment, all as determined and found necessary and desirable by said boards of regents or trustees. If found reasonably necessary and advisable, such boards of regents or trustees may select a trustee for the owners of each such issue or series of bonds and/or for the safeguarding and disbursements of the proceeds of their sale for the uses and purposes for which they were issued and, if such trustee or trustees are so selected, shall fix its or their rights, duties, powers, and obligations. The bonds of each such issue or series: Shall be executed on behalf of such universities or colleges by the president of the board of regents or the chairman of the board of trustees, and shall be attested by the secretary or the treasurer of such board, one of which signatures may be a facsimile signature; and shall have the seal of such university or college impressed, printed, or lithographed thereon, and any interest coupons attached thereto shall be executed with the facsimile signatures of said officials. The bonds of each such issue or series and any of the coupons attached thereto shall be negotiable instruments within the provisions and intent of the negotiable instruments law of this state even though they shall be payable solely from any special fund or funds.

[1983 c 167 § 31; 1972 ex.s. c 25 § 1; 1970 ex.s. c 56 § 22; 1969 ex.s. c 232 § 96; 1969 ex.s. c 223 § 28B.10.310. Prior: 1961 c 229 § 7. Formerly RCW 28.76.192.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.
Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.
Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 28B.10.315 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College--Funding, refunding bonds.

Such boards of regents or trustees may from time to time provide for the issuance of funding or refunding revenue bonds to fund or refund at or prior to maturity any or all bonds of other indebtedness, including any premiums or penalties required to be paid to effect such funding or refunding, heretofore or hereafter issued or incurred to pay all or part of the cost of acquiring, constructing, or installing any lands, buildings, or facilities of the nature described in RCW 28B.10.300.

Such funding or refunding bonds and any coupons attached thereto shall be negotiable instruments within the provisions and intent of the negotiable instruments law of this state.

Such funding or refunding bonds may be exchanged for or applied to the payment of the bonds or other indebtedness being funded or refunded or may be sold in such manner and at such price, and at such rate or rates of interest as the boards of regents or trustees deem advisable, either at public or private sale.

The provisions of this chapter relating to the maturities, terms, conditions, covenants, interest rate, issuance, and sale of revenue bonds shall be applicable to such funding or refunding bonds except as may be otherwise specifically provided in this section.

[1983 c 167 § 32; 1970 ex.s. c 56 § 23; 1969 ex.s. c 232 § 97; 1969 ex.s. c 223 § 28B.10.315. Prior: 1961 c 229 § 8. Formerly RCW 28.76.194.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 28B.10.320 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College--Authority to be liberally construed--Future acquisitions and installations may be pledged for payment.

The authority granted in RCW 28B.10.300 through 28B.10.330 and 28B.15.220 shall be liberally construed and shall apply to all lands, buildings, and facilities of the nature described in RCW 28B.10.300 heretofore or hereafter acquired, constructed, or installed and to any rentals, contract obligations, bonds or other indebtedness heretofore or hereafter issued or incurred to pay part or all of the cost thereof, and shall include authority to pledge for the amortization plan the net income from any and all existing and future lands, buildings and facilities of the nature described in RCW 28B.10.300 whether or not the same were originally financed hereunder or under predecessor statutes.

[1969 ex.s. c 223 § 28B.10.320. Prior: 1961 c 229 § 9. Formerly RCW 28.76.196.]

RCW 28B.10.325 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College--Rate of interest on obligations.

The rate or rates of interest on the principal of any obligation made or incurred under the authority granted in RCW 28B.10.300 shall be as authorized by the board of regents or trustees.

[1970 ex.s. c 56 § 24; 1969 ex.s. c 232 § 98; 1969 ex.s. c 223 § 28B.10.325. Prior: 1961 c 229 § 4; prior: 1950 ex.s. c 17 § 1, part; 1947 c 64 § 1, part; 1933 ex.s. c 23 § 1, part; 1925 ex.s. c 91 § 1, part; Rem. Supp. 1947 § 4353-1, part. Formerly RCW 28.76.200.]

Notes:

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 28B.10.330 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College--Nonliability of

state.

The state shall incur no liability by reason of the exercise of the authority granted in RCW 28B.10.300.

[1969 ex.s. c 223 § 28B.10.330. Prior: 1961 c 229 § 5; prior: 1950 ex.s. c 17 § 1, part; 1947 c 64 § 1, part; 1933 ex.s. c 23 § 1, part; 1925 ex.s. c 91 § 1, part; Rem. Supp. 1947 § 4543-1, part. Formerly RCW 28.76.210.]

RCW 28B.10.335 Validation of prior bond issues.

All terms, conditions, and covenants, including the pledges of student activity fees, student use fees and student building use fees, special student fees or any similar fees charged to all full time students, or to all students, as the case may be, registering at the state's colleges and universities, contained in all bonds heretofore issued to pay all or part of the cost of acquiring, constructing or installing any lands, buildings, or facilities of the nature described in RCW 28B.10.300 are hereby declared to be lawful and binding in all respects.

[1973 1st ex.s. c 130 § 3.]

RCW 28B.10.350 Construction work, remodeling or demolition, bids when--Exemption--Waiver--Prevailing rate of wage--Universities and The Evergreen State College.

(1) When the cost to The Evergreen State College, any regional university, or state university, of any building, construction, renovation, remodeling, or demolition other than maintenance or repairs will equal or exceed the sum of thirty-five thousand dollars, complete plans and specifications for such work shall be prepared and such work shall be put out for public bids and the contract shall be awarded to the lowest responsible bidder if in accordance with the bid specifications: PROVIDED, That when the estimated cost of such building, construction, renovation, remodeling, or demolition equals or exceeds the sum of twenty-five thousand dollars, such project shall be deemed a public works and "the prevailing rate of wage," under chapter 39.12 RCW shall be applicable thereto: PROVIDED FURTHER, That when such building, construction, renovation, remodeling, or demolition involves one trade or craft area and the estimated cost exceeds fifteen thousand dollars, complete plans and specifications for such work shall be prepared and such work shall be put out for public bids, and the contract shall be awarded to the lowest responsible bidder if in accordance with the bid specifications. This subsection shall not apply when a contract is awarded by the small works roster procedure authorized in RCW 39.04.155 or under any other procedure authorized for an institution of higher education.

(2) The Evergreen State College, any regional university, or state university may require a project to be put to public bid even when it is not required to do so under subsection (1) of this section.

(3) Where the estimated cost to The Evergreen State College, any regional university, or state university of any building, construction, renovation, remodeling, or demolition is less than twenty-five thousand dollars or the contract is awarded by the small works roster procedure

authorized in RCW 39.04.155, the publication requirements of RCW 39.04.020 shall be inapplicable.

(4) In the event of any emergency when the public interest or property of The Evergreen State College, regional university, or state university would suffer material injury or damage by delay, the president of such college or university may declare the existence of such an emergency and reciting the facts constituting the same may waive the requirements of this section with reference to any contract in order to correct the condition causing the emergency: PROVIDED, That an "emergency," for the purposes of this section, means a condition likely to result in immediate physical injury to persons or to property of such college or university in the absence of prompt remedial action or a condition which immediately impairs the institution's ability to perform its educational obligations.

[2001 c 38 § 1; 2000 c 138 § 202; 1993 c 379 § 109; 1985 c 152 § 1; 1979 ex.s. c 12 § 1; 1977 ex.s. c 169 § 14; 1971 ex.s. c 258 § 1.]

NOTES:

Purpose--Part headings not law--2000 c 138: See notes following RCW 39.04.155.

Intent--Severability--Effective date--1993 c 379: See notes following RCW 28B.10.029.

Severability--1979 ex.s. c 12: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 12 § 3.]

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability--1971 ex.s. c 258: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 258 § 3.]

Subcontractors to be identified by bidder, when: RCW 39.30.060.

RCW 28B.10.360 Educational and career opportunities in the military, student access to information on, when.

If a public institution of higher education provides access to the campus and the student information directory to persons or groups which make students aware of occupational or educational options, the institution of higher education shall provide access on the same basis to official recruiting representatives of the military forces of the state and the United States for the purpose of informing students of educational and career opportunities available in the military.

[1980 c 96 § 2.]

RCW 28B.10.400 Annuities and retirement income plans--Authorized.

The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, and the *state board for community college education are authorized and empowered:

(1) To assist the faculties and such other employees as any such board may designate in the purchase of old age annuities or retirement income plans under such rules and regulations as any such board may prescribe. County agricultural agents, home demonstration agents, 4-H club agents, and assistant county agricultural agents paid jointly by the Washington State University

and the several counties shall be deemed to be full time employees of the Washington State University for the purposes hereof;

(2) To provide, under such rules and regulations as any such board may prescribe for the faculty members or other employees under its supervision, for the retirement of any such faculty member or other employee on account of age or condition of health, retirement on account of age to be not earlier than the sixty-fifth birthday: PROVIDED, That such faculty member or such other employee may elect to retire at the earliest age specified for retirement by federal social security law: PROVIDED FURTHER, That any supplemental payment authorized by subsection (3) of this section and paid as a result of retirement earlier than age sixty-five shall be at an actuarially reduced rate;

(3) To pay to any such retired person or to his designated beneficiary(s), each year after his retirement, a supplemental amount which, when added to the amount of such annuity or retirement income plan, or retirement income benefit pursuant to RCW 28B.10.415, received by him or his designated beneficiary(s) in such year, will not exceed fifty percent of the average annual salary paid to such retired person for his highest two consecutive years of full time service under an annuity or retirement income plan established pursuant to subsection (1) of this section at an institution of higher education: PROVIDED, HOWEVER, That if such retired person prior to his retirement elected a supplemental payment survivors option, any such supplemental payments to such retired person or his designated beneficiary(s) shall be at actuarially reduced rates: PROVIDED FURTHER, That if a faculty member or other employee of an institution of higher education who is a participant in a retirement plan authorized by this section dies, or has died before retirement but after becoming eligible for retirement on account of age, the designated beneficiary(s) shall be entitled to receive the supplemental payment authorized by this subsection (3) of this section to which such designated beneficiary(s) would have been entitled had said deceased faculty member or other employee retired on the date of death after electing a supplemental payment survivors option: PROVIDED FURTHER, That for the purpose of this subsection, the designated beneficiary(s) shall be (a) the surviving spouse of the retiree; or, (b) with the written consent of such spouse, if any, such other person or persons as shall have an insurable interest in the retiree's life and shall have been nominated by written designation duly executed and filed with the retiree's institution of higher education.

[1979 ex.s. c 259 § 1; 1977 ex.s. c 169 § 15; 1975 1st ex.s. c 212 § 1; 1973 1st ex.s. c 149 § 1; 1971 ex.s. c 261 § 1; 1969 ex.s. c 223 § 28B.10.400. Prior: 1965 c 54 § 2; 1957 c 256 § 1; 1955 c 123 § 1; 1947 c 223 § 1; 1943 c 262 § 1; 1937 c 223 § 1; Rem. Supp. 1947 § 4543-11. Formerly RCW 28.76.240.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Effective date--1979 ex.s. c 259: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately." [1979 ex.s. c 259 § 5.]

Severability--1979 ex.s. c 259: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 259 § 4.]

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability--1973 1st ex.s. c 149: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 149 § 9.]

Appropriation--1973 1st ex.s. c 149: "The sum of $1,611,650 is hereby appropriated from the general fund for the purpose of carrying out this 1973 amendatory act, to be allocated by the governor to the institutions of higher education." [1973 1st ex.s. c 149 § 10.]

Effective date--1973 1st ex.s. c 149: "This 1973 amendatory act shall take effect on July 1, 1974." [1973 1st ex.s. c 149 § 11.]

Severability--1971 ex.s. c 261: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 261 § 7.]

RCW 28B.10.401 Assumptions to be applied when establishing supplemental payment under RCW 28B.10.400(3).

The boards of regents of the state universities, the boards of trustees of the state colleges, and the *state board for community college education, when establishing the amount of supplemental payment under RCW 28B.10.400(3) as now or hereafter amended, shall apply the following assumptions:

(1) That the faculty member or such other employee at the time of retirement elected a joint and two-thirds survivor option on their annuity or retirement income plan using actual ages, but not exceeding a five-year age difference if married, or an actuarial equivalent option if single, which represents accumulations including all dividends from all matching contributions and any benefit that such faculty member is eligible to receive from any Washington state public retirement plan while employed at an institution of higher education;

(2) That on and after July 1, 1974, matching contributions were allocated equally between a fixed dollar and a variable dollar annuity;

(3) That for each year after age fifty, the maximum amount of contributions pursuant to RCW 28B.10.410 as now or hereafter amended be contributed toward the purchase of such annuity or retirement income plan, otherwise three-fourths of the formula described in RCW 28B.10.415, as now or hereafter amended, shall be applied.

[1979 ex.s. c 259 § 3.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Effective date--Severability--1979 ex.s. c 259: See notes following RCW 28B.10.400.

RCW 28B.10.405 Annuities and retirement income plans--Contributions by faculty and employees.

Members of the faculties and such other employees as are designated by the boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, or the *state board for community college education shall be required to contribute not less than five percent of their salaries during each year of full time service after

the first two years of such service toward the purchase of such annuity or retirement income plan; such contributions may be in addition to federal social security tax contributions, if any.

[1977 ex.s. c 169 § 16; 1973 1st ex.s. c 149 § 2; 1971 ex.s. c 261 § 2; 1969 ex.s. c 223 § 28B.10.405. Prior: 1955 c 123 § 2; 1947 c 223 § 2; Rem. Supp. 1947 § 4543-12. Formerly RCW 28.76.250.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability--Appropriation--Effective date--1973 1st ex.s. c 149: See notes following RCW 28B.10.400.

Severability--1971 ex.s. c 261: See note following RCW 28B.10.400.

RCW 28B.10.407 Annuities and retirement income plans--Credit for authorized leaves of absence without pay.

(1) A faculty member or other employee designated by the boards of regents of the state universities, the boards of trustees of the regional universities and The Evergreen State College, or the *state board for community college education who is granted an authorized leave of absence without pay may apply the period of time while on the leave in the computation of benefits in any annuity and retirement plan authorized under RCW 28B.10.400 through 28B.10.430 only to the extent provided in subsection (2) of this section.

(2) An employee who is eligible under subsection (1) of this section may receive a maximum of two years' credit during the employee's entire working career for periods of authorized leave without pay. Such credit may be obtained only if the employee pays both the employer and employee contributions required under RCW 28B.10.405 and 28B.10.410 while on the authorized leave of absence and if the employee returns to employment with the university or college immediately following the leave of absence for a period of not less than two years. The employee and employer contributions shall be based on the average of the employee's compensation at the time the leave of absence was authorized and the time the employee resumes employment. Any benefit under RCW 28B.10.400(3) shall be based only on the employee's compensation earned from employment with the university or college.

An employee who is inducted into the armed forces of the United States shall be deemed to be on an unpaid, authorized leave of absence.

[1987 c 448 § 1.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

RCW 28B.10.409 Annuities and retirement income plans--Membership while serving as state legislator.

(1) On or after January 1, 1997, any employee who is on leave of absence from an institution in order to serve as a state legislator may elect to continue to participate in any

annuity or retirement plan authorized under RCW 28B.10.400 during the period of such leave.

(2) The institution shall pay the employee's salary attributable to legislative service and shall match the employee's retirement plan contributions based on the salary for the leave period. The state legislature shall reimburse the institution for the salary and employer contributions covering the leave period.

(3) "Institution" for purposes of this section means any institution or entity authorized to provide retirement benefits under RCW 28B.10.400.

[1997 c 123 § 2.]

RCW 28B.10.410 Annuities and retirement income plans--Limitation on institution's contribution.

The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, or the *state board for community college education shall pay not more than one-half of the annual premium of any annuity or retirement income plan established under the provisions of RCW 28B.10.400 as now or hereafter amended. Such contribution shall not exceed ten percent of the salary of the faculty member or other employee on whose behalf the contribution is made. This contribution may be in addition to federal social security tax contributions made by the boards, if any.

[1977 ex.s. c 169 § 17; 1973 1st ex.s. c 149 § 3; 1971 ex.s. c 261 § 3; 1969 ex.s. c 223 § 28B.10.410. Prior: 1955 c 123 § 3; 1947 c 223 § 3; Rem. Supp. 1947 § 4543-13. Formerly RCW 28.76.260.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability--Appropriation--Effective date--1973 1st ex.s. c 149: See notes following RCW 28B.10.400.

Severability--1971 ex.s. c 261: See note following RCW 28B.10.400.

RCW 28B.10.415 Annuities and retirement income plans--Limitation on annuity or retirement income plan payment.

The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, or the *state board for community college education shall not pay any amount to be added to the annuity or retirement income plan of any retired person who has served for less than ten years in one or more of the state institutions of higher education. In the case of persons who have served more than ten years but less than twenty-five years no amount shall be paid in excess of four percent of the amount authorized in subdivision (3) of RCW 28B.10.400 as now or hereafter amended, multiplied by the number of years of full time service rendered by such person: PROVIDED, That credit for years of service at an institution of higher education shall be limited to those years in which contributions were made by a faculty member or other employee designated pursuant to RCW 28B.10.400(1) and

the institution or the state as a result of which a benefit is being received by a retired person from any Washington state public retirement plan: PROVIDED FURTHER, That all such benefits that a retired person is eligible to receive shall reduce any supplementation payments provided for in RCW 28B.10.400 as now or hereafter amended.

[1979 ex.s. c 259 § 2; 1977 ex.s. c 169 § 18; 1973 1st ex.s. c 149 § 4; 1971 ex.s. c 261 § 4; 1969 ex.s. c 223 § 28B.10.415. Prior: 1955 c 123 § 4; 1947 c 223 § 4; Rem. Supp. 1947 § 4543-14. Formerly RCW 28.76.270.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Effective date--Severability--1979 ex.s. c 259: See notes following RCW 28B.10.400.

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability--Appropriation--Effective date--1973 1st ex.s. c 149: See notes following RCW 28B.10.400.

Severability--1971 ex.s. c 261: See note following RCW 28B.10.400.

RCW 28B.10.417 Annuities and retirement income plans--Rights and duties of faculty or employees with Washington state teachers' retirement system credit--Regional universities and The Evergreen State College.

(1) A faculty member or other employee designated by the board of trustees of the applicable regional university or of The Evergreen State College as being subject to an annuity or retirement income plan and who, at the time of such designation, is a member of the Washington state teachers' retirement system, shall retain credit for such service in the Washington state teachers' retirement system and except as provided in subsection (2) of this section, shall leave his or her accumulated contributions in the teachers' retirement fund. Upon his or her attaining eligibility for retirement under the Washington state teachers' retirement system, such faculty member or other employee shall receive from the Washington state teachers' retirement system a retirement allowance consisting of an annuity which shall be the actuarial equivalent of his or her accumulated contributions at his or her age when becoming eligible for such retirement and a pension for each year of creditable service established and retained at the time of said designation as provided in RCW 41.32.497 as now or hereafter amended. Anyone who on July 1, 1967, was receiving pension payments from the teachers' retirement system based on thirty-five years of creditable service shall thereafter receive a pension based on the total years of creditable service established with the retirement system: PROVIDED, HOWEVER, That any such faculty member or other employee who, upon attainment of eligibility for retirement under the Washington state teachers' retirement system, is still engaged in public educational employment, shall not be eligible to receive benefits under the Washington state teachers' retirement system until he or she ceases such public educational employment. Any retired faculty member or other employee who enters service in any public educational institution shall cease to receive pension payments while engaged in such service: PROVIDED FURTHER, That such service may be rendered up to seventy-five days in a school year without reduction of pension.

(2) A faculty member or other employee designated by the board of trustees of the applicable regional university or of The Evergreen State College as being subject to the annuity and retirement income plan and who, at the time of such designation, is a member of the Washington state teachers' retirement system may, at his or her election and at any time, on and after midnight June 10, 1959, terminate his or her membership in the Washington state teachers' retirement system and withdraw his or her accumulated contributions and interest in the teachers' retirement fund upon written application to the board of trustees of the Washington state teachers' retirement system. Faculty members or other employees who withdraw their accumulated contributions, on and after the date of withdrawal of contributions, shall no longer be members of the Washington state teachers' retirement system and shall forfeit all rights of membership, including pension benefits, theretofore acquired under the Washington state teachers' retirement system.

[1977 ex.s. c 169 § 19; 1971 ex.s. c 261 § 5.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability--1971 ex.s. c 261: See note following RCW 28B.10.400.

RCW 28B.10.420 Annuities and retirement income plans--Retirement at age seventy--Reemployment, conditions when.

(1) Except as provided otherwise in subsection (2) of this section, faculty members or other employees designated by the boards of regents of the state universities, the boards of trustees of the regional universities or of The Evergreen State College, or the *state board for community college education pursuant to RCW 28B.10.400 through 28B.10.420 as now or hereafter amended shall be retired from their employment with their institutions of higher education not later than the end of the academic year next following their seventieth birthday.

(2) As provided in this subsection, the board of regents of a state university, the board of trustees of a regional university or The Evergreen State College, or the *state board for community college education may reemploy any person who is "retired" pursuant to subsection (1) of this section, who applies for reemployment and who has reached seventy years of age on or after July 1, 1970. The following provisions shall govern such reemployment:

(a) Prior to the reemployment, the board of regents, board of trustees, or state board shall have found that the person possesses outstanding qualifications which in the judgment of the board would permit the person to continue valuable service to the institution.

(b) The period of reemployment shall not be counted as service under, or result in any eligibility for benefits or increased benefits under, any state authorized or supported annuity or retirement income plan. Reemployment shall not result in the reemployed person or employer making any contributions to any such plan.

(c) No person may be reemployed on a full time basis if such person is receiving benefits under any state authorized or supported annuity or retirement income plan. The reemployment of any person on a full time basis shall be immediately terminated upon the person's obtaining of

any such benefits.

(d) A person may be reemployed on a part time basis and receive or continue to receive any benefits for which such person is eligible under any state authorized or supported annuity or retirement income plan. Such part time work, however, shall not exceed forty percent of full time employment during any year.

(e) A person reemployed pursuant to this section shall comply with all conditions of reemployment and all rules providing for the administration of this subsection which are prescribed or adopted by the board of regents, or board of trustees, or by the *state board for community college education.

[1979 c 14 § 1. Prior: 1977 ex.s. c 276 § 1; 1977 ex.s. c 169 § 20; 1973 1st ex.s. c 149 § 5; 1969 ex.s. c 223 § 28B.10.420; prior: 1947 c 223 § 5; Rem. Supp. 1947 § 4543-14a. Formerly RCW 28.76.280.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability--Appropriation--Effective date--1973 1st ex.s. c 149: See notes following RCW 28B.10.400.

Retirement, earliest age allowable: RCW 28B.10.400.

"State universities," "regional universities," "state college," "institutions of higher education," and "postsecondary institutions" defined: RCW 28B.10.016.

RCW 28B.10.423 Annuities and retirement income plans--Limit on retirement income--Adjustment of rates.

It is the intent of RCW 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415, 28B.10.420, 28B.10.423 and 83.20.030 that the retirement income resulting from the contributions described herein from the state of Washington and the employee shall be projected actuarially so that it shall not exceed sixty percent of the average of the highest two consecutive years salary. Periodic review of the retirement systems established pursuant to RCW 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415, 28B.10.420, 28B.10.423 and *83.20.030 will be undertaken at such time and in such manner as determined by the committees on ways and means of the senate and of the house of representatives and the public pension commission, and joint contribution rates will be adjusted if necessary to accomplish this intent.

[1973 1st ex.s. c 149 § 8.]

Notes:

***Reviser's note:** RCW 83.20.030 was repealed by 1979 ex.s. c 209 § 54.

Severability--Appropriation--Effective date--1973 1st ex.s. c 149: See notes following RCW 28B.10.400.

RCW 28B.10.425 Additional pension for certain retired university faculty members or employees.

Retired faculty members or employees of the University of Washington or Washington State University, who have reached age sixty-five or are disabled from further service as of June 10, 1971, who at the time of retirement or disability were not eligible for federal old age, survivors, or disability benefit payments (social security), and who are receiving retirement income on July 1, 1970 pursuant to RCW 28B.10.400, shall, upon application approved by the board of regents of the institution retired from, receive an additional pension of three dollars per month for each year of full time service at such institution, including military leave. For periods of service that are less than full time service, the monthly rate of the pension shall be prorated accordingly to include such periods of service.

[1971 ex.s. c 76 § 1.]

RCW 28B.10.430 Annuities and retirement income plans--Minimum monthly benefit--Computation.

(1) For any person receiving a monthly benefit pursuant to a program established under RCW 28B.10.400, the pension portion of such benefit shall be the sum of the following amounts:

(a) One-half of the monthly benefit payable under such program by a life insurance company; and

(b) The monthly equivalent of the supplemental benefit described in RCW 28B.10.400(3).

(2) Notwithstanding any provision of law to the contrary, effective July 1, 1979, no person receiving a monthly benefit pursuant to RCW 28B.10.400 shall receive, as the pension portion of that benefit, less than ten dollars per month for each year of service creditable to the person whose service is the basis of the benefit. Portions of a year shall be treated as fractions of a year and the decimal equivalent shall be multiplied by ten dollars. Where the benefit was adjusted at the time benefit payments to the beneficiary commenced, the minimum pension provided in this section shall be adjusted in a manner consistent with that adjustment.

(3) Notwithstanding any provision of law to the contrary, effective July 1, 1979, the monthly benefit of each person who commenced receiving a monthly benefit under this chapter as of a date no later than July 1, 1974, shall be permanently increased by a post-retirement adjustment. Such adjustment shall be calculated as follows:

(a) Monthly benefits to which this subsection and subsection (2) of this section are both applicable shall be determined by first applying subsection (2) and then applying this subsection. The department shall determine the total years of creditable service and the total dollar benefit base accrued as of December 31, 1978, except that this determination shall take into account only those persons to whom this subsection applies;

(b) The department shall multiply the total benefits determined in (a) of this subsection by six percent and divide the dollar value thus determined by the total service determined in (a) of this subsection. The resultant figure shall then be a post-retirement increase factor which shall be applied as specified in (c) of this subsection;

(c) Each person to whom this subsection applies shall receive an increase which is the product of the factor determined in (b) of this subsection multiplied by the years of creditable

service.

[1979 ex.s. c 96 § 5.]

RCW 28B.10.431 Annuities and retirement income plans--Monthly benefit--Post-retirement adjustment--Computation.

Notwithstanding any provision of law to the contrary, effective July 1, 1983, the monthly benefit of each person who either is receiving a benefit pursuant to a program established under RCW 28B.10.400 for their service as of July 1, 1978, or commenced receiving a monthly benefit as a surviving spouse or written designated beneficiary with an insurable interest in the retiree as of a date no later than December 31, 1982, shall be permanently increased by a post-retirement adjustment of $.74 per month for each year of creditable service the faculty member or employee established with the annuity or retirement income plan. Any fraction of a year of service shall be counted in the computation of the post-retirement adjustment.

[1983 1st ex.s. c 56 § 2.]

Notes:

Effective date--1983 1st ex.s. c 56: See note following RCW 2.12.046.

RCW 28B.10.480 Tax deferred annuities for employees.

The regents or trustees of any of the state's institutions of higher education are authorized to provide and pay for tax deferred annuities for their respective employees in lieu of a portion of salary or wages as authorized under the provisions of 26 U.S.C., section 403(b), as amended by Public Law 87-370, 75 Stat. 796 as now or hereafter amended.

[1969 ex.s. c 223 § 28B.10.480. Prior: 1965 c 54 § 1, part. Formerly RCW 28.02.120, part.]

RCW 28B.10.485 Charitable gift annuities, issuance of by universities and The Evergreen State College--Scope.

The boards of the state universities, regional universities, and the state college are authorized to issue charitable gift annuities paying a fixed dollar amount to individual annuitants for their lifetimes in exchange for the gift of assets to the respective institution in a single transaction. The boards shall invest one hundred percent of the charitable gift annuity assets in a reserve for the lifetimes of the respective annuitants to meet liabilities that result from the gift program.

[1979 c 130 § 1.]

Notes:

Severability--1979 c 130: "If any provision of this 1979 act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 c 130 § 15.]

Charitable gift annuity business: Chapter 48.38 RW.

Title 48 RCW not to apply to charitable gift annuities issued by university or state college: RCW 48.23.010.

RCW 28B.10.487 Charitable gift annuities, issuance of by universities and The Evergreen State College--Obligation as to annuity payments.

The obligation to make annuity payments to individuals under charitable gift annuity agreements issued by the board of a state university, regional university, or of the state college pursuant to RCW 28B.10.485 shall be secured by and limited to the assets given in exchange for the annuity and reserves established by the board. Such agreements shall not constitute:

(1) An obligation, either general or special, of the state; or

(2) A general obligation of a state university, regional university, or of the state college or of the board.

[1979 c 130 § 5.]

Notes:

Severability--1979 c 130: See note following RCW 28B.10.485.

RCW 28B.10.500 Removal of regents or trustees from universities and The Evergreen State College.

No regent of the state universities, or trustee of the regional universities or of The Evergreen State College shall be removed during the term of office for which appointed, excepting only for misconduct or malfeasance in office, and then only in the manner hereinafter provided. Before any regent or trustee may be removed for such misconduct or malfeasance, a petition for removal, stating the nature of the misconduct or malfeasance of such regent or trustee with reasonable particularity, shall be signed and verified by the governor and served upon such regent or trustee. Said petition, together with proof of service of same upon such regent or trustee, shall forthwith be filed with the clerk of the supreme court. The chief justice of the supreme court shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Such tribunal shall fix the time of hearing, which shall be public, and the procedure for the hearing, and the decision of such tribunal shall be final and not subject to review by the supreme court. Removal of any member of the board by the tribunal shall disqualify such member for reappointment.

[1977 ex.s. c 169 § 21; 1969 ex.s. c 223 § 28B.10.500. Prior: 1943 c 59 § 1; Rem. Supp. 1943 § 4603-1. Formerly RCW 28.76.290.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.10.510 Attorney general as advisor.

The attorney general of the state shall be the legal advisor to the presidents and the boards of regents and trustees of the institutions of higher education and he shall institute and prosecute or defend all suits in behalf of the same.

[1973 c 62 § 3; 1969 ex.s. c 223 § 28B.10.510. Prior: 1909 c 97 p 242 § 8; RRS § 4560; prior: 1897 c 118 § 189; 1890 p 399 § 19. Formerly RCW 28.77.125; 28.76.300.]

Notes:

Savings--1973 c 62: "Nothing in this 1973 amendatory act shall be construed to affect any existing right acquired under the statutes amended or repealed herein or the term of office or election or appointment or employment of any person elected, appointed or employed under the statutes amended or repealed herein." [1973 c 62 § 26.]

Severability--1973 c 62: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 62 § 28.]

Attorney general's powers in general: Chapter 43.10 RCW.

Employment of attorneys by state agencies restricted: RCW 43.10.067.

RCW 28B.10.520 Regents and trustees--Oaths.

Each member of a board of regents or board of trustees of a university or other state institution of higher education, before entering upon his duties, shall take and subscribe an oath to discharge faithfully and honestly his duties and to perform strictly and impartially the same to the best of his ability, such oath to be filed with the secretary of state.

[1977 ex.s. c 169 § 22; 1969 ex.s. c 223 § 28B.10.520. Prior: 1909 c 97 p 248 § 13; RRS § 4593; prior: 1897 c 118 § 202; 1891 c 145 § 14. Formerly RCW 28.80.140.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.10.525 Regents and trustees--Travel expenses.

Each member of a board of regents or board of trustees of a university or other state institution of higher education, shall be entitled to receive travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended for each day or portion thereof in which he or she is actually engaged in business of the board.

[1979 c 14 § 2. Prior: 1977 ex.s. c 169 § 23; 1977 ex.s. c 118 § 1; 1975-'76 2nd ex.s. c 34 § 72; 1969 ex.s. c 223 § 28B.10.525; prior: (i) 1939 c 176 § 1, part; 1927 c 227 § 1, part; 1909 c 97 p 240 § 5, part; RRS § 4557, part. Formerly RCW 28.77.130, part. (ii) 1909 c 97 p 249 § 14; RRS § 4594; prior: 1897 c 118 § 203; 1891 c 145 § 15. Formerly RCW 28.80.150.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 28B.10.528 Delegation of powers and duties by governing boards.

The governing boards of institutions of higher education shall have power, when exercised by resolution, to delegate to the president or his designee, of their respective university or college, any of the powers and duties vested in or imposed upon such governing board by law. Delegated powers and duties may be exercised in the name of the respective governing boards.

[1971 ex.s. c 57 § 21.]

RCW 28B.10.550 Police forces for universities and The Evergreen State College--Authorized.

The boards of regents of the state universities, and the boards of trustees of the regional universities or of The Evergreen State College, acting independently and each on behalf of its own institution:

(1) May each establish a police force for its own institution, which force shall function under such conditions and regulations as the board prescribes; and

(2) May supply appropriate badges and uniforms indicating the positions and authority of the members of such police force.

[1977 ex.s. c 169 § 24; 1969 ex.s. c 223 § 28B.10.550. Prior: 1965 ex.s. c 16 § 1; 1949 c 123 § 1; Rem. Supp. 1949 § 4543-16. Formerly RCW 28.76.310.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.10.555 Police forces for universities and The Evergreen State College--Powers.

The members of a police force established under authority of RCW 28B.10.550, when appointed and duly sworn:

(1) Shall be peace officers of the state and have such police powers as are vested in sheriffs and peace officers generally under the laws of this state; and

(2) May exercise such powers upon state lands devoted mainly to the educational or research activities of the institution to which they were appointed; and

(3) Shall have power to pursue and arrest beyond the limits of such state lands, if necessary, all or any violators of the rules or regulations herein provided for.

[1969 ex.s. c 223 § 28B.10.555. Prior: 1965 ex.s. c 16 § 2; 1949 c 123 § 2; Rem. Supp. 1949 § 4543-17. Formerly RCW 28.76.320.]

RCW 28B.10.560 Police forces for universities and The Evergreen State College--Establishment of traffic regulations--Adjudication of parking infractions--Appeal.

(1) The boards of regents of the state universities, and the boards of trustees of the regional universities and of The Evergreen State College, acting independently and each on behalf of its own institution, may each:

(a) Establish and promulgate rules and regulations governing pedestrian traffic and vehicular traffic and parking upon lands and facilities of the university or college;

(b) Adjudicate matters involving parking infractions internally; and

(c) Collect and retain any penalties so imposed.

(2) If the rules or regulations promulgated under subsection (1) of this section provide for internal adjudication of parking infractions, a person charged with a parking infraction who deems himself or herself aggrieved by the final decision in an internal adjudication may, within ten days after written notice of the final decision, appeal by filing a written notice thereof with the college or university police force. Documents relating to the appeal shall immediately be forwarded to the district court in the county in which the offense was committed, which court shall have jurisdiction over such offense and such appeal shall be heard de novo.

[1983 c 221 § 1; 1977 ex.s. c 169 § 25; 1969 ex.s. c 223 § 28B.10.560. Prior: 1965 ex.s. c 16 § 3; 1949 c 123 § 3; Rem. Supp. 1949 § 4543-18. Formerly RCW 28.76.330.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.10.567 Police forces for universities and The Evergreen State College--Benefits for duty-related death, disability or injury.

The boards of regents of the state universities and board of trustees of the regional universities and the board of trustees of The Evergreen State College are authorized and empowered, under such rules and regulations as any such board may prescribe for the duly sworn police officers employed by any such board as members of a police force established pursuant to RCW 28B.10.550, to provide for the payment of death or disability benefits or medical expense reimbursement for death, disability, or injury of any such duly sworn police officer who, in the line of duty, loses his life or becomes disabled or is injured, and for the payment of such benefits to be made to any such duly sworn police officer or his surviving spouse or the legal guardian of his child or children, as defined in RCW 41.26.030(7), or his estate: PROVIDED, That the duty-related benefits authorized by this section shall in no event be greater than the benefits authorized on June 25, 1976 for duty-related death, disability, or injury of a law enforcement officer under chapter 41.26 RCW: PROVIDED FURTHER, That the duty-related benefits authorized by this section shall be reduced to the extent of any amounts received or eligible to be received on account of the duty-related death, disability, or injury to any such duly sworn police officer, his surviving spouse, the legal guardian of his child or children, or his estate, under workers' compensation, social security including the changes incorporated under Public Law 89-97 as now or hereafter amended, or disability income insurance and health care plans under chapter 41.05 RCW.

[1987 c 185 § 2; 1977 ex.s. c 169 § 26; 1975-'76 2nd ex.s. c 81 § 1.]

Notes:

Intent--Severability--1987 c 185: See notes following RCW 51.12.130.

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.10.569 Crime statistics reporting--Safety information provided--Task forces on campus security and safety.

(1) Each institution of higher education with a commissioned police force shall report to the Washington association of sheriffs and police chiefs or its successor agency, on a monthly basis, crime statistics for the Washington state uniform crime report, in the format required by the Washington association of sheriffs and police chiefs, or its successor agency. Institutions of higher education which do not have commissioned police forces shall report crime statistics through appropriate local law enforcement agencies.

(2) Each institution of higher education shall publish and distribute a report which shall be updated annually and which shall include the crime statistics as reported under subsection (1) of this section for the most recent three-year period. Upon request, the institution shall provide the report to every person who submits an application for admission to either a main or branch campus, and to each new employee at the time of employment. In its acknowledgement of receipt of the formal application for admission, the institution shall notify the applicant of the availability of such information. The information also shall be provided on an annual basis to all students and employees. Institutions with more than one campus shall provide the required information on a campus-by-campus basis.

(3) Each institution of higher education shall provide to every new student and new employee, and upon request to other interested persons, information which follows the general categories for safety policies and procedures outlined in this section. Such categories shall, at a minimum, include campus enrollments, campus nonstudent work force profile, the number and duties of campus security personnel, arrangements with state and local police, and policies on controlled substances. Information for the most recent academic year also shall include a description of any programs offered by an institution's student affairs or services department, and by student government organizations regarding crime prevention and counseling, including a directory of available services and appropriate telephone numbers and physical locations of these services. In addition, institutions maintaining student housing facilities shall include information detailing security policies and programs.

Institutions with a main campus and one or more branch campuses shall provide the information on a campus-by-campus basis.

In the case of community colleges, colleges shall provide such information to the main campuses only and shall provide reasonable alternative information at any off-campus centers and other affiliated college sites enrolling less than one hundred students.

(4) Each institution shall establish a task force which shall annually examine campus security and safety issues. The task force shall review the report published and distributed pursuant to this section in order to ensure the accuracy and effectiveness of the report, and make any suggestions for improvement. This task force shall include representation from the institution's administration, faculty, staff, recognized student organization, and police or security organization.

[1990 c 288 § 7.]

RCW 28B.10.570 Interfering by force or violence with any administrator, faculty member or student unlawful.

It shall be unlawful for any person, singly or in concert with others, to interfere by force or violence with any administrator, faculty member or student of any university, college or community college who is in the peaceful discharge or conduct of his duties or studies.

[1971 c 45 § 1; 1970 ex.s. c 98 § 1. Formerly RCW 28.76.600.]

Notes:

Severability--1971 c 45: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provisions to other persons or circumstances is not affected." [1971 c 45 § 8.]

Severability--1970 ex.s. c 98: "If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section, or part of this act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this act, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this act so adjudged to be invalid or unconstitutional." [1970 ex.s. c 98 § 5.]

Disturbing school, school activities or meetings--Penalty--Disposition of fines: RCW 28A.635.030.

RCW 28B.10.571 Intimidating any administrator, faculty member or student by threat of force or violence unlawful.

It shall be unlawful for any person, singly or in concert with others, to intimidate by threat of force or violence any administrator, faculty member or student of any university, college or community college who is in the peaceful discharge or conduct of his duties or studies.

[1971 c 45 § 2; 1970 ex.s. c 98 § 2. Formerly RCW 28.76.601.]

Notes:

Severability--1971 c 45: See note following RCW 28B.10.570.

Severability--1970 ex.s. c 98: See note following RCW 28B.10.570.

RCW 28B.10.572 Certain unlawful acts--Disciplinary authority exception.

The crimes defined in RCW 28B.10.570 through 28B.10.573 shall not apply to school administrators or teachers who are engaged in the reasonable exercise of their disciplinary authority.

[1970 ex.s. c 98 § 3. Formerly RCW 28.76.602.]

Notes:

Severability--1970 ex.s. c 98: See note following RCW 28B.10.570.

RCW 28B.10.573 Certain unlawful acts--Penalty.

Any person guilty of violating RCW 28B.10.570 through 28B.10.573 shall be deemed guilty of a gross misdemeanor and, upon conviction thereon, shall be fined not more than five hundred dollars, or imprisoned in jail not more than six months or both such fine and imprisonment.

[1970 ex.s. c 98 § 4. Formerly RCW 28.76.603.]

Notes:

Severability--1970 ex.s. c 98: See note following RCW 28B.10.570.

RCW 28B.10.575 Student housing--Liquor prohibited, areas--Complaints regarding liquor and illegal drug use--Policies, procedures, sanctions.

(1) Each public institution of higher education shall notify all students applying for college or university-owned student housing of the availability of housing in an area in which all liquor use is prohibited.

(2) Each public institution of higher education, upon request, shall provide students access to student housing on a residence hall floor, designated area, or in a building where liquor use is prohibited.

(3) Each public institution shall have in place, and distribute to students in college or university-owned student housing, a process for reporting violations and complaints of liquor and illegal drug use.

(4) Each public institution shall have in place, distribute to students, and vigorously enforce policies and procedures for investigating complaints regarding liquor and illegal drug use in college or university-owned student housing, including the sanctions that may be applied for violations of the institution's liquor and illegal drug use policies.

(5) Students who violate the institution's liquor and illegal drug use policies are subject to disciplinary action. Sanctions that may be applied for violations of the institution's liquor or illegal drug use policies include warnings, restitution for property damage, probation, expulsion from college or university-owned housing, and suspension from the institution.

(6) As used in this section:

(a) "Liquor" has the meaning in RCW 66.04.010; and

(b) "Illegal drug use" refers to the unlawful use of controlled substances under chapter 69.50 RCW or legend drugs under chapter 69.41 RCW.

[1996 c 17 § 2.]

Notes:

Policy--1996 c 17: "The state makes a substantial investment of finances and resources in students who are attending state institutions of higher education. In exchange, students are expected to actively pursue their education and contribute to an academic environment that is conducive to learning. Students who abuse liquor and drugs, however, are unable to make full use of this educational opportunity. More important, students who abuse liquor and drugs create an environment that interferes with the ability of other students to pursue their education. This is especially true in university-owned student housing where liquor and drug abuse contribute to noise, vandalism, theft, and violence. While the universities and colleges may not be able to stop all liquor and drug abuse among student populations, the very least they can do is ensure that the vast majority of students without drug or liquor problems are provided with a living environment that is safe and conducive to the pursuit of higher education." [1996 c 17 § 1.]

RCW 28B.10.580 Term papers, theses, dissertations, sale of prohibited--Legislative

findings--Purpose.

(1) The legislature finds that commercial operations selling term papers, theses, and dissertations encourages academic dishonesty, and in so doing impairs the public confidence in the credibility of institutions of higher education whether in this state or any other to function within their prime mission, that of providing a quality education to the citizens of this or any other state.

(2) The legislature further finds that this problem, beyond the ability of these institutions to control effectively, is a matter of state concern, while at the same time recognizing the need for and the existence of legitimate research functions.

It is the declared intent of RCW 28B.10.580 through 28B.10.584, therefore, that the state of Washington prohibit the preparation for sale or commercial sale of term papers, theses and dissertations: PROVIDED, That such legislation shall not affect legitimate and proper research activities: PROVIDED FURTHER, That such legislation does not impinge on the rights, under the First Amendment, of freedom of speech, of the press, and of distributing information.

[1981 c 23 § 1; 1979 c 43 § 1.]

Notes:

Severability--1981 c 23: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 23 § 3.]

Severability--1979 c 43: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1979 c 43 § 4.]

RCW 28B.10.582 Term papers, theses, dissertations, sale of prohibited--Definitions.

Unless the context clearly indicates otherwise, the words used in RCW 28B.10.580 through 28B.10.584 shall have the meaning given in this section:

(1) "Person" means any individual, partnership, corporation, or association.

(2) "Assignment" means any specific written, recorded, pictorial, artistic, or other academic task, including but not limited to term papers, theses, dissertations, essays, and reports, that is intended for submission to any postsecondary institution in fulfillment of the requirements of a degree, diploma, certificate, or course of study at any such educational institution.

(3) "Prepare" means to create, write, or in any way produce in whole or substantial part a term paper, thesis, dissertation, essay, report, or other assignment for a monetary fee.

(4) "Postsecondary institution" means any university, college, or other postsecondary educational institution.

[1981 c 23 § 2; 1979 c 43 § 2.]

Notes:

Severability--1981 c 23: See note following RCW 28B.10.580.

Severability--1979 c 43: See note following RCW 28B.10.580.

RCW 28B.10.584 Term papers, theses, dissertations, sale of prohibited--Violations enumerated--Exempted acts--Civil penalties--Injunctive relief.

(1) No person shall prepare, offer to prepare, cause to be prepared, sell, or offer for sale to any other person, including any student enrolled in a postsecondary institution, any assignment knowing, or under the circumstances having reason to know, that said assignment is intended for submission either in whole or substantial part under a student's name in fulfillment of the requirements for a degree, diploma, certificate, or course of study at any postsecondary institution.

(2) No person shall sell or offer for sale to any student enrolled in a postsecondary institution any assistance in the preparation, research or writing of an assignment knowing or under the circumstances having reason to know, that said assignment is intended for submission either in whole or substantial part under said student's name to such educational institution in fulfillment of the requirements for a degree, diploma, certificate, or course of study.

(3) Nothing contained in this section shall prevent any person from providing tutorial assistance, research material, information, or other assistance to persons enrolled in a postsecondary institution which is not intended for submission in whole or in substantial part as an assignment under the student's name to such institution. Nor shall any person be prevented by this section from rendering services for a monetary fee which includes typing, assembling, transcription, reproduction, or editing of a manuscript or other assignment: PROVIDED, That such services are not rendered with the intent of making substantive changes in a manuscript or other assignment.

(4) Any person violating any provision of RCW 28B.10.580, 28B.10.582 or 28B.10.584 shall be subject to civil penalties of not more than one thousand dollars for each violation. Any court of competent jurisdiction is hereby authorized to grant such further relief as is necessary to enforce the provisions of this section, including the issuance of an injunction.

(5) Any person against whom a judgment has been entered pursuant to subsection (4) of this section, shall upon any subsequent violation of RCW 28B.10.580, 28B.10.582 or 28B.10.584 be subject to civil penalties not to exceed ten thousand dollars. Any court of competent jurisdiction is hereby authorized to grant such further relief as is necessary to enforce the provisions of this section, including the issuance of an injunction.

(6) Actions for injunction under the provisions of this section may be brought in the name of the state of Washington upon the complaint of the attorney general or any prosecuting attorney in the name of the state of Washington.

[1979 c 43 § 3.]

Notes:

Severability--1979 c 43: See note following RCW 28B.10.580.

RCW 28B.10.600 District schools may be used for teacher training by universities and The Evergreen State College--Authority.

The boards of regents of the state universities are each authorized to enter into

agreements with the board of directors of any school district in this state whereby one or more of the public schools operated by such district may be used by the university for the purpose of training students at said university as teachers, supervisors, principals, or superintendents. The boards of trustees of the regional universities and of The Evergreen State College are authorized to enter into similar agreements for the purpose of training students at their institutions as teachers, supervisors, or principals.

[1977 ex.s. c 169 § 27; 1969 ex.s. c 223 § 28B.10.600. Prior: 1949 c 182 § 1; Rem. Supp. 1949 § 4543-40. Formerly RCW 28.76.350.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

Regional university model schools and training departments: RCW 28B.35.300 through 28B.35.315.

The Evergreen State College model schools and training departments: RCW 28B.40.300 through 28B.40.315.

RCW 28B.10.605 District schools may be used for teacher training by universities and The Evergreen State College--Agreement for financing, organization, etc.

The financing and the method of organization and administration of such a training program operated by agreement between a state university board of regents or a regional university board of trustees or The Evergreen State College board of trustees, and the board of directors of any school district, shall be determined by agreement between them.

[1977 ex.s. c 169 § 28; 1969 ex.s. c 223 § 28B.10.605. Prior: 1949 c 182 § 2; Rem. Supp. 1949 § 4543-41. Formerly RCW 28.76.360.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.10.620 Agreements for research work by private nonprofit corporations at universities--Authority.

The boards of regents of the state universities are hereby empowered to enter into agreements with corporations organized under *chapters 24.08, 24.16 or 24.20 RCW, whereby such corporations may be permitted to conduct on university property devoted mainly to medical, educational or research activities, under such conditions as the boards of regents shall prescribe, any educational, hospital, research or related activity which the boards of regents shall find will further the objects of the university.

[1969 ex.s. c 223 § 28B.10.620. Prior: 1949 c 152 § 1; Rem. Supp. 1949 § 4543-30. Formerly RCW 28.76.370.]

Notes:

***Reviser's note:** Chapters 24.08 and 24.16 RCW were repealed by 1967 c 235; but see chapter 24.03 RCW, the Washington nonprofit corporation act.

RCW 28B.10.625 Agreements for research work by private nonprofit corporations at universities--Funds may be expended in cooperative effort.

The boards of regents of the state universities may expend funds available to said institutions in any cooperative effort with such corporations which will further the objects of the particular university and may permit any such corporation or corporations to use any property of the university in carrying on said functions.

[1969 ex.s. c 223 § 28B.10.625. Prior: 1949 c 152 § 2; Rem. Supp. 1949 § 4543-31. Formerly RCW 28.76.380.]

RCW 28B.10.640 Student associations to contract for certain purchases, concessions, printing, etc.--Procedure.

The associated students of the University of Washington, the associated students of Washington State University, the student associations of the state community colleges and the student associations of the regional universities and of The Evergreen State College shall contract for all purchases for printing of athletic programs, athletic tickets, athletic press brochures, yearbooks, magazines, newspapers, and letting of concessions, exceeding one thousand dollars, notice of call for bid on the same to be published in at least two newspapers of general circulation in the county wherein the institution is located two weeks prior to the award being made. The contract shall be awarded to the lowest responsible bidder, if the price bid is fair and reasonable and not greater than the market value and price, and if the bid satisfactorily covers the quality, design, performance, convenience and reliability of service of the manufacturer and/or dealer. The aforesaid student associations may require such security as they deem proper to accompany the bids submitted, and they shall also fix the amount of the bond or other security that shall be furnished by the person to whom the contract is awarded. Such student associations may reject any or all bids submitted, if for any reason it is deemed for the best interest of their organizations to do so and readvertise in accordance with the provisions of this section. The student associations may reject the bid of any person who has had a prior contract, and who did not, in its opinion, faithfully comply with its terms: PROVIDED, That nothing in this section shall apply to printing done or presses owned and operated by the associated students of the University of Washington, the associated students of Washington State University or the student associations of the regional universities or of The Evergreen State College or community colleges, or to printing done on presses owned or operated by their respective institutions.

[1977 ex.s. c 169 § 29; 1969 ex.s. c 223 § 28B.10.640. Prior: 1967 ex.s. c 8 § 50; 1957 c 212 § 1. Formerly RCW 28.76.390.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.10.648 Employees--Peer review committees--Members' immunity--Proceedings--Statement of reasons--Legal representation of members.

(1) Employees, agents, or students of institutions of higher education serving on peer review committees which recommend or decide on appointment, reappointment, tenure,

promotion, merit raises, dismissal, or other disciplinary measures for employees of the institution, are immune from civil actions for damages arising from the good faith performance of their duties as members of the committees. Individuals who provide written or oral statements in support of or against a person reviewed are also immune from civil actions if their statements are made in good faith.

(2) Peer review proceedings shall be pursuant to rules and regulations promulgated by the respective institutions of higher education.

(3) Upon the request of an evaluated person, the appropriate administrative officer of the institution shall provide a statement of the reasons of the peer review committees and of participating administrative officers for a final unfavorable decision on merit, promotion, tenure or reappointment. In the case of a disciplinary or dismissal proceeding, a statement of reasons shall be provided by the reviewing committee to the evaluated person for any decision unfavorable to such person.

(4) The institutions of higher education shall provide legal representation for any past or current members of the peer review committee and for individuals who testify orally or in writing in good faith before such committee in any legal action which may arise from committee proceedings.

[1984 c 137 § 1.]

Notes:

Severability--1984 c 137: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 137 § 2.]

RCW 28B.10.650 Remunerated professional leaves for faculty members of institutions of higher education.

It is the intent of the legislature that when the state and regional universities, The Evergreen State College, and community colleges grant professional leaves to faculty and exempt staff, such leaves be for the purpose of providing opportunities for study, research, and creative activities for the enhancement of the institution's instructional and research programs.

The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College and the board of trustees of each community college district may grant remunerated professional leaves to faculty members and exempt staff, as defined in *RCW 28B.16.040, in accordance with regulations adopted by the respective governing boards for periods not to exceed twelve consecutive months in accordance with the following provisions:

(1) The remuneration from state general funds and general local funds for any such leave granted for any academic year shall not exceed the average of the highest quartile of a rank order of salaries of all full time teaching faculty holding academic year contracts or appointments at the institution or in the district.

(2) Remunerated professional leaves for a period of more or less than an academic year shall be compensated at rates not to exceed a proportional amount of the average salary as

otherwise calculated for the purposes of subsection (1) of this section.

(3) The grant of any such professional leave shall be contingent upon a signed contractual agreement between the respective governing board and the recipient providing that the recipient shall return to the granting institution or district following his or her completion of such leave and serve in a professional status for a period commensurate with the amount of leave so granted. Failure to comply with the provisions of such signed agreement shall constitute an obligation of the recipient to repay to the institution any remuneration received from the institution during the leave.

(4) The aggregate cost of remunerated professional leaves awarded at the institution or district during any year, including the cost of replacement personnel, shall not exceed the cost of salaries which otherwise would have been paid to personnel on leaves: PROVIDED, That for community college districts the aggregate cost shall not exceed one hundred fifty percent of the cost of salaries which would have otherwise been paid to personnel on leaves: PROVIDED FURTHER, That this subsection shall not apply to any community college district with fewer than seventy-five full time faculty members and granting fewer than three individuals such leaves in any given year.

(5) The average number of annual remunerated professional leaves awarded at any such institution or district shall not exceed four percent of the total number of full time equivalent faculty, as defined by the office of financial management, who are engaged in instruction, and exempt staff as defined in *RCW 28B.16.040.

(6) Negotiated agreements made in accordance with chapter 28B.52 RCW and entered into after July 1, 1977, shall be in conformance with the provisions of this section.

(7) The respective institutions and districts shall maintain such information which will ensure compliance with the provisions of this section. The higher education coordinating board shall periodically request such information as to ensure institutions are in compliance.

[1985 c 370 § 53; 1981 c 113 § 1; 1979 c 44 § 1; 1979 c 14 § 3. Prior: 1977 ex.s. c 173 § 1; 1977 ex.s. c 169 § 30; 1969 ex.s. c 223 § 28B.10.650; prior: 1959 c 155 § 1. Formerly RCW 28.76.400.]

Notes:

***Reviser's note:** RCW 28B.16.040 was repealed by 1993 c 281 § 68, effective July 1, 1993.

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date--1977 ex.s. c 173: "This act shall take effect on July 1, 1977." [1977 ex.s. c 173 § 4.]

Severability--1977 ex.s. c 173: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 173 § 3.]

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.10.660 Insurance or protection authorized--Premiums--Health benefits for graduate student appointees.

(1) The governing boards of any of the state's institutions of higher education may make available liability, life, health, health care, accident, disability and salary protection or insurance or any one of, or a combination of, the enumerated types of insurance, or any other type of

insurance or protection, for the regents or trustees and students of the institution. Except as provided in subsection (2) of this section, the premiums due on such protection or insurance shall be borne by the assenting regents, trustees, or students. The regents or trustees of any of the state institutions of higher education may make liability insurance available for employees of the institutions. The premiums due on such liability insurance shall be borne by the university or college.

(2) A governing board of a public four-year institution of higher education may make available, and pay the costs of, health benefits for graduate students holding graduate service appointments, designated as such by the institution. Such health benefits may provide coverage for spouses and dependents of such graduate student appointees.

[1993 sp.s. c 9 § 1; 1979 ex.s. c 88 § 1. Prior: 1973 1st ex.s. c 147 § 4; 1973 1st ex.s. c 9 § 2; 1971 ex.s. c 269 § 3; 1969 ex.s. c 237 § 4; 1969 ex.s. c 223 § 28B.10.660; prior: 1967 c 135 § 2, part; 1959 c 187 § 1, part. Formerly RCW 28.76.410, part.]

Notes:

Effective date--Effect of veto--Savings--Severability--1973 1st ex.s. c 147: See notes following RCW 41.05.050.

Severability--1971 ex.s. c 269: See note following RCW 28A.400.350.

RCW 28B.10.665 Liability insurance for officers and employees authorized.

See RCW 36.16.138.

RCW 28B.10.680 Precollege course work--Findings--Intent.

The legislature finds that some college students who have recently graduated from high school must immediately enroll in one or more precollege classes before they can proceed successfully through college. The legislature also finds that these students should have received basic skills in English, reading, spelling, grammar, and mathematics before graduating from high school. It is the intent of the legislature that colleges and universities provide information to school districts about recent graduates who enroll in precollege classes. It is also the intent of the legislature to encourage institutions of higher education and the common schools to work together to solve problems of common concern.

[1995 c 310 § 1.]

RCW 28B.10.682 Precollege course work--Adoption of definitions.

By June 30, 1996, in consultation with the commission on student learning, the superintendent of public instruction, the state board of education, faculty, teachers from institutions of higher education and high schools, and others as appropriate, the higher education coordinating board shall adopt common definitions of remedial and precollege material and course work. The definitions adopted by the board shall be rigorous, challenging students to come to college well prepared to engage in college and university work, and shall be adopted by

each institution of higher education as defined in RCW 28B.10.016.

[1995 c 310 § 2.]

RCW 28B.10.685 Precollege course work--Enrollment information--Report.

Beginning in 1997, by September 30th of each year, each state university, regional university, state college, and, for community colleges and technical colleges, the state board for community and technical colleges shall provide a report to the office of the superintendent of public instruction, the state board of education, and the commission on student learning under *RCW 28A.630.885. The report shall contain the following information on students who, within three years of graduating from a Washington high school, enrolled the prior year in a state-supported precollege level class at the institution: (1) The number of such students enrolled in a precollege level class in mathematics, reading, grammar, spelling, writing, or English; (2) the types of precollege classes in which each student was enrolled; and (3) the name of the Washington high school from which each student graduated.

For students who enrolled in a precollege class within three years of graduating from a Washington high school, each institution of higher education shall also report to the Washington high school from which the student graduated. The annual report shall include information on the number of students from that high school enrolled in precollege classes, and the types of classes taken by the students.

[1995 c 310 § 3.]

Notes:

***Reviser's note:** RCW 28A.630.885 was recodified as RCW 28A.655.060 pursuant to 1999 c 388 § 607.

RCW 28B.10.690 Graduation rate improvement--Findings.

The legislature finds that, in public colleges and universities, improvement is needed in graduation rates and in the length of time required for students to attain their educational objectives. The legislature also finds that public colleges and universities should offer classes in a way that will permit full-time students to complete a degree or certificate program in about the amount of time described in the institution's catalog as necessary to complete that degree or certificate program.

[1993 c 414 § 1.]

RCW 28B.10.691 Graduation rate improvement--Strategic plans--Adoption of strategies.

(1) By May 15, 1994, each state institution of higher education, as part of its strategic plan, shall adopt strategies designed to shorten the time required for students to complete a degree or certificate and to improve the graduation rate for all students.

(2) Beginning with the fall 1995-96 academic term, each institution of higher education as defined in RCW 28B.10.016 shall implement the strategies described in subsection (1) of this

section.

[1993 c 414 § 2.]

RCW 28B.10.693 Graduation rate improvement--Student progression understandings.

Each institution of higher education as defined in RCW 28B.10.016 may enter into a student progression understanding with an interested student. The terms of the understanding shall permit a student to obtain a degree or certificate within the standard period of time assumed for a full-time student pursuing that degree or certificate. Usually, the standard amount of time will be about two years for an associate of arts degree and about four years for a baccalaureate degree. Student progression understandings shall not give rise to any cause of action on behalf of any student as a result of the failure of any state institution of higher education to fulfill its obligations under the student progression understanding.

[1993 c 414 § 4.]

RCW 28B.10.700 Physical education in curriculum.

The *state board for community college education, the boards of trustees of the regional universities and of The Evergreen State College, and the boards of regents of the state universities, with appreciation of the legislature's desire to emphasize physical education courses in their respective institutions, shall provide for the same, being cognizant of legislative guide lines put forth in RCW 28A.230.050 relating to physical education courses in high schools.

[1977 ex.s. c 169 § 31; 1969 ex.s. c 223 § 28B.10.700. Prior: 1963 c 235 § 1, part; prior: (i) 1923 c 78 § 1, part; 1919 c 89 § 2, part; RRS § 4683, part. (ii) 1919 c 89 § 5, part; RRS § 4686, part. Formerly RCW 28.05.040, part.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.10.703 Programs for intercollegiate athletic competition--Authorized.

The governing boards of each of the state universities, the regional universities, The Evergreen State College, and community colleges in addition to their other duties prescribed by law shall have the power and authority to establish programs for intercollegiate athletic competition. Such competition may include participation as a member of an athletic conference or conferences, in accordance with conference rules.

[1977 ex.s. c 169 § 32; 1971 ex.s. c 28 § 2.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.10.704 Funds for assistance of student participants in intercollegiate activities or activities relating to performing arts.

Funds used for purposes of providing scholarships or other forms of financial assistance to students in return for participation in intercollegiate athletics in accordance with RCW 28B.10.703 shall include but not be limited to moneys received as contributed or donated funds, or revenues derived from athletic events, including gate receipts and revenues obtained from the licensing of radio and television broadcasts.

Funds used for purposes of providing scholarships or other forms of financial assistance to students in return for participation in curriculum-related activities relating to performing arts shall include but not be limited to moneys received as contributed or donated funds, or revenues derived from performing arts events, including admission receipts and revenues obtained from the licensing of radio and television broadcasts.

[1979 ex.s. c 1 § 1; 1973 1st ex.s. c 46 § 9; 1971 ex.s. c 28 § 3.]

Notes:

Severability--1973 1st ex.s. c 46: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 46 § 11.]

RCW 28B.10.710 Washington state or Pacific Northwest history in curriculum.

There shall be a one quarter or semester course in either Washington state history and government, or Pacific Northwest history and government in the curriculum of all teachers' colleges and teachers' courses in all institutions of higher education. No person shall be graduated from any of said schools without completing said course of study, unless otherwise determined by the state board of education. Any course in Washington state or Pacific Northwest history and government used to fulfill this requirement shall include information on the culture, history, and government of the American Indian peoples who were the first human inhabitants of the state and the region.

[1993 c 77 § 1; 1969 ex.s. c 223 § 28B.10.710. Prior: 1967 c 64 § 1, part; 1963 c 31 § 1, part; 1961 c 47 § 2, part; 1941 c 203 § 1, part; Rem. Supp. 1941 § 4898-3, part. Formerly RCW 28.05.050, part.]

RCW 28B.10.730 AIDS information--Four-year institutions.

The governing board of each state four-year institution of higher education shall make information available to all newly matriculated students on methods of transmission of the human immunodeficiency virus and prevention of acquired immunodeficiency syndrome. The curricula and materials shall be reviewed for medical accuracy by the office on AIDS in coordination with the appropriate regional AIDS service network.

[1988 c 206 § 501.]

Notes:

Severability--1988 c 206: See RCW 70.24.900.

RCW 28B.10.776 Budget calculation--Enrollment levels--Participation rate.

It is the policy of the state of Washington that the essential requirements level budget calculation for institutions of higher education include enrollment levels necessary to maintain, by educational sector, the participation rate funded in the 1993 fiscal year. The participation rate shall be based on the state's estimated population ages seventeen and above by appropriate age groups.

[1993 sp.s. c 15 § 2.]

Notes:

Findings--1993 sp.s. c 15: "The legislature finds that the proportion of the state budget dedicated to postsecondary educational programs has decreased for two decades. At the same time, major technological, economic, and demographic changes have exacerbated the need for improved training and education to maintain a high quality, competitive work force, and a well-educated populace to meet the challenges of the twenty-first century. Therefore, the legislature finds that there is increasing need for postsecondary educational opportunities for citizens of the state of Washington.

The legislature declares that the policy of the state of Washington shall be to improve the access to, and the quality of, this state's postsecondary educational system. The budgetary policy of the state of Washington shall be to provide a level of protection and commitment to the state's postsecondary educational system commensurate with the responsibility of this state to the educational and professional improvement of its citizens and work force." [1993 sp.s. c 15 § 1.]

Effective date--1993 sp.s. c 15: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 sp.s. c 15 § 10.]

RCW 28B.10.778 Budget calculation--New enrollments--Funding level--Inflation factor.

It is the policy of the state of Washington that, for new enrollments provided under RCW 28B.10.776, the essential requirements level budget calculation for those enrollments shall, each biennium, at a minimum, include a funding level per full-time equivalent student that is equal to the rate assumed in the omnibus appropriations act for the last fiscal year of the previous biennium for the instructional, primary support, and library programs, plus an inflation factor. The inflation factor should be equivalent to the inflation factor used to calculate basic education in the common school system budget request submitted by the governor.

[1993 sp.s. c 15 § 3.]

Notes:

Findings--Effective date--1993 sp.s. c 15: See notes following RCW 28B.10.776.

RCW 28B.10.780 Budget calculation--Funding level.

It is the policy of the state of Washington that the essential requirements level budget calculation for state institutions of higher education include a funding level per full-time equivalent student that is, each biennium, at a minimum, equal to the general fund—state and tuition fund rate per student assumed in the omnibus appropriations act for the last fiscal year of

the previous biennium for the state-funded programs, minus one-time expenditures and plus an inflation factor. The inflation factor should be equivalent to the inflation factor used to calculate basic education in the common school system budget request submitted by the governor.

[1993 sp.s. c 15 § 4.]

Notes:

Findings--Effective date--1993 sp.s. c 15: See notes following RCW 28B.10.776.

RCW 28B.10.782 Budget calculation--Increased enrollment target level--Availability of information.

It is the policy of the state of Washington that higher education enrollments be increased in increments each biennium in order to achieve, by the year 2010, the goals, by educational sector, adopted by the higher education coordinating board in its enrollment plan entitled "Design for the 21st Century: Expanding Higher Education Opportunities in Washington," or subsequent revisions adopted by the board.

Per student costs for additional students to achieve this policy shall be at the same rate per student as enrollments mandated in RCW 28B.10.776.

For each public college and university, and for the community and technical college system, budget documents generated by the governor and the legislature in the development and consideration of the biennial omnibus appropriations act shall display an enrollment target level. The enrollment target level is the biennial state-funded enrollment increase necessary to fulfill the state policy set forth in this section. The budget documents shall compare the enrollment target level with the state-funded enrollment increases contained in the biennial budget proposals of the governor and each house of the legislature. The information required by this section shall be set forth in the budget documents so that enrollment and cost information concerning the number of students and additional funds needed to reach the enrollment goals are prominently displayed and easily understood.

For the governor's budget request, the information required by this section shall be made available in the document entitled "Operating Budget Supporting Data" or its successor document.

[1993 sp.s. c 15 § 5.]

Notes:

Findings--Effective date--1993 sp.s. c 15: See notes following RCW 28B.10.776.

RCW 28B.10.784 Budget calculation--Participation rate and enrollment level estimates--Recommendations to governor and legislature.

The participation rate used to calculate enrollment levels under RCW 28B.10.776 and 28B.10.782 shall be based on fall enrollment reported in the higher education enrollment report as maintained by the office of financial management, fall enrollment as reported in the management information system of the state board for community and technical colleges, and the corresponding fall population forecast by the office of financial management. Formal estimates of the state participation rates and enrollment levels necessary to fulfill the requirements of RCW

28B.10.776 and 28B.10.782 shall be determined by the office of financial management as part of its responsibility to develop and maintain student enrollment forecasts for colleges and universities under RCW 43.62.050. Formal estimates of the state participation rates and enrollment levels required by this section shall be based on procedures and standards established by a technical work group consisting of staff from the higher education coordinating board, the public four-year institutions of higher education, the state board for community and technical colleges, the fiscal and higher education committees of the house of representatives and the senate, and the office of financial management. Formal estimates of the state participation rates and enrollment levels required by this section shall be submitted to the fiscal committees of the house of representatives and senate on or before November 15th of each even-numbered year. The higher education coordinating board shall periodically review the enrollment goals set forth in RCW 28B.10.776 and 28B.10.782 and submit recommendations concerning modification of these goals to the governor and to the higher education committees of the house of representatives and the senate.

[1993 sp.s. c 15 § 6.]

Notes:

Findings--Effective date--1993 sp.s. c 15: See notes following RCW 28B.10.776.

RCW 28B.10.786 Budget calculation--Student financial aid programs.

It is the policy of the state of Washington that financial need not be a barrier to participation in higher education. It is also the policy of the state of Washington that the essential requirements level budget calculation include funding for state student financial aid programs. The calculation should, at a minimum, include a funding level equal to the amount provided in the second year of the previous biennium in the omnibus appropriations act, adjusted for the percentage of needy resident students, by educational sector, likely to be included in any enrollment increases necessary to maintain, by educational sector, the participation rate funded in the 1993 fiscal year. The calculation should also be adjusted to reflect, by educational sector, any increases in cost of attendance. The cost of attendance figures should be calculated by the higher education coordinating board and provided to the office of financial management and appropriate legislative committees by June 30th of each even-numbered year.

[1993 sp.s. c 15 § 7.]

Notes:

Findings--Effective date--1993 sp.s. c 15: See notes following RCW 28B.10.776.

RCW 28B.10.790 State student financial aid program--Certain residents attending college or university in another state, applicability to--Authorization.

Washington residents attending any nonprofit college or university in another state which has a reciprocity agreement with the state of Washington shall be eligible for the student financial aid program outlined in RCW 28B.10.800 through 28B.10.824 if (1) they qualify as a "needy student" under RCW 28B.10.802(3), and (2) the institution attended is a member institution of an accrediting association recognized by rule of the higher education coordinating

board for the purposes of this section and is specifically encompassed within or directly affected by such reciprocity agreement and agrees to and complies with program rules and regulations pertaining to such students and institutions adopted pursuant to RCW 28B.10.822.

[1985 c 370 § 54; 1980 c 13 § 1.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--1980 c 13: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 13 § 3.]

RCW 28B.10.792 State student financial aid program--Certain residents attending college or university in another state, applicability to--Guidelines.

The higher education coordinating board shall develop guidelines for determining the conditions under which an institution can be determined to be directly affected by a reciprocity agreement for the purposes of RCW 28B.10.790: PROVIDED, That no institution shall be determined to be directly affected unless students from the county in which the institution is located are provided, pursuant to a reciprocity agreement, access to Washington institutions at resident tuition and fee rates to the extent authorized by Washington law.

[1985 c 370 § 55; 1980 c 13 § 2.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--1980 c 13: See note following RCW 28B.10.790.

RCW 28B.10.800 State student financial aid program--State need grant program established--Purpose.

The purposes of RCW 28B.10.800 through 28B.10.824 are to establish the principles upon which the state financial aid programs will be based and to establish the state of Washington state need grant program, thus assisting financially needy or disadvantaged students domiciled in Washington to obtain the opportunity of attending an accredited institution of higher education, as defined in RCW 28B.10.802(1). State need grants under RCW 28B.10.800 through 28B.10.824 are available only to students who are resident students as defined in RCW 28B.15.012(2) (a) through (d).

[1999 c 345 § 2; 1993 sp.s. c 18 § 2; 1969 ex.s. c 222 § 7. Formerly RCW 28.76.430.]

Notes:

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Legislative declaration--1969 ex.s. c 222: "The legislature hereby declares that it regards the higher education of its qualified domiciliaries to be a public purpose of great importance to the welfare and security of this state and nation; and further declares that the establishment of a student financial aid program, assisting financially needy or disadvantaged students in this state to be a desirable and economical method of furthering this purpose.

The legislature has concluded that the benefit to the state in assuring the development of the talents of its qualified domiciliaries will bring tangible benefits to the state in the future.

The legislature further declares that there is an urgent need at present for the establishment of a state of Washington student financial aid program, and that the most efficient and economical way to meet this need is through the plan prescribed in this act." [1969 ex.s. c 222 § 6.]

Severability--1969 ex.s. c 222: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 222 § 24.]

State educational trust fund--Established--Deposits--Use: RCW 28B.10.821.

RCW 28B.10.801 State student financial aid program--State need grant program--Findings--Intent.

(1) The legislature finds that the higher education coordinating board, in consultation with the higher education community, has completed a review of the state need grant program. It is the intent of the legislature to endorse the board's proposed changes to the state need grant program, including:

(a) Reaffirmation that the primary purpose of the state need grant program is to assist low-income, needy, and disadvantaged Washington residents attending institutions of higher education;

(b) A goal that the base state need grant amount over time be increased to be equivalent to the rate of tuition charged to resident undergraduate students attending Washington state public colleges and universities;

(c) State need grant recipients be required to contribute a portion of the total cost of their education through self-help;

(d) State need grant recipients be required to document their need for dependent care assistance after taking into account other public funds provided for like purposes; and

(e) Institutional aid administrators be allowed to determine whether a student eligible for a state need grant in a given academic year may remain eligible for the ensuing year if the student's family income increases by no more than a marginal amount.

(2) The legislature further finds that the higher education coordinating board, under its authority to implement the proposed changes in subsection (1) of this section, should do so in a timely manner.

(3) The legislature also finds that:

(a) In most circumstances, need grant eligibility should not extend beyond five years or one hundred twenty-five percent of the published length of the program in which the student is enrolled or the credit or clock-hour equivalent; and

(b) State financial aid programs should continue to adhere to the principle that funding follows resident students to their choice of institution of higher education.

[1999 c 345 § 1.]

RCW 28B.10.802 State student financial aid program--Definitions.

As used in RCW 28B.10.800 through 28B.10.824:

(1) "Institutions of higher education" shall mean (1) any public university, college, community college, or vocational-technical institute operated by the state of Washington or any political subdivision thereof or (2) any other university, college, school, or institute in the state of Washington offering instruction beyond the high school level which is a member institution of an accrediting association recognized by rule of the board for the purposes of this section: PROVIDED, That any institution, branch, extension or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of any such accrediting association: PROVIDED FURTHER, That no institution of higher education shall be eligible to participate in a student financial aid program unless it agrees to and complies with program rules and regulations adopted pursuant to RCW 28B.10.822.

(2) The term "financial aid" shall mean loans and/or grants to needy students enrolled or accepted for enrollment as a student at institutions of higher education.

(3) The term "needy student" shall mean a post high school student of an institution of higher learning as defined in subsection (1) of this section who demonstrates to the board the financial inability, either through the student's parents, family and/or personally, to meet the total cost of board, room, books, and tuition and incidental fees for any semester or quarter.

(4) The term "disadvantaged student" shall mean a post high school student who by reason of adverse cultural, educational, environmental, experiential, familial or other circumstances is unable to qualify for enrollment as a full time student in an institution of higher learning, who would otherwise qualify as a needy student, and who is attending an institution of higher learning under an established program designed to qualify the student for enrollment as a full time student.

(5) "Commission" or "board" shall mean the higher education coordinating board.

[1989 c 254 § 2; 1985 c 370 § 56; 1979 ex.s. c 235 § 1; 1975 1st ex.s. c 132 § 16; 1969 ex.s. c 222 § 8. Formerly RCW 28.76.440.]

Notes:

Intent--1989 c 254: "It is the intent of the legislature that nothing in this act shall prevent or discourage an individual from making an effort to repay any state financial aid awarded during his or her collegiate career." [1989 c 254 § 1.]

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date--Severability--1975 1st ex.s. c 132: See notes following RCW 28B.80.200.

Loan programs for mathematics and science teachers: RCW 28B.15.760 through 28B.15.766.

RCW 28B.10.804 State student financial aid program--Board, guidelines in performance of duties.

The board shall be cognizant of the following guidelines in the performance of its duties:

(1) The board shall be research oriented, not only at its inception but continually through its existence.

(2) The board shall coordinate all existing programs of financial aid except those

specifically dedicated to a particular institution by the donor.

(3) The board shall take the initiative and responsibility for coordinating all federal student financial aid programs to ensure that the state recognizes the maximum potential effect of these programs, and shall design state programs that complement existing federal, state, and institutional programs. The board shall ensure that state programs continue to follow the principle that state financial aid funding follows the student to the student's choice of institution of higher education.

(4) Counseling is a paramount function of the state need grant and other state student financial aid programs, and in most cases could only be properly implemented at the institutional levels; therefore, state student financial aid programs shall be concerned with the attainment of those goals which, in the judgment of the board, are the reasons for the existence of a student financial aid program, and not solely with administration of the program on an individual basis.

(5) The "package" approach of combining loans, grants and employment for student financial aid shall be the conceptual element of the state's involvement.

[1999 c 345 § 3; 1995 c 269 § 801; 1969 ex.s. c 222 § 10. Formerly RCW 28.76.450.]

NOTES:

Effective date--1995 c 269: See note following RCW 9.94A.850.

Part headings not law--Severability--1995 c 269: See notes following RCW 13.40.005.

RCW 28B.10.806 State student financial aid program--Powers and duties of board.

The board shall have the following powers and duties:

(1) Conduct a full analysis of student financial aid as a means of:

(a) Fulfilling educational aspirations of students of the state of Washington, and

(b) Improving the general, social, cultural, and economic character of the state.

Such an analysis will be a continuous one and will yield current information relevant to needed improvements in the state program of student financial aid. The board will disseminate the information yielded by their analyses to all appropriate individuals and agents.

(2) Design a state program of student financial aid based on the data of the study referred to in this section. The state programs will supplement available federal and local aid programs. The state programs of student financial aid will not exceed the difference between the budgetary costs of attending an institution of higher education and the student's total resources, including family support, personal savings, employment, and federal, state, and local aid programs.

(3) Determine and establish criteria for financial need of the individual applicant based upon the consideration of that particular applicant. In making this determination the board shall consider the following:

(a) Assets and income of the student.

(b) Assets and income of the parents, or the individuals legally responsible for the care and maintenance of the student.

(c) The cost of attending the institution the student is attending or planning to attend.

(d) Any other criteria deemed relevant to the board.

(4) Set the amount of financial aid to be awarded to any individual needy or

disadvantaged student in any school year.

(5) Award financial aid to needy or disadvantaged students for a school year based upon only that amount necessary to fill the financial gap between the budgetary cost of attending an institution of higher education and the family and student contribution.

(6) Review the need and eligibility of all applications on an annual basis and adjust financial aid to reflect changes in the financial need of the recipients and the cost of attending the institution of higher education.

[1999 c 345 § 4; 1989 c 254 § 3; 1969 ex.s. c 222 § 11. Formerly RCW 28.76.460.]

Notes:

Intent--1989 c 254: See note following RCW 28B.10.802.

RCW 28B.10.808 State student financial aid program--State need grant awards.

In awarding need grants, the board shall proceed substantially as follows: PROVIDED, That nothing contained herein shall be construed to prevent the board, in the exercise of its sound discretion, from following another procedure when the best interest of the program so dictates:

(1) The board shall annually select the financial aid award recipients from among Washington residents applying for student financial aid who have been ranked according to financial need as determined by the amount of the family contribution and other considerations brought to the board's attention.

(2) The financial need of the highest ranked students shall be met by grants depending upon the evaluation of financial need until the total allocation has been disbursed. Funds from grants which are declined, forfeited or otherwise unused shall be reawarded until dispersed.

(3) A student shall be eligible to receive a state need grant for up to five years, or the credit or clock hour equivalent of five years, or up to one hundred twenty-five percent of the published length of time of the student's program. A student may not start a new associate degree program as a state need grant recipient until at least five years have elapsed since earning an associate degree as a need grant recipient, except that a student may earn two associate degrees concurrently. Qualifications for renewal will include maintaining satisfactory academic progress toward completion of an eligible program as determined by the board. Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the grant shall be returned to the state educational grant fund by the institution according to the institution's own policy for issuing refunds, except as provided in RCW 28B.10.8081.

(4) In computing financial need, the board shall determine a maximum student expense budget allowance, not to exceed an amount equal to the total maximum student expense budget at the public institutions plus the current average state appropriation per student for operating expense in the public institutions.

[1999 c 345 § 5; 1991 c 164 § 4; 1989 c 254 § 4; 1969 ex.s. c 222 § 12. Formerly RCW 28.76.470.]

Notes:

Intent--1989 c 254: See note following RCW 28B.10.802.

RCW 28B.10.8081 Persian Gulf veterans--Limited application of RCW 28B.10.808.

Under rules adopted by the board, the provisions of RCW 28B.10.808(3) shall not apply to eligible students, as defined in RCW 28B.10.017, and eligible students shall not be required to repay the unused portions of grants received under the state student financial aid program.

[1991 c 164 § 3.]

RCW 28B.10.810 State student financial aid program--Eligibility for state need grant.

For a student to be eligible for a state need grant a student must:

(1) Be a "needy student" or "disadvantaged student" as determined by the board in accordance with RCW 28B.10.802 (3) and (4).

(2) Have been domiciled within the state of Washington for at least one year.

(3) Be enrolled or accepted for enrollment on at least a half-time basis at an institution of higher education in Washington as defined in RCW 28B.10.802(1).

(4) Have complied with all the rules and regulations adopted by the board for the administration of RCW 28B.10.800 through 28B.10.824.

[1999 c 345 § 6; 1989 c 254 § 5; 1969 ex.s. c 222 § 13. Formerly RCW 28.76.475.]

Notes:

Intent--1989 c 254: See note following RCW 28B.10.802.

RCW 28B.10.812 State student financial aid program--Aid granted without regard to applicant's race, creed, color, religion, sex, or ancestry.

All student financial aid shall be granted by the commission without regard to the applicant's race, creed, color, religion, sex, or ancestry.

[1969 ex.s. c 222 § 14. Formerly RCW 28.76.480.]

RCW 28B.10.814 State student financial aid program--Theology student denied aid.

No aid shall be awarded to any student who is pursuing a degree in theology.

[1969 ex.s. c 222 § 15. Formerly RCW 28.76.490.]

RCW 28B.10.816 State student financial aid program--Application of award.

A state financial aid recipient under RCW 28B.10.800 through 28B.10.824 shall apply the award toward the cost of tuition, room, board, books and fees at the institution of higher education attended.

[1969 ex.s. c 222 § 16. Formerly RCW 28.76.500.]

RCW 28B.10.818 State student financial aid program--Commission to determine how funds disbursed.

Funds appropriated for student financial assistance to be granted pursuant to RCW 28B.10.800 through 28B.10.824 shall be disbursed as determined by the commission.

[1969 ex.s. c 222 § 17. Formerly RCW 28.76.510.]

RCW 28B.10.820 State student financial aid program--Grants, gifts, bequests and devises of property.

The commission shall be authorized to accept grants, gifts, bequests, and devises of real and personal property from any source for the purpose of granting financial aid in addition to that funded by the state.

[1969 ex.s. c 222 § 18. Formerly RCW 28.76.520.]

RCW 28B.10.821 State educational trust fund--Deposits--Expenditures.

The state educational trust fund is hereby established in the state treasury. The primary purpose of the trust is to pledge state-wide available college student assistance to needy or disadvantaged students, especially middle and high school youth, considered at-risk of dropping out of secondary education who participate in board-approved early awareness and outreach programs and who enter any accredited Washington institution of postsecondary education within two years of high school graduation.

The board shall deposit refunds and recoveries of student financial aid funds expended in prior fiscal periods in such account. The board may also deposit moneys that have been contributed from other state, federal, or private sources.

Expenditures from the fund shall be for financial aid to needy or disadvantaged students. The board may annually expend such sums from the fund as may be necessary to fulfill the purposes of this section, including not more than three percent for the costs to administer aid programs supported by the fund. All earnings of investments of balances in the state educational trust fund shall be credited to the trust fund. Expenditures from the fund shall not be subject to appropriation but are subject to allotment procedures under chapter 43.88 RCW.

[1997 c 269 § 1; 1996 c 107 § 1; 1991 sp.s. c 13 § 12; 1985 c 57 § 10; 1981 c 55 § 1.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date--1985 c 57: See note following RCW 18.04.105.

RCW 28B.10.822 State student financial aid program--Board rules.

The board shall adopt rules as may be necessary or appropriate for effecting the provisions of RCW 28B.10.800 through 28B.10.824 and 28B.10.801, and not in conflict with RCW 28B.10.800 through 28B.10.824, in accordance with the provisions of chapter 34.05 RCW,

the administrative procedure act.

[1999 c 345 § 7; 1973 c 62 § 4; 1969 ex.s. c 222 § 19. Formerly RCW 28.76.530.]

Notes:

Savings--Severability--1973 c 62: See notes following RCW 28B.10.510.

RCW 28B.10.824 State student financial aid program--Commission, executive director, employees--Appointment--Salaries.

Subject to the provisions of *chapter 28B.16 RCW, the state higher education personnel law, the commission shall appoint an executive director as chief administrator of the commission, and such employees as it deems advisable, and shall fix their compensation and prescribe their duties.

[1973 c 62 § 5; 1969 ex.s. c 222 § 20. Formerly RCW 28.76.540.]

Notes:

***Reviser's note:** Chapter 28B.16 RCW was repealed by 1993 c 281, with the exception of RCW 28B.16.015 and 28B.16.240, which was recodified as RCW 41.06.382. The powers, duties, and functions of the state higher education personnel board were transferred to the Washington personnel resources board.

Savings--Severability--1973 c 62: See notes following RCW 28B.10.510.

RCW 28B.10.825 Institutional student loan fund for needy students.

The board of trustees or regents of each of the state's colleges or universities may allocate from services and activities fees an amount not to exceed one dollar per quarter or one dollar and fifty cents per semester to an institutional student loan fund for needy students, to be administered by such rules or regulations as the board of trustees or regents may adopt: PROVIDED, That loans from such funds shall not be made for terms exceeding twelve months, and the true annual rate of interest charged shall be six percent.

[1971 ex.s. c 279 § 4.]

Notes:

Severability--1971 ex.s. c 279: See note following RCW 28B.15.005.

Colleges and universities defined: RCW 28B.15.005.

RCW 28B.10.840 Definitions for purposes of RCW 28B.10.840 through 28B.10.844.

The term "institution of higher education" whenever used in RCW 28B.10.840 through 28B.10.844, shall be held and construed to mean any public institution of higher education in Washington. The term "educational board" whenever used in RCW 28B.10.840 through 28B.10.844, shall be held and construed to mean the *state board for community college education and the higher education coordinating board.

[1985 c 370 § 57; 1975 1st ex.s. c 132 § 17; 1972 ex.s. c 23 § 1.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for

community and technical colleges by 1991 c 238 § 30.

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date--Severability--1975 1st ex.s. c 132: See notes following RCW 28B.80.200.

RCW 28B.10.842 Actions against regents, trustees, officers, employees, or agents of institutions of higher education or educational boards--Defense--Costs--Payment of obligations from liability account.

Whenever any action, claim, or proceeding is instituted against any regent, trustee, officer, employee, or agent of an institution of higher education or member of the governing body, officer, employee, or agent of an educational board arising out of the performance or failure of performance of duties for, or employment with such institution or educational board, the board of regents or board of trustees of the institution or governing body of the educational board may grant a request by such person that the attorney general be authorized to defend said claim, suit, or proceeding, and the costs of defense of such action shall be paid as provided in RCW 4.92.130. If a majority of the members of a board of regents or trustees or educational board is or would be personally affected by such findings and determination, or is otherwise unable to reach any decision on the matter, the attorney general is authorized to grant a request. When a request for defense has been authorized, then any obligation for payment arising from such action, claim, or proceedings shall be paid from the liability account, notwithstanding the nature of the claim, pursuant to the provisions of *RCW 4.92.130 through 4.92.170, as now or hereafter amended: PROVIDED, That this section shall not apply unless the authorizing body has made a finding and determination by resolution that such regent, trustee, member of the educational board, officer, employee, or agent was acting in good faith.

[1999 c 163 § 7; 1975 c 40 § 4; 1972 ex.s. c 23 § 2.]

Notes:

***Reviser's note:** RCW 4.92.140 and 4.92.170 were repealed by 1989 c 419 § 18, effective July 1, 1989.

Effective date--1999 c 163: See note following RCW 4.92.130.

Liability coverage of university personnel and students: RCW 28B.20.250 through 28B.20.255.

RCW 28B.10.844 Regents, trustees, officers, employees or agents of institutions of higher education or educational boards, insurance to protect and hold personally harmless.

The board of regents and the board of trustees of each of the state's institutions of higher education and governing body of an educational board are authorized to purchase insurance to protect and hold personally harmless any regent, trustee, officer, employee or agent of their respective institution, any member of an educational board, its officers, employees or agents, from any action, claim or proceeding instituted against him arising out of the performance or failure of performance of duties for or employment with such institution or educational board and to hold him harmless from any expenses connected with the defense, settlement or monetary judgments from such actions.

[1972 ex.s. c 23 § 3.]

Notes:
Liability coverage of university personnel and students: RCW 28B.20.250 through 28B.20.255.

RCW 28B.10.850 Capital improvements, bonds for--Authorized--Form, terms, conditions, sale, signatures.

For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the institutions of higher education, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of thirty million two hundred thousand dollars or so much thereof as shall be required to finance the capital projects relating to the institutions of higher education as set forth in the capital appropriations act, chapter 114, Laws of 1973 1st ex. sess., to be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the Constitution of the state of Washington.

The state finance committee is authorized to prescribe the form of such bonds, and the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds.

[1985 ex.s. c 4 § 13; 1973 1st ex.s. c 135 § 1.]

Notes:

Severability--1985 ex.s. c 4: See RCW 43.99G.900.

Severability--1973 1st ex.s. c 135: "If any provision of this 1973 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 135 § 7.]

RCW 28B.10.851 Capital improvements, bonds for--Account created, purpose.

The proceeds from the sale of the bonds authorized herein, together with all grants, donations, transferred funds and all other moneys which the state finance committee may direct the state treasurer to deposit therein shall be deposited in the state higher education construction account hereby created in the state treasury.

[1991 sp.s. c 13 § 45; 1985 c 57 § 11; 1973 1st ex.s. c 135 § 2.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date--1985 c 57: See note following RCW 18.04.105.

Severability--1973 1st ex.s. c 135: See note following RCW 28B.10.850.

RCW 28B.10.852 Capital improvements, bonds for--Bond anticipation notes, purpose.

At the time the state finance committee determines to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds that may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The proceeds from the sale of bonds or notes authorized by RCW 28B.10.850 through 28B.10.855 shall be deposited in the state higher education construction account in the state treasury and shall be used exclusively for the purposes specified in RCW 28B.10.850 through 28B.10.855 and for the payment of expenses incurred in the issuance and sale of the bonds.

[1985 c 57 § 12; 1973 1st ex.s. c 135 § 3.]

Notes:

Effective date--1985 c 57: See note following RCW 18.04.105.

Severability--1973 1st ex.s. c 135: See note following RCW 28B.10.850.

RCW 28B.10.853 Capital improvements, bonds for--Bond redemption fund created, purpose--Compelling transfer of funds to.

The state higher education bond redemption fund of 1973 is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by RCW 28B.10.850 through 28B.10.855. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the state higher education bond redemption fund of 1973 from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues.

The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein.

[1973 1st ex.s. c 135 § 4.]

Notes:

Severability--1973 1st ex.s. c 135: See note following RCW 28B.10.850.

RCW 28B.10.854 Capital improvements, bonds for--Legislature may provide additional means of revenue.

The legislature may provide additional means for raising moneys for the payment of the interest and principal of the bonds authorized herein and RCW 28B.10.850 through 28B.10.855 shall not be deemed to provide an exclusive method for such payment.

[1973 1st ex.s. c 135 § 5.]

Notes:

Severability--1973 1st ex.s. c 135: See note following RCW 28B.10.850.

RCW 28B.10.855 Capital improvements, bonds for--As legal investment for state and municipal funds.

The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

[1973 1st ex.s. c 135 § 6.]

Notes:

Severability--1973 1st ex.s. c 135: See note following RCW 28B.10.850.

RCW 28B.10.859 Distinguished professorship trust fund program--"Private donation" defined.

For the purposes of RCW 28B.10.866 through 28B.10.873, "private donation" includes assessments by commodity commissions authorized to conduct research activities including but not limited to research studies authorized under RCW 15.66.030 and 15.65.040.

[1989 c 187 § 1.]

RCW 28B.10.863 Distinguished professorship program--Solicitation and receipt of gifts--Investment of endowed funds--Report to the legislature.

Notes:

Reviser's note: RCW 28B.10.863 was amended by 1987 c 505 § 11 without reference to its repeal by 1987 c 8 § 10. It has been decodified for publication purposes pursuant to RCW 1.12.025.

RCW 28B.10.866 Distinguished professorship trust fund program--Intent.

The legislature recognizes that quality in the state's public four-year institutions of higher education would be strengthened by additional partnerships between citizens and the institutions. The legislature intends to foster these partnerships by creating a matching grant program to assist public four-year institutions of higher education in creating endowments for funding distinguished professorships.

[1987 c 8 § 1.]

Notes:

Allocation of appropriated moneys--1988 c 125; 1987 c 8: "(1) For the biennium ending June 30, 1989, all appropriations to the Washington distinguished professorship trust fund shall be allocated as provided in this section. The state treasurer shall reserve the following amounts in the trust fund for distribution to four-year higher education institutions at such time as qualifying gifts as defined in section 1, chapter 8, Laws of 1987 for

distinguished professorships have been deposited:

(a) Two million two hundred fifty thousand dollars of the appropriation for the University of Washington;

(b) One million five hundred thousand dollars of the appropriation for Washington State University;

(c) One million dollars of the appropriation divided among Eastern Washington University, Central Washington University, Western Washington University, and The Evergreen State College.

(2) Distribution of funds allocated in subsection (1)(c) of this section shall be made in the following manner: Eastern Washington University, Central Washington University, Western Washington University, and The Evergreen State College are guaranteed one professorship.

(3) As of January 1, 1989, if any funds reserved in subsection (1)(a) or (b) of this section have not been designated as matching funds for qualifying gifts, any four-year institution of higher education, which has already fully utilized the professorships allocated to it by this section, and, in the case of the regional universities and The Evergreen State College, has exhausted the allocation in subsection (1)(c) of this section, may be eligible for such funds under rules promulgated by the higher education coordinating board." [1988 c 125 § 4; 1987 c 8 § 12.]

RCW 28B.10.867 Distinguished professorship trust fund program--Establishment--Administration.

The Washington distinguished professorship trust fund program is established.

The program shall be administered by the higher education coordinating board.

The trust fund shall be administered by the state treasurer.

[1987 c 8 § 2.]

RCW 28B.10.868 Distinguished professorship trust fund program--Trust fund established.

Funds appropriated by the legislature for the distinguished professorship program shall be deposited in the distinguished professorship trust fund. At the request of the higher education coordinating board under RCW 28B.10.870, the treasurer shall release the state matching funds to the designated institution's local endowment fund. No appropriation is required for expenditures from the fund.

[1991 sp.s. c 13 § 99; 1987 c 8 § 3.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

RCW 28B.10.869 Distinguished professorship trust fund program--Guidelines--Allocation system.

In consultation with the eligible institutions of higher education, the higher education coordinating board shall set guidelines for the program. These guidelines may include an allocation system based on factors which include but are not limited to: The amount of money available in the trust fund; characteristics of the institutions including the size of the faculty and student body; and the number of professorships previously received.

Any allocation system shall be superseded by conditions in any act of the legislature appropriating funds for this program.

[1987 c 8 § 4.]

RCW 28B.10.870 Distinguished professorship trust fund program--Matching funds--Donations or appropriations--Disbursement of funds.

All state four-year institutions of higher education shall be eligible for matching trust funds. An institution may apply to the higher education coordinating board for two hundred fifty thousand dollars from the fund when the institution can match the state funds with an equal amount of pledged or contributed private donations or with funds received through legislative appropriation specifically for the G. Robert Ross distinguished faculty award and designated as being qualified to be matched from trust fund moneys. These donations shall be made specifically to the professorship program, and shall be donated after July 1, 1985.

Upon an application by an institution, the board may designate two hundred fifty thousand dollars from the trust fund for that institution's pledged professorship. If the pledged two hundred fifty thousand dollars is not received within three years, the board shall make the designated funds available for another pledged professorship.

Once the private donation is received by the institution, the higher education coordinating board shall ask the state treasurer to release the state matching funds to a local endowment fund established by the institution for the professorship.

[1988 c 125 § 3; 1987 c 8 § 5.]

Notes:

Severability--1988 c 125: See RCW 28B.106.902.

RCW 28B.10.871 Distinguished professorship trust fund program--Name of professorship--Duties of institution--Use of endowment proceeds.

The professorship is the property of the institution and may be named in honor of a donor, benefactor, or honoree of the institution, at the option of the institution. Once state matching funds are released to a local endowment fund, an institution may combine two professorships to support one professorship holder.

The institution is responsible for soliciting private donations, investing and maintaining all endowment funds, administering the professorship, and reporting on the program to the governor and the legislature upon request. The institution may augment the endowment fund with additional private donations. The principal of the invested endowment fund shall not be invaded.

The proceeds from the endowment fund may be used to supplement the salary of the holder of the professorship, to pay salaries for his or her assistants, and to pay expenses associated with the holder's scholarly work.

[1989 c 187 § 2; 1987 c 8 § 6.]

RCW 28B.10.872 Distinguished professorship trust fund program--Moneys not subject to collective bargaining.

Any private or public money, including all investment income, deposited in the Washington distinguished professorship trust fund or any local endowment for professorship programs shall not be subject to collective bargaining.

[1987 c 8 § 7.]

RCW 28B.10.873 Distinguished professorship trust fund program--Continuation of program established under prior law.

A distinguished professorship program established under chapter 343, Laws of 1985 shall continue to operate under RCW 28B.10.866 through 28B.10.872 and the requirements of RCW 28B.10.866 through 28B.10.872 shall apply.

[1987 c 8 § 8.]

RCW 28B.10.874 Distinguished professorship trust fund program--Transfer of administration--Recommendations to governor and legislature.

(1) After consulting with the higher education coordinating board and the state four-year institutions of higher education, the governor may transfer the administration of this program to another agency which has an appropriate educationally related mission.

(2) By December 1, 1989, the higher education coordinating board and any agency administering this program, if applicable, shall make recommendations to the governor and the legislature on any needed changes in the program.

[1987 c 8 § 9.]

RCW 28B.10.878 G. Robert Ross distinguished faculty award.

The G. Robert Ross distinguished faculty award is hereby established. The board of trustees at Western Washington University shall establish the guidelines for the selection of the recipients of the G. Robert Ross distinguished faculty award. The board shall establish a local endowment fund for the deposit of all state funds appropriated for this purpose and any private donations. The board shall administer the endowment fund and the award. The principal of the invested endowment fund shall not be invaded and the proceeds from the endowment fund may be used to supplement the salary of the holder of the award, to pay salaries of his or her assistants, and to pay expenses associated with the holder's scholarly work.

[1988 c 125 § 2.]

Notes:

Finding--1988 c 125 § 2: "The legislature finds that G. Robert Ross, immediate past president of Western Washington University, was an exemplary university president who helped lead his school to a position of increasing excellence and national prominence. Dr. Ross was a convincing spokesperson for excellence in all areas of education and was a leader who strongly encouraged the faculty and staff at Western Washington University to be actively involved in the pursuit of scholarly activities.

The legislature wishes to honor the public spirit, dedication, integrity, perseverance, inspiration, and accomplishments of Western Washington University faculty through the creation of the G. Robert Ross Distinguished Faculty Award." [1988 c 125 § 1.]

Severability--1988 c 125: See RCW 28B.106.902.

RCW 28B.10.880 Graduate fellowship trust fund program--Intent.

The legislature recognizes that quality in the state's public four-year institutions of higher education would be strengthened by additional partnerships between citizens and the institutions. The legislature intends to foster these partnerships by creating a matching grant program to assist public four-year institutions of higher education in creating endowments for funding fellowships for distinguished graduate students.

[1987 c 147 § 1.]

RCW 28B.10.881 Graduate fellowship trust fund program--Establishment--Administration.

The Washington graduate fellowship trust fund program is established. The program shall be administered by the higher education coordinating board. The trust fund shall be administered by the state treasurer.

[1987 c 147 § 2.]

RCW 28B.10.882 Graduate fellowship trust fund--Matching funds.

Funds appropriated by the legislature for the graduate fellowship program shall be deposited in the graduate fellowship trust fund. At the request of the higher education coordinating board under RCW 28B.10.884, the treasurer shall release the state matching funds to the designated institution's local endowment fund. No appropriation is required for expenditures from the fund.

[1991 sp.s. c 13 § 88; 1987 c 147 § 3.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

RCW 28B.10.883 Graduate fellowship trust fund program--Guidelines--Allocation system.

In consultation with eligible institutions of higher education, the higher education coordinating board shall set guidelines for the program. These guidelines may include an allocation system based on factors which include but are not limited to: The amount of money available in the trust fund; characteristics of the institutions including the size of the faculty and student body; and the number of fellowships previously received.

Any allocation system shall be superseded by conditions in any legislative act appropriating funds for the program.

[1987 c 147 § 4.]

RCW 28B.10.884 Graduate fellowship trust fund program--Matching funds--Donations--Disbursement of funds.

(1) All state four-year institutions of higher education shall be eligible for matching trust funds. Institutions may apply to the higher education coordinating board for twenty-five thousand dollars from the fund when they can match the state funds with equal pledged or contributed private donations. These donations shall be made specifically to the graduate fellowship program, and shall be donated after July 1, 1987.

(2) Upon an application by an institution, the board may designate twenty-five thousand dollars from the trust fund for that institution's pledged graduate fellowship fund. If the pledged twenty-five thousand dollars is not received within two years, the board shall make the designated funds available for another pledged graduate fellowship fund.

(3) Once the private donation is received by the institution, the higher education coordinating board shall ask the state treasurer to release the state matching funds to a local endowment fund established by the institution for the graduate fellowships.

[1987 c 147 § 5.]

RCW 28B.10.885 Graduate fellowship trust fund program--Name of fellowship--Duties of institution--Use of endowment proceeds.

(1) The fellowship is the property of the institution and may be named in honor of a donor, benefactor, or honoree of the institution, at the option of the institution.

(2) The institution is responsible for soliciting private donations, investing and maintaining all endowment funds, administering the fellowship, and reporting on the program to the governor and the legislature upon request. The institution may augment the endowment fund with additional private donations. The principal of the invested endowment fund shall not be invaded.

(3) The proceeds from the endowment fund may be used to provide fellowship stipends to be used by the recipient for such things as tuition and fees, subsistence, research expenses, and other educationally related costs.

[1987 c 147 § 6.]

RCW 28B.10.886 Graduate fellowship trust fund program--Moneys not subject to collective bargaining.

Any private or public money, including all investment income, deposited in the Washington graduate fellowship trust fund or any local endowment for fellowship programs shall not be subject to collective bargaining.

[1987 c 147 § 7.]

RCW 28B.10.887 Graduate fellowship trust fund program--Transfer of administration.

After consulting with the higher education coordinating board and the state four-year institutions of higher education, the governor may transfer the administration of this program to another agency which has an appropriate educationally related mission.

[1998 c 245 § 14; 1987 c 147 § 8.]

RCW 28B.10.890 Collegiate license plate fund--Scholarships.

A collegiate license plate fund is established in the custody of the state treasurer for each college or university with a collegiate license plate program approved by the department [of licensing] under RCW 46.16.324. All receipts from collegiate license plates authorized under *RCW 46.16.301 shall be deposited in the appropriate local college or university nonappropriated, nonallotted fund. Expenditures from the funds may be used only for student scholarships. Only the president of the college or university or the president's designee may authorize expenditures from the fund.

[1994 c 194 § 7.]

Notes:

***Reviser's note:** RCW 46.16.301 was amended by 1997 c 291 § 5, deleting authorization for collegiate license plates. For collegiate license plates, see RCW 46.16.313.

RCW 28B.10.900 "Hazing" defined.

As used in RCW 28B.10.901 and 28B.10.902, "hazing" includes any method of initiation into a student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending a public or private institution of higher education or other postsecondary educational institution in this state. "Hazing" does not include customary athletic events or other similar contests or competitions.

[1993 c 514 § 1.]

RCW 28B.10.901 Hazing prohibited--Penalty.

(1) No student, or other person in attendance at any public or private institution of higher education, or any other postsecondary educational institution, may conspire to engage in hazing or participate in hazing of another.

(2) A violation of this section is a misdemeanor, punishable as provided under RCW 9A.20.021.

(3) Any organization, association, or student living group that knowingly permits hazing is strictly liable for harm caused to persons or property resulting from hazing. If the organization, association, or student living group is a corporation whether for profit or nonprofit, the

individual directors of the corporation may be held individually liable for damages.

[1993 c 514 § 2.]

RCW 28B.10.902 Participating in or permitting hazing--Loss of state-funded grants or awards--Loss of official recognition or control--Rules.

(1) A person who participates in the hazing of another shall forfeit any entitlement to state-funded grants, scholarships, or awards for a period of time determined by the institution of higher education.

(2) Any organization, association, or student living group that knowingly permits hazing to be conducted by its members or by others subject to its direction or control shall be deprived of any official recognition or approval granted by a public institution of higher education.

(3) The public institutions of higher education shall adopt rules to implement this section.

[1993 c 514 § 3.]

RCW 28B.10.903 Conduct associated with initiation into group or pastime or amusement with group--Sanctions adopted by rule.

Institutions of higher education shall adopt rules providing sanctions for conduct associated with initiation into a student organization or living group, or any pastime or amusement engaged in with respect to an organization or living group not amounting to a violation of RCW 28B.10.900. Conduct covered by this section may include embarrassment, ridicule, sleep deprivation, verbal abuse, or personal humiliation.

[1993 c 514 § 4.]

RCW 28B.10.910 Students with disabilities--Core services.

Each student with one or more disabilities is entitled to receive a core service only if the service is reasonably needed to accommodate the student's disabilities. The requesting student shall make a reasonable request for core services in a timely manner and the institution of higher education or agency providing the service shall respond reasonably and in a timely manner.

[1994 c 105 § 2.]

Notes:

Intent--1994 c 105: "It is a fundamental aspiration of the people of Washington that individuals be afforded the opportunity to compete academically. Accordingly, it is an appropriate act of state government, in furtherance of this aspiration, to make available appropriate support services to those individuals who are able to attend college by virtue of their potential and desire, but whose educational progress and success is hampered by a lack of accommodation.

Furthermore, under existing federal and state laws, institutions of higher education are obligated to provide services to students with disabilities. The legislature does not intend to confer any new or expanded rights, however, the intent of this act is to provide a clearer, more succinct statement of those rights than is presently available and put Washington on record as supporting those rights.

It is the intent of the legislature that these services be provided within the bounds of the law. Therefore, the institution of higher education's obligations to provide reasonable accommodations are limited by the defenses provided in federal and state statutes, such as undue financial burden and undue hardship." [1994 c 105 § 1.]

RCW 28B.10.912 Students with disabilities--Core services described--Notice of nondiscrimination.

Each institution of higher education shall ensure that students with disabilities are reasonably accommodated within that institution. The institution of higher education shall provide students with disabilities with the appropriate core service or services necessary to ensure equal access.

Core services shall include, but not be limited to:

(1) Flexible procedures in the admissions process that use a holistic review of the student's potential, including appropriate consideration in state-wide and institutional alternative admissions programs;

(2) Early registration or priority registration;

(3) Sign language, oral and tactile interpreter services, or other technological alternatives;

(4) Textbooks and other educational materials in alternative media, including, but not limited to, large print, braille, electronic format, and audio tape;

(5) Provision of readers, notetakers, scribes, and proofreaders including recruitment, training, and coordination;

(6) Ongoing review and coordination of efforts to improve campus accessibility, including but not limited to, all aspects of barrier-free design, signage, high-contrast identification of hazards of mobility barriers, maintenance of access during construction, snow and ice clearance, and adequate disability parking for all facilities;

(7) Facilitation of physical access including, but not limited to, relocating of classes, activities, and services to accessible facilities and orientation if route of travel needs change, such as at the beginning of a quarter or semester;

(8) Access to adaptive equipment including, but not limited to, TDDs, FM communicators, closed caption devices, amplified telephone receivers, closed circuit televisions, low-vision reading aids, player/recorders for 15/16 4-track tapes, photocopy machines able to use eleven-by-seventeen inch paper, brailling devices, and computer enhancements;

(9) Referral to appropriate on-campus and off-campus resources, services, and agencies;

(10) Release of syllabi, study guides, and other appropriate instructor-produced materials in advance of general distribution, and access beyond the regular classroom session to slides, films, overheads and other media and taping of lectures;

(11) Accessibility for students with disabilities to tutoring, mentoring, peer counseling, and academic advising that are available on campus;

(12) Flexibility in test taking arrangements;

(13) Referral to the appropriate entity for diagnostic assessment and documentation of the disability;

(14) Flexibility in timelines for completion of courses, certification, and degree requirements;

(15) Flexibility in credits required to be taken to satisfy institutional eligibility for financial aid; and

(16) Notification of the institution of higher education's policy of nondiscrimination on the basis of disability and of steps the student may take if he or she believes discrimination has taken place. This notice shall be included in all formal correspondence that communicates decisions or policies adversely affecting the student's status or rights with the institution of higher education. This notice shall include the phone numbers of the United States department of education, the United States office of civil rights, and the Washington state human rights commission.

[1994 c 105 § 3.]

Notes:

Intent--1994 c 105: See note following RCW 28B.10.910.

RCW 28B.10.914 Students with disabilities--Accommodation.

Reasonable accommodation for students with disabilities shall be provided as appropriate for all aspects of college and university life, including but not limited to: Recruitment, the application process, enrollment, registration, financial aid, course work, research, academic counseling, housing programs owned or operated by the institution of higher education, and nonacademic programs and services.

[1994 c 105 § 4.]

Notes:

Intent--1994 c 105: See note following RCW 28B.10.910.

Chapter 28B.12 RCW
STATE WORK-STUDY PROGRAM

(Formerly: College work-study program)

Sections

28B.12.010 Created.
28B.12.020 Purpose.
28B.12.030 Definitions.
28B.12.040 Board to develop and administer program--Agreements authorized, limitation--Work study advisory committee.
28B.12.050 Disbursal of state work-study funds--Criteria.
28B.12.060 Rules--Mandatory provisions.
28B.12.070 Annual report of institutions to higher education coordinating board.

RCW 28B.12.010 Created.

There is hereby created a program of financial aid to students pursuing a post-secondary education which shall be known as the state work-study program.

[1994 c 130 § 1; 1974 ex.s. c 177 § 1.]

Notes:

Severability--1974 ex.s. c 177: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 177 § 10.]

RCW 28B.12.020 Purpose.

The purpose of the program created in RCW 28B.12.010 is to provide financial assistance to needy students, including needy students from middle-income families, attending eligible post-secondary institutions in the state of Washington by stimulating and promoting their employment, thereby enabling them to pursue courses of study at such institutions. An additional purpose of this program shall be to provide such needy students, wherever possible, with employment related to their academic or vocational pursuits.

[1994 c 130 § 2; 1974 ex.s. c 177 § 2.]

Notes:

Severability--1974 ex.s. c 177: See note following RCW 28B.12.010.

RCW 28B.12.030 Definitions.

As used in this chapter, the following words and terms shall have the following meanings, unless the context shall clearly indicate another or different meaning or intent:

(1) The term "needy student" shall mean a student enrolled or accepted for enrollment at a post-secondary institution who, according to a system of need analysis approved by the higher education coordinating board, demonstrates a financial inability, either parental, familial, or personal, to bear the total cost of education for any semester or quarter.

(2) The term "eligible institution" shall mean any post-secondary institution in this state accredited by the Northwest Association of Schools and Colleges or any public technical college in the state.

[1994 c 130 § 3; 1974 ex.s. c 177 § 3.]

Notes:

Severability--1974 ex.s. c 177: See note following RCW 28B.12.010.

RCW 28B.12.040 Board to develop and administer program--Agreements authorized, limitation--Work study advisory committee.

With the assistance of an advisory committee, the higher education coordinating board

shall develop and administer the state work-study program. The board shall be authorized to enter into agreements with employers and eligible institutions for the operation of the program. These agreements shall include such provisions as the higher education coordinating board may deem necessary or appropriate to carry out the purposes of this chapter.

The members of the work-study advisory committee may include, but need not be limited to representatives of public and private community colleges, technical colleges, and four-year institutions of higher education; vocational schools; students; community service organizations; public schools; business; and labor. When selecting members of the advisory committee, the board shall consult with institutions of higher education, the state board for community and technical colleges, the work force training and education coordinating board, and appropriate associations and organizations. With the exception of off-campus community service placements, the share from moneys disbursed under the state work-study program of the compensation of students employed under such program in accordance with such agreements shall not exceed eighty percent of the total such compensation paid such students.

By rule, the board shall define community service placements and may determine any salary matching requirements for any community service employers.

[1994 c 130 § 4; 1993 c 385 § 3; 1985 c 370 § 58; 1974 ex.s. c 177 § 4.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--1974 ex.s. c 177: See note following RCW 28B.12.010.

Purpose--1974 ex.s. c 177: See RCW 28B.12.020.

RCW 28B.12.050 Disbursal of state work-study funds--Criteria.

The higher education coordinating board shall disburse state work-study funds. In performing its duties under this section, the board shall consult eligible institutions and post-secondary education advisory and governing bodies. The board shall establish criteria designed to achieve such distribution of assistance under this chapter among students attending eligible institutions as will most effectively carry out the purposes of this chapter.

[1994 c 130 § 5; 1987 c 330 § 201; 1985 c 370 § 59; 1974 ex.s. c 177 § 5.]

Notes:

Construction--Application of rules--1987 c 330: "This act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule, regulation, or order adopted under those sections, nor as affecting any proceeding instituted under those sections. The rules of the agencies abolished by this act shall continue in force until acted upon by the succeeding agency and shall be enforced by the succeeding agency. If there is no succeeding agency, the rules shall terminate." [1987 c 330 § 1401.]

Severability--1987 c 330: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 330 § 1402.]

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--1974 ex.s. c 177: See note following RCW 28B.12.010.

RCW 28B.12.060 Rules--Mandatory provisions.

The higher education coordinating board shall adopt rules as may be necessary or appropriate for effecting the provisions of this chapter, and not in conflict with this chapter, in accordance with the provisions of chapter 34.05 RCW, the state higher education administrative procedure act. Such rules shall include provisions designed to make employment under the work-study program reasonably available, to the extent of available funds, to all eligible students in eligible post-secondary institutions in need thereof. The rules shall include:

(1) Providing work under the state work-study program that will not result in the displacement of employed workers or impair existing contracts for services;

(2) Furnishing work only to a student who:

(a) Is capable, in the opinion of the eligible institution, of maintaining good standing in such course of study while employed under the program covered by the agreement; and

(b) Has been accepted for enrollment as at least a half-time student at the eligible institution or, in the case of a student already enrolled in and attending the eligible institution, is in good standing and in at least half-time attendance there either as an undergraduate, graduate or professional student; and

(c) Is not pursuing a degree in theology;

(3) Placing priority on providing:

(a) Work opportunities for students who are residents of the state of Washington as defined in RCW 28B.15.012 and 28B.15.013 except resident students defined in *RCW 28B.15.012(2)(e);

(b) Job placements in fields related to each student's academic or vocational pursuits, with an emphasis on off-campus job placements whenever appropriate; and

(c) Off-campus community service placements;

(4) Provisions to assure that in the state institutions of higher education, utilization of this work-study program:

(a) Shall only supplement and not supplant classified positions under jurisdiction of chapter 41.06 RCW;

(b) That all positions established which are comparable shall be identified to a job classification under the Washington personnel resources board's classification plan and shall receive equal compensation;

(c) Shall not take place in any manner that would replace classified positions reduced due to lack of funds or work; and

(d) That work study positions shall only be established at entry level positions of the classified service unless the overall scope and responsibilities of the position indicate a higher level; and

(5) Provisions to encourage job placements in occupations that meet Washington's economic development goals, especially those in international trade and international relations. The board shall permit appropriate job placements in other states and other countries.

[1994 c 130 § 6. Prior: 1993 sp.s. c 18 § 3; 1993 c 281 § 14; 1987 c 330 § 202; 1985 c 370 § 60; 1974 ex.s. c 177 §

6.]

Notes:

***Reviser's note:** RCW 28B.15.012 was amended by 2000 c 117 § 1, changing subsection (2)(e) to subsection (2)(f).

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Effective date--1993 c 281: See note following RCW 41.06.022.

Construction--Application of rules--Severability--1987 c 330: See notes following RCW 28B.12.050.

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--1974 ex.s. c 177: See note following RCW 28B.12.010.

RCW 28B.12.070 Annual report of institutions to higher education coordinating board.

Each eligible institution shall submit to the higher education coordinating board an annual report in accordance with such requirements as are adopted by the board.

[1994 c 130 § 7; 1985 c 370 § 61; 1974 ex.s. c 177 § 7.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--1974 ex.s. c 177: See note following RCW 28B.12.010.

Chapter 28B.13 RCW
1974 BOND ISSUE FOR CAPITAL IMPROVEMENTS

Sections

28B.13.010 Bonds authorized--Amount--Purpose--Form, conditions of sale, etc.
28B.13.020 Disposition of proceeds from sale of bonds.
28B.13.030 Bond anticipation notes--Authorized--Payment of principal and interest on--Disposition of proceeds from sale of bonds and notes.
28B.13.040 Bond redemption fund--Created--Use--Rights of bond owner and holder.
28B.13.050 Chapter not exclusive method for payment of interest and principal on bonds.
28B.13.060 Bonds as legal investment for public funds.
28B.13.900 Severability--1974 ex.s. c 181.

Notes:

State finance committee: Chapter 43.33 RCW.

RCW 28B.13.010 Bonds authorized--Amount--Purpose--Form, conditions of sale, etc.

For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the institutions of higher education, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of seven million eight hundred one thousand eighty dollars or so much thereof as shall be required to finance the capital project relating to institutions of higher education as set forth in the capital appropriations act, chapter

197 (SSB 3253), Laws of 1974 ex. sess., to be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the Constitution of the state of Washington.

The state finance committee is authorized to prescribe the form of such bonds, and the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds.

[1974 ex.s. c 181 § 1.]

RCW 28B.13.020 Disposition of proceeds from sale of bonds.

The proceeds from the sale of the bonds authorized by this chapter, together with all grants, donations, transferred funds and all other moneys which the state finance committee may direct the state treasurer to deposit therein shall be deposited in the state higher education construction account in the state general fund.

[1974 ex.s. c 181 § 2.]

RCW 28B.13.030 Bond anticipation notes--Authorized--Payment of principal and interest on--Disposition of proceeds from sale of bonds and notes.

At the time the state finance committee determines to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds that may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The proceeds from the sale of bonds or notes authorized by this chapter shall be deposited in the state higher education construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in this chapter and for the payment of expenses incurred in the issuance and sale of the bonds.

[1974 ex.s. c 181 § 3.]

RCW 28B.13.040 Bond redemption fund--Created--Use--Rights of bond owner and holder.

The state higher education bond redemption fund of 1974 is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of

the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the state higher education bond redemption fund of 1974 from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues.

The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed therein.

[1974 ex.s. c 181 § 4.]

RCW 28B.13.050 Chapter not exclusive method for payment of interest and principal on bonds.

The legislature may provide additional means for raising moneys for the payment of the interest and principal of the bonds authorized herein and this chapter shall not be deemed to provide an exclusive method for such payment.

[1974 ex.s. c 181 § 5.]

RCW 28B.13.060 Bonds as legal investment for public funds.

The bonds authorized by this chapter shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

[1974 ex.s. c 181 § 6.]

RCW 28B.13.900 Severability--1974 ex.s. c 181.

If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected.

[1974 ex.s. c 181 § 7.]

Chapter 28B.14 RCW
1975 BOND ISSUE FOR CAPITAL IMPROVEMENTS

Sections

28B.14.010 Bonds authorized--Amount--Consideration for minority contractors on projects so funded.
28B.14.020 Bond anticipation notes--Authorized--Payment.
28B.14.030 Form, terms, conditions, sale and covenants of bonds and notes.
28B.14.040 Disposition of proceeds from sale of bonds and notes--Use.
28B.14.050 1975 state higher education bond retirement fund--Created--Purpose.

28B.14.060 Bonds as legal investment for public funds.

RCW 28B.14.010 Bonds authorized--Amount--Consideration for minority contractors on projects so funded.

For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the institutions of higher education, the state finance committee is hereby authorized to issue from time to time general obligation bonds of the state of Washington in the aggregate principal amount of fourteen million eight hundred eighty thousand dollars, or so much thereof as shall be required to finance the capital projects relating to institutions of higher education as determined by the legislature in its capital appropriations acts from time to time, for such purposes, to be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1, of the Constitution of the state of Washington. It is the intent of the legislature that in any decision to contract for capital projects funded as the result of this chapter, full and fair consideration shall be given to minority contractors.

[1975-'76 2nd ex.s. c 126 § 1; 1975 1st ex.s. c 237 § 1.]

Notes:

Severability--1975 1st ex.s. c 237: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances, shall in no way be affected." [1975 1st ex.s. c 237 § 8.]

RCW 28B.14.020 Bond anticipation notes--Authorized--Payment.

When the state finance committee has determined to issue such general obligation bonds or a portion thereof as authorized in RCW 28B.14.010, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of principal and redemption premium, if any, of and interest on such notes shall be applied thereto when such bonds are issued.

[1975 1st ex.s. c 237 § 2.]

Notes:

Severability--1975 1st ex.s. c 237: See note following RCW 28B.14.010.

RCW 28B.14.030 Form, terms, conditions, sale and covenants of bonds and notes.

The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds and/or the bond anticipation notes provided for in RCW 28B.14.010 and 28B.14.020, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the

state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due.

[1975 1st ex.s. c 237 § 3.]

Notes:

Severability--1975 1st ex.s. c 237: See note following RCW 28B.14.010.

RCW 28B.14.040 Disposition of proceeds from sale of bonds and notes--Use.

Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 28B.14.020, the proceeds from the sale of the bonds and/or bond anticipation notes authorized in this chapter, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the state higher education construction account of the general fund in the state treasury. All such proceeds shall be used exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes.

[1975 1st ex.s. c 237 § 4.]

Notes:

Severability--1975 1st ex.s. c 237: See note following RCW 28B.14.010.

RCW 28B.14.050 1975 state higher education bond retirement fund--Created--Purpose.

The 1975 state higher education bond retirement fund is hereby created in the state treasury for the purpose of the payment of principal of and interest on the bonds authorized to be issued pursuant to this chapter.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on such bonds. On July 1st of each such year the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1975 state higher education bond retirement fund an amount equal to the amount certified by the state finance committee.

[1975 1st ex.s. c 237 § 5.]

Notes:

Severability--1975 1st ex.s. c 237: See note following RCW 28B.14.010.

RCW 28B.14.060 Bonds as legal investment for public funds.

The bonds authorized in this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

[1975 1st ex.s. c 237 § 6.]

Notes:

Severability--1975 1st ex.s. c 237: See note following RCW 28B.14.010.

Chapter 28B.14B RCW
1977 BOND ISSUE FOR CAPITAL IMPROVEMENTS

Sections

28B.14B.010 Bonds authorized--Amount--Conditions.
28B.14B.020 Bond anticipation notes--Authorized--Payment.
28B.14B.030 Form, terms, conditions, sale and covenants of bonds and notes.
28B.14B.040 Disposition of proceeds from sale of bonds and notes--Use.
28B.14B.050 State higher education bond retirement fund of 1977--Created--Purpose.
28B.14B.060 Bonds as legal investment for public funds.

RCW 28B.14B.010 Bonds authorized--Amount--Conditions.

For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the institutions of higher education, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of nine million five hundred thousand dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

[1977 ex.s. c 345 § 1.]

Notes:

Severability--1977 ex.s. c 345: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 345 § 8.]

RCW 28B.14B.020 Bond anticipation notes--Authorized--Payment.

When the state finance committee has determined to issue such general obligation bonds or a portion thereof as authorized in RCW 28B.14B.010, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of principal of and redemption premium, if any, and interest on such notes shall be applied thereto when such bonds are issued.

[1977 ex.s. c 345 § 2.]

Notes:

Severability--1977 ex.s. c 345: See note following RCW 28B.14B.010.

RCW 28B.14B.030 Form, terms, conditions, sale and covenants of bonds and notes.

The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds and/or the bond anticipation notes provided for in RCW 28B.14B.010 and 28B.14B.020, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due.

[1977 ex.s. c 345 § 3.]

Notes:

Severability--1977 ex.s. c 345: See note following RCW 28B.14B.010.

RCW 28B.14B.040 Disposition of proceeds from sale of bonds and notes--Use.

Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 28B.14B.020, the proceeds from the sale of the bonds and/or bond anticipation notes authorized in this chapter, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the state higher education construction account of the general fund in the state treasury. All such proceeds shall be used exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes.

[1977 ex.s. c 345 § 4.]

Notes:

Severability--1977 ex.s. c 345: See note following RCW 28B.14B.010.

RCW 28B.14B.050 State higher education bond retirement fund of 1977--Created--Purpose.

The state higher education bond retirement fund of 1977 is hereby created in the state treasury for the purpose of the payment of principal of and interest on the bonds authorized to be issued pursuant to this chapter or, if the legislature so determines, for any bonds and notes hereafter authorized and issued for the institutions of higher education.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on such bonds. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state

higher education bond retirement fund of 1977 an amount equal to the amount certified by the state finance committee to be due on such payment date.

[1977 ex.s. c 345 § 5.]

Notes:

Severability--1977 ex.s. c 345: See note following RCW 28B.14B.010.

RCW 28B.14B.060 Bonds as legal investment for public funds.

The bonds authorized in RCW 28B.14B.010 through 28B.14B.060 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

[1977 ex.s. c 345 § 6.]

Notes:

Severability--1977 ex.s. c 345: See note following RCW 28B.14B.010.

Chapter 28B.14C RCW
1977 BOND ACT FOR THE REFUNDING OF OUTSTANDING LIMITED OBLIGATION REVENUE BONDS

Sections

28B.14C.010 Purpose--Bonds authorized--Amount.
28B.14C.020 Refunding as benefit to state.
28B.14C.030 Constitutional and statutory authority applicable--Specific state finance committee powers.
28B.14C.040 Limitation as to amount of bonds to be issued--Pledge of state's credit.
28B.14C.050 Disposition of proceeds of refunding issues.
28B.14C.060 Institutions of higher education refunding bond retirement fund of 1977--Created--Use.
28B.14C.070 Chapter not exclusive method for payment of interest and principal on bonds.
28B.14C.080 Chapter as affecting University of Washington building revenue bond redemption.
28B.14C.090 Chapter as affecting Washington State University building revenue bond redemption.
28B.14C.100 Chapter as affecting Western Washington State College building and normal school fund revenue bonds.
28B.14C.110 Chapter as affecting Eastern Washington State College building and normal school fund revenue bonds.
28B.14C.120 Chapter as affecting Central Washington State College building and normal school fund revenue bonds.
28B.14C.130 Chapter as affecting Evergreen State College building revenue bonds.
28B.14C.140 Use limited when reserves transferred to state general fund.
28B.14C.900 Severability--1977 ex.s. c 354.

RCW 28B.14C.010 Purpose--Bonds authorized--Amount.

The state finance committee is hereby authorized to issue from time to time on behalf of

the state, general obligation bonds of the state in the amount of forty-eight million six hundred thousand dollars, or so much thereof as may be required to refund at or prior to maturity, all or some or any part of the various issues of outstanding limited obligation revenue bonds identified below, issued by various of the institutions of higher education, similarly identified:

(1) University of Washington building revenue bonds, all series, aggregating $28,850,000 in original principal amount;

(2) Washington State University building revenue bonds and building and scientific fund revenue bonds, all series, aggregating $19,450,000 in original principal amount;

(3) Western Washington State College building and normal school fund revenue bonds, all series, aggregating $11,620,000 in original principal amount;

(4) Eastern Washington State College building and normal school fund revenue bonds, all series, aggregating $9,501,000 in original principal amount;

(5) Central Washington State College building and normal school fund revenue bonds, all series, including refunding series, aggregating $8,925,000 in original principal amount; and

(6) The Evergreen State College building revenue bonds, all series, aggregating $2,191,125 in original principal amount.

[1985 ex.s. c 4 § 14; 1985 c 390 § 2; 1977 ex.s. c 354 § 1.]

Notes:

Severability--1985 ex.s. c 4: See RCW 43.99G.900.

RCW 28B.14C.020 Refunding as benefit to state.

The refunding authorized by this chapter is to be carried out primarily for the purpose of releasing for other needs of the state and its agencies the reserves presently required under existing covenants and statutes to secure payment of the various issues of the bonds to be refunded and, as such, is of substantial benefit to the state.

[1977 ex.s. c 354 § 2.]

RCW 28B.14C.030 Constitutional and statutory authority applicable--Specific state finance committee powers.

Subject to the specific requirements of RCW 28B.14C.010 through 28B.14C.140 and 28B.14C.900, such general obligation refunding bonds shall be issued and the refunding plan carried out in accordance with Article VIII, section 1, of the state Constitution, in accordance with chapter 39.42 RCW as presently in effect, and in accordance with the following sections of chapter 39.53 RCW as presently in effect, where applicable: RCW 39.53.010, 39.53.030, 39.53.060, 39.53.070, 39.53.100, and 39.53.110. The remainder of chapter 39.53 RCW shall not be applicable to the refunding authorized by this chapter.

In addition to the powers granted to the state finance committee in this subsection, said committee is hereby authorized (1) to determine the times and manner of redemption of the various bonds to be refunded, if any are to be redeemed prior to maturity; (2) to carry out all

procedures necessary to accomplish the call for redemption and the subsequent redemption of the bonds to be refunded on behalf of the board of regents or the board of trustees, as the case may be, of each of the institutions which originally issued the bonds to be refunded; and (3) to determine the time, manner, and call premium, if any, for redemption of the refunding issue or issues, if any of the bonds of such issue are to be redeemed prior to maturity.

[1977 ex.s. c 354 § 3.]

Notes:

Reviser's note: Phrases "as presently in effect" would, because of declaration of emergency in section 17 of 1977 ex.s. c 354, be deemed as of July 1, 1977.

RCW 28B.14C.040 Limitation as to amount of bonds to be issued--Pledge of state's credit.

The amount of general obligation refunding bonds issued shall not exceed 1.05 times the amount which, taking into account amounts to be earned from the investment of the proceeds of such issue or issues, is required to pay the principal of, the interest on, premium of, if any, on the revenue bonds to be refunded with the proceeds of the refunding issue or issues.

Each bond issued pursuant to the provisions of this chapter shall contain a pledge of the state's full faith and credit to the payment of the principal thereof and the interest thereon and the state's unconditional promise to pay said principal and interest as the same shall become due.

[1977 ex.s. c 354 § 4.]

RCW 28B.14C.050 Disposition of proceeds of refunding issues.

The proceeds of the refunding issue or issues shall be invested and applied to the payment of the principal of, interest on and redemption premium, if any, on the bonds to be refunded, at the times and in the manner determined by the state finance committee consistent with the provisions and intent of this chapter. Any investment of such proceeds shall be made only in direct general obligations of the United States of America.

Any proceeds in excess of the amounts required to accomplish the refunding, or any such direct obligation of the United States of America acquired with such excess proceeds, shall be used to pay the fees and costs incurred in the refunding and the balance shall be deposited in the institutions of higher education refunding bond retirement fund of 1977.

[1977 ex.s. c 354 § 5.]

RCW 28B.14C.060 Institutions of higher education refunding bond retirement fund of 1977--Created--Use.

There is hereby created in the state treasury the institutions of higher education refunding bond retirement fund of 1977, which fund shall be devoted to the payment of principal of, interest on and redemption premium, if any, on the bonds authorized to be issued pursuant to this chapter.

The state finance committee shall, on or before June 30 of each year, certify to the state

treasurer the amount needed in the next succeeding twelve months to pay the installments of principal of and interest on the refunding bonds coming due in such period. The state treasurer shall, not less than thirty days prior to the due date of each installment, withdraw from any general state revenues received in the state treasury an amount equal to the amount certified by the state finance committee as being required to pay such installment; shall deposit such amount in the institutions of higher education refunding bond retirement fund of 1977; and shall apply in a timely manner the funds so deposited to the payment of the installment due on the bonds.

[1991 sp.s. c 13 § 80; 1977 ex.s. c 354 § 6.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

RCW 28B.14C.070 Chapter not exclusive method for payment of interest and principal on bonds.

The legislature may provide additional means for the payment of the principal of and interest on bonds issued pursuant to this chapter and this chapter shall not be deemed to provide an exclusive method for such payment.

[1977 ex.s. c 354 § 7.]

RCW 28B.14C.080 Chapter as affecting University of Washington building revenue bond redemption.

At such time as ample provision has been made for full payment, when due under the terms thereof or upon redemption prior to maturity, of all the principal of and interest on and redemption premium, if applicable, on all the outstanding University of Washington building revenue bonds payable from the University of Washington bond retirement fund, which provision has been made in a refunding plan adopted by the state finance committee pursuant to the terms of this chapter utilizing a part of the proceeds and the investment proceeds of the refunding bonds issued pursuant to this chapter, then:

(1) The said University of Washington bonds so refunded shall be deemed not to be "outstanding" or "unpaid" for purposes of RCW 28B.20.720, 28B.20.725, 28B.20.800 or any other statute pertaining to said bonds or any covenant of the University of Washington board of regents pertaining to said bonds;

(2) The board of regents of the University of Washington shall, from moneys thereafter paid into the University of Washington bond retirement fund pursuant to the provisions of chapter 28B.20 RCW, transfer to the state general fund amounts sufficient to pay the principal of and the interest on that portion or series of the refunding bonds necessary to refund the said University of Washington bonds. The state finance committee shall determine all matters pertaining to the said transfer, including the amounts to be transferred and the time and manner of transfer; and

(3) Anything to the contrary contained in chapter 28B.20 RCW notwithstanding, the state treasurer shall immediately transfer to the state general fund all reserves, less any amount

required to effect the refunding, which have been accumulated theretofore in the University of Washington bond retirement fund pursuant to covenants in the said University of Washington bonds.

(4) Anything to the contrary contained in RCW 28B.20.725 notwithstanding, the board of regents of the University of Washington is empowered to authorize the transfer from time to time to the University of Washington building account any moneys in the University of Washington bond retirement fund in excess of the amounts determined by the state finance committee to be transferred from such bond retirement fund in accordance with subsection (2) of this section.

[1985 c 390 § 3; 1977 ex.s. c 354 § 8.]

RCW 28B.14C.090 Chapter as affecting Washington State University building revenue bond redemption.

At such time as ample provision has been made for full payment, when due under the terms thereof or upon redemption prior to maturity, of all the principal of and interest on and redemption premium, if applicable, on all the outstanding Washington State University building revenue bonds and building and scientific fund revenue bonds payable from the Washington State University bond retirement fund, which provision has been made in a refunding plan adopted by the state finance committee pursuant to the terms of this chapter utilizing a part of the proceeds and the investment proceeds of the refunding bonds issued pursuant to this chapter, then:

(1) The said Washington State University bonds so refunded shall be deemed not to be "outstanding" or "unpaid" for purposes of RCW 28B.20.720, 28B.30.740, 28B.30.750 or any other statute pertaining to said bonds or any covenant of Washington State University board of regents pertaining to said bonds;

(2) The board of regents of Washington State University shall, from moneys thereafter paid into the Washington State University bond retirement fund pursuant to the provisions of chapter 28B.30 RCW, transfer to the state general fund amounts sufficient to pay the principal of and the interest on that portion or series of the refunding bonds necessary to refund the said Washington State University bonds. The state finance committee shall determine all matters pertaining to the said transfer, including the amounts to be transferred and the time and manner of transfer; and

(3) Anything to the contrary contained in chapter 28B.30 RCW notwithstanding, the state treasurer shall immediately transfer to the state general fund all reserves, less any amount required to effect the refunding, which have been accumulated theretofore in the Washington State University bond retirement fund pursuant to covenants in the said Washington State University bonds.

(4) Anything to the contrary contained in RCW 28B.30.750 notwithstanding, the board of regents of Washington State University is empowered to authorize the transfer from time to time to the Washington State University building account any moneys in the Washington State University bond retirement fund in excess of the amounts determined by the state finance committee to be transferred from such bond retirement fund in accordance with subsection (2) of

this section.

[1985 c 390 § 4; 1977 ex.s. c 354 § 9.]

RCW 28B.14C.100 Chapter as affecting Western Washington State College building and normal school fund revenue bonds.

At such time as ample provision has been made for full payment, when due under the terms thereof or upon redemption prior to maturity, of all the principal of and interest on and redemption premium, if applicable, on all the outstanding Western Washington State College building and normal school fund revenue bonds payable from the Western Washington State College bond retirement fund, which provision has been made in a refunding plan adopted by the state finance committee pursuant to the terms of this chapter utilizing a part of the proceeds and the investment proceeds of the refunding bonds issued pursuant to this chapter, then:

(1) The said Western Washington State College bonds so refunded shall be deemed not to be "outstanding" or "unpaid" for purposes of RCW 28B.40.370, 28B.40.750, or, other than RCW 28B.40.751, any other statute pertaining to said bonds or any covenant of the board of trustees of Western Washington State College pertaining to said bonds;

(2) Anything to the contrary in chapter 28B.40 RCW notwithstanding, all building fees and all normal school fund revenues received by Western Washington State College pursuant to RCW 28B.40.751 shall thenceforth be deposited into the Western Washington State College capital projects account and the board of trustees of said college shall thereafter transfer from said capital projects account to the state general fund, amounts sufficient to pay the principal of and interest on that portion or series of the refunding bonds necessary to refund the said bonds. The state finance committee shall determine all matters pertaining to the said transfer, including the amounts to be transferred and the time and manner of transfer; and

(3) Anything to the contrary contained in chapter 28B.40 RCW notwithstanding, the state treasurer shall immediately transfer to the state general fund all reserves, less any amount required to effect the refunding, which have been accumulated theretofore in the Western Washington State College bond retirement fund pursuant to covenants in the said Western Washington State College bonds.

[1985 c 390 § 5; 1977 ex.s. c 354 § 10.]

Notes:

Reviser's note: Reference to RCW 28B.40.370, 28B.40.750, and 28B.40.751 and to "chapter 28B.40 RCW" relates to such sections and chapter as they were before the effective date (September 21, 1977) of 1977 ex.s. c 169, which renamed Central Washington State College, Eastern Washington State College, and Western Washington State College as Central Washington University, Eastern Washington University, and Western Washington University, respectively, creating three regional Universities within the state, and setting forth the specific laws relating to them in chapter 28B.35 RCW, and leaving as chapter 28B.40 RCW the specific laws relating to The Evergreen State College.

"State universities," "regional universities," "state college," "institutions of higher education," and "postsecondary institutions" defined: RCW 28B.10.016.

Western Washington University capital projects account: RCW 28B.35.370.

RCW 28B.14C.110 Chapter as affecting Eastern Washington State College building and normal school fund revenue bonds.

At such time as ample provision has been made for full payment, when due under the terms thereof or upon redemption prior to maturity, of all the principal of and interest on and redemption premium, if applicable, on all the outstanding Eastern Washington State College building and normal school fund revenue bonds payable from the Eastern Washington State College bond retirement fund, which provision has been made in a refunding plan adopted by the state finance committee pursuant to the terms of this chapter utilizing a part of the proceeds and the investment proceeds of the refunding bonds issued pursuant to this chapter, then:

(1) The said Eastern Washington State College bonds so refunded shall be deemed not to be "outstanding" or "unpaid" for purposes of RCW 28B.40.370, 28B.40.750, or, other than RCW 28B.40.751, any other statute pertaining to said bonds or any covenant of the board of trustees of Eastern Washington State College pertaining to said bonds;

(2) Anything to the contrary in chapter 28B.40 RCW notwithstanding, all building fees and all normal school fund revenues received by Eastern Washington State College pursuant to RCW 28B.40.751 shall thenceforth be deposited into the Eastern Washington State College capital projects account and the board of trustees of said college shall thereafter transfer from said capital projects account to the state general fund, amounts sufficient to pay the principal of and interest on that portion or series of the refunding bonds necessary to refund the said bonds. The state finance committee shall determine all matters pertaining to the said transfer, including the amounts to be transferred and the time and manner of transfer; and

(3) Anything to the contrary contained in chapter 28B.40 RCW notwithstanding, the state treasurer shall immediately transfer to the state general fund all reserves, less any amount required to effect the refunding, which have been accumulated theretofore in the Eastern Washington State College bond retirement fund pursuant to covenants in the said Eastern Washington State College bonds.

[1985 c 390 § 6; 1977 ex.s. c 354 § 11.]

Notes:

Reviser's note: Reference to RCW 28B.40.370, 28B.40.750, and 28B.40.751 and to "chapter 28B.40 RCW" relates to such sections and chapter as they were before the effective date (September 21, 1977) of 1977 ex.s. c 169, which renamed Central Washington State College, Eastern Washington State College, and Western Washington State College as Central Washington University, Eastern Washington University, and Western Washington University, respectively, creating three regional universities within the state, and setting forth the specific laws relating to them in chapter 28B.35 RCW, and leaving as chapter 28B.40 RCW the specific laws relating to The Evergreen State College.

Eastern Washington University capital projects account: RCW 28B.35.370.

"State universities," "regional universities," "state college," "institutions of higher education," and "postsecondary institutions" defined: RCW 28B.10.016.

RCW 28B.14C.120 Chapter as affecting Central Washington State College building and

normal school fund revenue bonds.

At such time as ample provision has been made for full payment, when due under the terms thereof or upon redemption prior to maturity, of all the principal of and interest on and redemption premium, if applicable, on all the outstanding Central Washington State College building and normal school fund revenue bonds payable from the Central Washington State College bond retirement fund, which provision has been made in a refunding plan adopted by the state finance committee pursuant to the terms of this chapter utilizing a part of the proceeds and the investment proceeds of the refunding bonds issued pursuant to this chapter, then:

(1) The said Central Washington State College bonds so refunded shall be deemed not to be "outstanding" or "unpaid" for purposes of RCW 28B.40.370, 28B.40.750, or, other than RCW 28B.40.751, any other statute pertaining to said bonds or any covenant of the board of trustees of Central Washington State College pertaining to said bonds;

(2) Anything to the contrary in chapter 28B.40 RCW notwithstanding, all building fees and all normal school fund revenues received by Central Washington State College pursuant to RCW 28B.40.751 shall thenceforth be deposited into the Central Washington State College capital projects account and the board of trustees of said college shall thereafter transfer from said capital projects account to the state general fund, amounts sufficient to pay the principal of and interest on that portion or series of the refunding bonds necessary to refund the said bonds. The state finance committee shall determine all matters pertaining to the said transfer, including the amounts to be transferred and the time and manner of transfer; and

(3) Anything to the contrary contained in chapter 28B.40 RCW notwithstanding, the state treasurer shall immediately transfer to the state general fund all reserves, less any amount required to effect the refunding, which have been accumulated theretofore in the Central Washington State College bond retirement fund pursuant to covenants in the said Central Washington State College bonds.

[1985 c 390 § 7; 1977 ex.s. c 354 § 12.]

Notes:

Reviser's note: Reference to RCW 28B.40.370, 28B.40.750, and 28B.40.751 and to "chapter 28B.40 RCW" relates to such sections and chapter as they were before the effective date (September 21, 1977) of 1977 ex.s. c 169, which renamed Central Washington State College, Eastern Washington State College, and Western Washington State College as Central Washington University, Eastern Washington University, and Western Washington University, respectively, creating three regional universities within the state and setting forth the specific laws relating to them in chapter 28B.35 RCW and leaving as chapter 28B.40 RCW the specific laws relating to The Evergreen State College.

Central Washington University capital projects account: RCW 28B.35.370.

"State universities," "regional universities," "state college," "institutions of higher education," and "postsecondary institutions" defined: RCW 28B.10.016.

RCW 28B.14C.130 Chapter as affecting Evergreen State College building revenue bonds.

At such time as ample provision has been made for full payment, when due under the terms thereof or upon redemption prior to maturity, of all the principal of and interest on and redemption premium, if applicable, on all the outstanding Evergreen State College building

revenue bonds payable from the Evergreen State College bond retirement fund, which provision has been made in a refunding plan adopted by the state finance committee pursuant to the terms of this chapter utilizing a part of the proceeds and the investment proceeds of the refunding bonds issued pursuant to this chapter, then:

(1) The said Evergreen State College bonds so refunded shall be deemed not to be "outstanding" or "unpaid" for purposes of RCW 28B.40.370, 28B.40.750, or, other than RCW 28B.40.751, any other statute pertaining to said bonds or any covenant of the board of trustees of The Evergreen State College pertaining to said bonds;

(2) Anything to the contrary in chapter 28B.40 RCW notwithstanding, all building fees and all normal school fund revenues received by The Evergreen State College pursuant to RCW 28B.40.751 shall thenceforth be deposited into the Evergreen State College capital projects account and the board of trustees of said college shall thereafter transfer from said capital projects account to the state general fund, amounts sufficient to pay the principal of and interest on that portion or series of the refunding bonds necessary to refund the said bonds. The state finance committee shall determine all matters pertaining to the said transfer, including the amounts to be transferred and the time and manner of transfer; and

(3) Anything to the contrary contained in chapter 28B.40 RCW notwithstanding, the state treasurer shall immediately transfer to the state general fund all reserves, less any amount required to effect the refunding, which have been accumulated theretofore in the Evergreen State College bond retirement fund pursuant to covenants in the said Evergreen State College bonds.

[1985 c 390 § 8; 1977 ex.s. c 354 § 13.]

Notes:

Reviser's note: Reference to RCW 28B.40.370, 28B.40.750, and 28B.40.751 and to "chapter 28B.40 RCW" relates to such sections and chapter as they were before the effective date (September 21, 1977) of 1977 ex.s. c 169, which renamed Central Washington State College, Eastern Washington State College, and Western Washington State College as Central Washington University, Eastern Washington University, and Western Washington University, respectively, creating three regional universities within the state, and setting forth the specific laws relating to them in chapter 28B.35 RCW, and leaving as chapter 28B.40 RCW the specific laws relating to The Evergreen State College.

"State universities," "regional universities," "state college," "institutions of higher education," and "postsecondary institutions" defined: RCW 28B.10.016.

RCW 28B.14C.140 Use limited when reserves transferred to state general fund.

Any reserves transferred to the state general fund by the state treasurer pursuant to RCW 28B.14C.080(3), 28B.14C.090(3), 28B.14C.100(3), 28B.14C.110(3), 28B.14C.120(3), or 28B.14C.130(3) shall be appropriated and expended solely for the maintenance and support of the institutions listed in RCW 28B.14C.010.

[1977 ex.s. c 354 § 14.]

RCW 28B.14C.900 Severability--1977 ex.s. c 354.

If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provisions to other persons or circumstances shall not be affected.

[1977 ex.s. c 354 § 15.]

Chapter 28B.14D RCW
1979 BOND ISSUE FOR CAPITAL IMPROVEMENTS

Sections

28B.14D.010 Bonds authorized--Amount--Conditions.
28B.14D.020 Bond anticipation notes--Authorized--Payment.
28B.14D.030 Form, terms, conditions, sale and covenants of bonds and notes.
28B.14D.040 Disposition of proceeds from sale of bonds and notes--Higher education construction account.
28B.14D.050 Administration and use of proceeds from bonds and notes.
28B.14D.060 Higher education bond retirement fund of 1979--Created--Purpose--Treasurer's duties.
28B.14D.070 Building or capital projects account moneys deposited in general fund.
28B.14D.080 Bonds as legal investment for public funds.
28B.14D.090 Prerequisite for issuance of bonds.
28B.14D.900 Construction--Provisions as subordinate in nature.
28B.14D.950 Severability--1979 ex.s. c 253.

RCW 28B.14D.010 Bonds authorized--Amount--Conditions.

For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing, and equipping of state buildings and facilities for the institutions of higher education, the state finance committee is authorized to issue from time to time general obligation bonds of the state of Washington in the sum of forty-six million dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

[1979 ex.s. c 253 § 1.]

RCW 28B.14D.020 Bond anticipation notes--Authorized--Payment.

When the state finance committee has determined to issue the general obligation bonds or a portion thereof as authorized in RCW 28B.14D.010, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of the bonds, which notes shall be designated as "bond anticipation notes." Such portion of the proceeds of the sale of the bonds as may be required for the payment of principal of and redemption premium, if any, and interest on the notes shall be applied thereto when the bonds are issued.

[1979 ex.s. c 253 § 2.]

RCW 28B.14D.030 Form, terms, conditions, sale and covenants of bonds and notes.

The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds and the bond anticipation notes provided for in RCW 28B.14D.010 and 28B.14D.020, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due.

[1979 ex.s. c 253 § 3.]

RCW 28B.14D.040 Disposition of proceeds from sale of bonds and notes--Higher education construction account.

The proceeds from the sale of the bonds authorized in this chapter, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the board of regents or board of trustees of any of the state institutions of higher education may direct the state treasurer to deposit therein, shall be deposited in the higher education construction account hereby created in the state treasury.

[1991 sp.s. c 13 § 8; 1985 c 57 § 13; 1979 ex.s. c 253 § 4.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date--1985 c 57: See note following RCW 18.04.105.

RCW 28B.14D.050 Administration and use of proceeds from bonds and notes.

Subject to legislative appropriation, all proceeds of the bonds and bond anticipation notes authorized in this chapter shall be administered and expended by the boards of regents or the boards of trustees of the state institutions of higher education exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes.

[1979 ex.s. c 253 § 5.]

RCW 28B.14D.060 Higher education bond retirement fund of 1979--Created--Purpose--Treasurer's duties.

The higher education bond retirement fund of 1979 is hereby created in the state treasury for the purpose of the payment of principal of and interest on the bonds authorized to be issued under this chapter or, if the legislature so determines, for any bonds and notes hereafter authorized and issued for the institutions of higher education.

Upon completion of the projects for which appropriations have been made by the legislature, any proceeds of the bonds and bond anticipation notes authorized by this chapter remaining in the higher education construction account shall be transferred by the state treasurer upon authorization of the board of regents or the board of trustees of each institution, as appropriate, to the higher education bond retirement fund of 1979 to reduce the transfer or transfers required by RCW 28B.14D.070.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the higher education bond retirement fund of 1979 an amount equal to the amount certified by the state finance committee to be due on the payment date.

[1979 ex.s. c 253 § 6.]

RCW 28B.14D.070 Building or capital projects account moneys deposited in general fund.

On or before June 30th of each year the state finance committee shall determine the relative shares of the principal and interest payments determined pursuant to RCW 28B.14D.060, exclusive of deposit interest credit, attributable to each of the institutions of higher education in proportion to the principal amount of bonds issued under this chapter for purposes of funding projects for each institution. On each date on which any interest or principal and interest payment is due, the board of regents or the board of trustees of each institution of higher education shall cause the amount so computed to be paid out of the appropriate building account or capital projects account to the state treasurer for deposit into the general fund of the state treasury.

[1979 ex.s. c 253 § 7.]

RCW 28B.14D.080 Bonds as legal investment for public funds.

The bonds authorized by this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

[1979 ex.s. c 253 § 8.]

RCW 28B.14D.090 Prerequisite for issuance of bonds.

The bonds authorized by this chapter shall be issued only after an officer designated by the board of regents or board of trustees of each institution of higher education receiving an appropriation from the higher education construction account has certified, based upon his estimates of future tuition income and other factors, that an adequate balance will be maintained

in that institution's building account or capital projects account to enable the board to meet the requirements of RCW 28B.14D.070 during the life of the bonds to be issued.

[1979 ex.s. c 253 § 9.]

RCW 28B.14D.900 Construction--Provisions as subordinate in nature.

No provision of this chapter or *chapter 43.99 RCW, or of RCW 28B.20.750 through 28B.20.758 shall be deemed to repeal, override, or limit any provision of RCW 28B.10.300 through 28B.10.335, 28B.15.210, 28B.15.310, 28B.20.700 through 28B.20.745, 28B.30.700 through 28B.30.780, or 28B.35.700 through 28B.35.790, nor any provision or covenant of the proceedings of the board of regents or board of trustees of any state institution of higher education heretofore or hereafter taken in the issuance of its revenue bonds secured by a pledge of its building fees and/or other revenues mentioned within such statutes. The obligation of such boards to make the transfers provided for in RCW 28B.14D.070, 28B.14C.080(2), 28B.14C.090(2), 28B.14C.100(2), 28B.14C.110(2), 28B.14C.120(2), 28B.14C.130(2), 28B.14G.060, 28B.20.757, 43.99G.070, and 43.99H.060 (1) and (4), and in any similar law heretofore or hereafter enacted shall be subject and subordinate to the lien and charge of any revenue bonds heretofore or hereafter issued by such boards on the building fees and/or other revenues pledged to secure such revenue bonds, and on the moneys in the building account or capital project account and the individual institutions of higher education bond retirement funds.

[1991 sp.s. c 31 § 9; 1985 c 390 § 9; 1979 ex.s. c 253 § 10.]

Notes:

***Reviser's note:** Chapter 43.99 RCW was recodified as chapter 79A.25 RCW pursuant to 1999 c 249 § 1601.

Severability--1991 sp.s. c 31: See RCW 43.99I.900.

RCW 28B.14D.950 Severability--1979 ex.s. c 253.

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

[1979 ex.s. c 253 § 12.]

Chapter 28B.14E RCW
1979 BOND ISSUE FOR CAPITAL IMPROVEMENTS

Sections

28B.14E.010 Bonds authorized--Amount--Conditions.
28B.14E.020 Bond anticipation notes--Authorized--Payment.
28B.14E.030 Form, terms, conditions, sale and covenants of bonds and notes.
28B.14E.040 Disposition of proceeds from sale of bonds and notes--Use.

28B.14E.050 Existing fund utilized for payment of principal and interest--Treasurer's duties.
28B.14E.060 Bonds as legal investment for public funds.
28B.14E.950 Severability--1979 ex.s. c 223.

RCW 28B.14E.010 Bonds authorized--Amount--Conditions.

For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the institutions of higher education, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of fourteen million dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

[1979 ex.s. c 223 § 1.]

RCW 28B.14E.020 Bond anticipation notes--Authorized--Payment.

When the state finance committee has determined to issue the general obligation bonds or a portion thereof as authorized in RCW 28B.14E.010, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of the bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of the bonds as may be required for the payment of principal of and redemption premium, if any, and interest on the notes shall be applied thereto when the bonds are issued.

[1979 ex.s. c 223 § 2.]

RCW 28B.14E.030 Form, terms, conditions, sale and covenants of bonds and notes.

The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds and/or the bond anticipation notes provided for in RCW 28B.14E.010 and 28B.14E.020, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due.

[1979 ex.s. c 223 § 3.]

RCW 28B.14E.040 Disposition of proceeds from sale of bonds and notes--Use.

Except for that portion of the proceeds required to pay bond anticipation notes under RCW 28B.14E.020, the proceeds from the sale of the bonds and/or bond anticipation notes

authorized in this chapter, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the state higher education construction account of the general fund in the state treasury. All such proceeds shall be used exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with the sale and issuance of the bonds and bond anticipation notes.

[1979 ex.s. c 223 § 4.]

RCW 28B.14E.050 Existing fund utilized for payment of principal and interest--Treasurer's duties.

The state higher education bond retirement fund of 1977 in the state treasury shall be used for the purpose of the payment of principal of and interest on the bonds authorized to be issued under this chapter or, if the legislature so determines, for any bonds and notes hereafter authorized and issued for the institutions of higher education.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state higher education bond retirement fund of 1977 an amount equal to the amount certified by the state finance committee to be due on the payment date.

[1979 ex.s. c 223 § 5.]

RCW 28B.14E.060 Bonds as legal investment for public funds.

The bonds authorized in RCW 28B.14E.010 through 28B.14E.050 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

[1979 ex.s. c 223 § 6.]

RCW 28B.14E.950 Severability--1979 ex.s. c 223.

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

[1979 ex.s. c 223 § 8.]

Chapter 28B.14F RCW

BOND ISSUES FOR CAPITAL IMPROVEMENTS

Sections

1981 BOND ISSUE

28B.14F.010 Bonds authorized--Amount--Condition.
28B.14F.020 Bonds to pledge credit of state, promise to pay.
28B.14F.030 Disposition of proceeds from sale of bonds--Use.
28B.14F.040 Existing fund utilized for payment of principal and interest--Committee and treasurer's duties.
28B.14F.050 Bonds as legal investment for public funds.

1983 BOND ISSUE

28B.14F.060 Bonds authorized--Amount--Condition.
28B.14F.062 Disposition of proceeds from sale of bonds--Use.
28B.14F.064 Existing fund utilized for payment of principal and interest--Committee and treasurer's duties--Form and conditions of bonds.
28B.14F.066 Refunding bonds--Legislature may provide additional means for payment.
28B.14F.068 Bonds as legal investment for public funds.

1984 BOND ISSUE

28B.14F.070 Bonds authorized--Amount--Condition.
28B.14F.072 Disposition of proceeds from sale of bonds--Use.
28B.14F.074 Existing fund utilized for payment of principal and interest.
28B.14F.076 Legislature may provide additional methods of raising money.
28B.14F.078 Bonds as legal investment for public funds.

CONSTRUCTION

28B.14F.950 Severability--1981 c 232.
28B.14F.951 Severability--1983 1st ex.s. c 58.
28B.14F.952 Severability--1984 c 264.

1981 BOND ISSUE

RCW 28B.14F.010 Bonds authorized--Amount--Condition.

For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the institutions of higher education, including facilities for the community college system, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eight million one hundred thousand dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by this section may be offered for sale without prior legislative appropriation.

[1981 c 232 § 1.]

RCW 28B.14F.020 Bonds to pledge credit of state, promise to pay.

Each bond shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due.

[1981 c 232 § 2.]

RCW 28B.14F.030 Disposition of proceeds from sale of bonds--Use.

The proceeds from the sale of the bonds authorized in RCW 28B.14F.010 through 28B.14F.050, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the state higher education construction account of the general fund in the state treasury. All such proceeds shall be used exclusively for the purposes specified in RCW 28B.14F.010 through 28B.14F.050 and for the payment of the expenses incurred in connection with the sale and issuance of the bonds.

[1981 c 232 § 3.]

RCW 28B.14F.040 Existing fund utilized for payment of principal and interest--Committee and treasurer's duties.

The state higher education bond retirement fund of 1977 in the state treasury shall be used for the purpose of the payment of principal of and interest on the bonds authorized to be issued under RCW 28B.14F.010 through 28B.14F.050.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state higher education bond retirement fund of 1977 an amount equal to the amount certified by the state finance committee to be due on the payment date.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

[1981 c 232 § 4.]

RCW 28B.14F.050 Bonds as legal investment for public funds.

The bonds authorized in RCW 28B.14F.010 through 28B.14F.040 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

[1981 c 232 § 5.]

1983 BOND ISSUE

RCW 28B.14F.060 Bonds authorized--Amount--Condition.

For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the institutions of higher education, including facilities for the community college system, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eleven million two hundred fifty thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds authorized in this section may be offered for sale without prior legislative appropriation.

[1983 1st ex.s. c 58 § 1.]

RCW 28B.14F.062 Disposition of proceeds from sale of bonds--Use.

The proceeds from the sale of the bonds authorized in RCW 28B.14F.060, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the state higher education construction account in the general fund and shall be used exclusively for the purposes specified in RCW 28B.14F.060 and for the payment of expenses incurred in the issuance and sale of the bonds.

[1983 1st ex.s. c 58 § 2.]

RCW 28B.14F.064 Existing fund utilized for payment of principal and interest--Committee and treasurer's duties--Form and conditions of bonds.

The state higher education bond retirement fund of 1977 shall be used for the payment of the principal of and interest on the bonds authorized in RCW 28B.14F.060.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state higher education bond retirement fund of 1977 an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 28B.14F.060 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

[1983 1st ex.s. c 58 § 3.]

RCW 28B.14F.066 Refunding bonds--Legislature may provide additional means for payment.

The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 28B.14F.060, and RCW 28B.14F.064 shall not be deemed to provide an exclusive method for the payment.

[1983 1st ex.s. c 58 § 4.]

RCW 28B.14F.068 Bonds as legal investment for public funds.

The bonds authorized in RCW 28B.14F.060 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body.

[1983 1st ex.s. c 58 § 5.]

1984 BOND ISSUE

RCW 28B.14F.070 Bonds authorized--Amount--Condition.

For the purpose of acquiring land and providing needed capital improvements consisting of the acquisition, design, construction, repair, modification, and equipping of state buildings and facilities, including heating and utility distribution systems, for the community college system and the University of Washington, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eight million six hundred seventy thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

[1984 c 264 § 1.]

RCW 28B.14F.072 Disposition of proceeds from sale of bonds--Use.

The proceeds from the sale of the bonds authorized in RCW 28B.14F.070, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the state higher education construction account in the general fund and shall be used exclusively for the purposes specified in RCW 28B.14F.070 and for the payment of expenses incurred in the issuance and sale of the

bonds.

[1984 c 264 § 2.]

RCW 28B.14F.074 Existing fund utilized for payment of principal and interest.

The state higher education bond retirement fund of 1977 shall be used for the payment of the principal of and interest on the bonds authorized in RCW 28B.14F.070.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state higher education bond retirement fund of 1977 an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 28B.14F.070 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

[1984 c 264 § 3.]

RCW 28B.14F.076 Legislature may provide additional methods of raising money.

The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 28B.14F.070, and RCW 28B.14F.074 shall not be deemed to provide an exclusive method for the payment.

[1984 c 264 § 4.]

RCW 28B.14F.078 Bonds as legal investment for public funds.

The bonds authorized in RCW 28B.14F.070 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body.

[1984 c 264 § 5.]

CONSTRUCTION

RCW 28B.14F.950 Severability--1981 c 232.

If any provision of this act or its application to any person or circumstance is held

invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1981 c 232 § 6.]

RCW 28B.14F.951 Severability--1983 1st ex.s. c 58.

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

[1983 1st ex.s. c 58 § 6.]

RCW 28B.14F.952 Severability--1984 c 264.

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

[1984 c 264 § 6.]

Chapter 28B.14G RCW
1981 BOND ISSUE FOR CAPITAL IMPROVEMENTS (1981 C 233)

Sections

28B.14G.010 Bonds authorized--Amount--Condition.
28B.14G.020 Bonds to pledge credit of state, promise to pay.
28B.14G.030 Disposition of proceeds from sale of bonds.
28B.14G.040 Administration and expenditure of proceeds from sale of bonds--Condition.
28B.14G.050 Existing fund utilized for payment of principal and interest--Committee and treasurer's duties.
28B.14G.060 Apportioning shares of principal and interest payments--Committee and treasurer's duties.
28B.14G.070 Bonds as legal investment for public funds.
28B.14G.080 Issuance of bonds subject to certification of maintenance of fund balances.
28B.14G.900 Construction--Provisions as subordinate in nature.
28B.14G.950 Severability--1981 c 233.

RCW 28B.14G.010 Bonds authorized--Amount--Condition.

For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing, and equipping of state buildings and facilities for the institutions of higher education and capital improvements consisting of land acquisition, construction, remodeling, furnishing, and equipping of the hospital and related facilities for the University of Washington, the state finance committee is authorized to issue from time to time general obligation bonds of the state of Washington in the sum of eighty-six million dollars, or

so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds authorized by this section may be offered for sale without prior legislative appropriation.

[1981 c 233 § 1.]

RCW 28B.14G.020 Bonds to pledge credit of state, promise to pay.

Each bond shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due.

[1981 c 233 § 2.]

RCW 28B.14G.030 Disposition of proceeds from sale of bonds.

The proceeds from the sale of the bonds authorized in this chapter, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the board of regents or board of trustees of any of the state institutions of higher education may direct the state treasurer to deposit therein, shall be deposited in the higher education construction account of the general fund.

[1981 c 233 § 3.]

RCW 28B.14G.040 Administration and expenditure of proceeds from sale of bonds--Condition.

Subject to legislative appropriation, all proceeds of the bonds authorized in this chapter shall be administered and expended by the boards of regents or the boards of trustees of the state institutions of higher education exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with the sale and issuance of such bonds.

[1981 c 233 § 4.]

RCW 28B.14G.050 Existing fund utilized for payment of principal and interest--Committee and treasurer's duties.

The higher education bond retirement fund of 1979 shall be used for the purpose of the payment of principal of and interest on the bonds authorized to be issued under this chapter.

Upon completion of the projects for which appropriations have been made by the legislature, any proceeds of the bonds authorized by this chapter remaining in the higher education construction account shall be transferred by the state treasurer upon authorization of the board of regents or the board of trustees of each institution, as appropriate, to the higher education bond retirement fund of 1979 to reduce the transfer or transfers required by RCW 28B.14G.060.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the

principal of and the interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the higher education bond retirement fund of 1979 an amount equal to the amount certified by the state finance committee to be due on the payment date.

[1981 c 233 § 5.]

RCW 28B.14G.060 Apportioning shares of principal and interest payments--Committee and treasurer's duties.

On or before June 30th of each year the state finance committee shall determine the relative shares of the principal and interest payments determined under RCW 28B.14G.050, exclusive of deposit interest credit, attributable to each of the institutions of higher education in proportion to the principal amount of bonds issued under this chapter for purposes of funding projects for each institution. On each date on which any interest or principal and interest payment is due, the board of regents or the board of trustees of each institution of higher education shall cause the amount so computed to be paid out of the appropriate building account or capital projects account to the state treasurer for deposit into the general fund of the state treasury: PROVIDED, That the amount of such principal and interest attributable to any hospital-related project at the University of Washington shall be paid out of the appropriate local hospital account.

[1981 c 233 § 6.]

RCW 28B.14G.070 Bonds as legal investment for public funds.

The bonds authorized by this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

[1981 c 233 § 7.]

RCW 28B.14G.080 Issuance of bonds subject to certification of maintenance of fund balances.

The bonds authorized by this chapter shall be issued only after an officer designated by the board of regents or board of trustees of each institution of higher education receiving an appropriation from the higher education construction account has certified, based upon his estimates of future tuition income and other factors, that an adequate balance will be maintained in that institution's building account or capital projects account to enable the board to meet the requirements of RCW 28B.14G.060 during the life of the bonds to be issued: PROVIDED, That with respect to any hospital-related project at the University of Washington, it shall be certified, based on estimates of the hospital's adjusted gross revenues and other factors, that an adequate balance will be maintained in that institution's local hospital account to enable the board to meet

the requirements of RCW 28B.14G.060 during the life of the bonds to be issued.

[1981 c 233 § 8.]

RCW 28B.14G.900 Construction--Provisions as subordinate in nature.

No provision of this chapter shall be deemed to repeal, override, or limit any provision of RCW 28B.15.210, 28B.15.310, *28B.15.402, 28B.20.700 through 28B.20.745, 28B.30.700 through 28B.30.780, or 28B.35.700 through 28B.35.790, nor any provision or covenant of the proceedings of the board of regents or board of trustees of any state institution of higher education hereafter taken in the issuance of its revenue bonds secured by a pledge of its building fees and/or other revenues mentioned within such statutes. The obligation of the board to make the transfers provided for in RCW 28B.14G.060, chapters 28B.14C and 28B.14D RCW, and RCW 28B.20.757 shall be subject and subordinate to the lien and charge of any revenue bonds hereafter issued against building fees and/or other revenues pledged to pay and secure such bonds, and on the moneys in the building account, capital project account, the individual institutions of higher education bond retirement funds and the University of Washington hospital local fund.

[1985 c 390 § 10; 1982 1st ex.s. c 48 § 14; 1981 c 233 § 9.]

Notes:

***Reviser's note:** RCW 28B.15.402 was repealed by 1995 1st sp.s. c 9 § 13.

Severability--1982 1st ex.s. c 48: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 48 § 23.]

RCW 28B.14G.950 Severability--1981 c 233.

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

[1981 c 233 § 10.]

Chapter 28B.15 RCW
COLLEGE AND UNIVERSITY FEES

Sections

28B.15.005 "Colleges and universities" defined.
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28B.15.225 Exemption from fees of schools of medicine or dentistry at University of Washington--Exemption from nonresident tuition fees differential for participants in the Washington, Alaska, Montana, Idaho, or Wyoming program at Washington State University.
28B.15.310 Fees--Washington State University--Disposition of building fees.
28B.15.380 Exemption from payment of fees at state universities, regional universities, and The Evergreen State College--Veterans and children of certain law enforcement officers or fire fighters.
28B.15.385 "Totally disabled" defined for certain purposes.
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28B.15.526 Community college international student exchange program--Resident tuition for participants authorized.
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28B.15.558 Waiver of tuition and fees for state employees and Washington national guard members.
28B.15.600 Refunds or cancellation of fees--Four-year institutions of higher education.
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Notes:
Uniform minor student capacity to borrow act: Chapter 26.30 RCW.
Waiver from fees--Children of certain citizens missing in action or prisoners of war: RCW 28B.10.265.

RCW 28B.15.005 "Colleges and universities" defined.

(1) "Colleges and universities" for the purposes of this chapter shall mean Central Washington University at Ellensburg, Eastern Washington University at Cheney, Western Washington University at Bellingham, The Evergreen State College in Thurston county, community colleges as are provided for in chapter 28B.50 RCW, the University of Washington, and Washington State University.

(2) "State universities" for the purposes of this chapter shall mean the University of Washington and Washington State University.

(3) "Regional universities" for the purposes of this chapter shall mean Central Washington University, Eastern Washington University and Western Washington University.

[1977 ex.s. c 169 § 33; 1971 ex.s. c 279 § 1.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability--1971 ex.s. c 279: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 279 § 25.]

RCW 28B.15.011 Classification as resident or nonresident student--Legislative intent.

It is the intent of the legislature that the state institutions of higher education shall apply uniform rules as prescribed in RCW 28B.15.012 through 28B.15.014, and not otherwise, in determining whether students shall be classified as resident students or nonresident students for all tuition and fee purposes.

[1971 ex.s. c 273 § 1.]

Notes:

Severability--1971 ex.s. c 273: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provisions to other persons or circumstances is not affected." [1971 ex.s. c 273 § 6.]

RCW 28B.15.012 Classification as resident or nonresident student--Definitions. *(Expires*

June 30, 2002.)

Whenever used in chapter 28B.15 RCW:

(1) The term "institution" shall mean a public university, college, or community college within the state of Washington.

(2) The term "resident student" shall mean:

(a) A financially independent student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution and has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(b) A dependent student, if one or both of the student's parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution;

(c) A student classified as a resident based upon domicile by an institution on or before May 31, 1982, who was enrolled at a state institution during any term of the 1982-1983 academic year, so long as such student's enrollment (excepting summer sessions) at an institution in this state is continuous;

(d) Any student who has spent at least seventy-five percent of both his or her junior and senior years in high schools in this state, whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school, and who enrolls in a public institution of higher education within six months of leaving high school, for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year;

(e) A student who is on active military duty stationed in the state;

(f) A student who is the spouse or a dependent of a person who is on active military duty stationed in the state;

(g) A student of an out-of-state institution of higher education who is attending a Washington state institution of higher education pursuant to a home tuition agreement as described in RCW 28B.15.725; or

(h) A student who meets the requirements of RCW 28B.15.0131 or 28B.15.0139: PROVIDED, That a nonresident student enrolled for more than six hours per semester or quarter shall be considered as attending for primarily educational purposes, and for tuition and fee paying purposes only such period of enrollment shall not be counted toward the establishment of a bona fide domicile of one year in this state unless such student proves that the student has in fact established a bona fide domicile in this state primarily for purposes other than educational.

(3) The term "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of RCW 28B.15.012 and 28B.15.013. Except for students qualifying under subsection (2)(g) of this section, a nonresident student shall include:

(a) A student attending an institution with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one year after the completion of such semester or quarter. This condition shall not apply to students from Columbia, Multnomah, Clatsop, Clackamas, or Washington county, Oregon participating in the

border county pilot project under RCW 28B.80.806, 28B.80.807, and 28B.15.0139.

(b) A person who is not a citizen of the United States of America who does not have permanent or temporary resident status or does not hold "Refugee-Parolee" or "Conditional Entrant" status with the United States immigration and naturalization service or is not otherwise permanently residing in the United States under color of law and who does not also meet and comply with all the applicable requirements in RCW 28B.15.012 and 28B.15.013.

(4) The term "domicile" shall denote a person's true, fixed and permanent home and place of habitation. It is the place where the student intends to remain, and to which the student expects to return when the student leaves without intending to establish a new domicile elsewhere. The burden of proof that a student, parent or guardian has established a domicile in the state of Washington primarily for purposes other than educational lies with the student.

(5) The term "dependent" shall mean a person who is not financially independent. Factors to be considered in determining whether a person is financially independent shall be set forth in rules and regulations adopted by the higher education coordinating board and shall include, but not be limited to, the state and federal income tax returns of the person and/or the student's parents or legal guardian filed for the calendar year prior to the year in which application is made and such other evidence as the board may require.

[2000 c 160 § 1; 2000 c 117 § 1; 1999 c 320 § 5; 1997 c 433 § 2; 1994 c 188 § 2; 1993 sp.s. c 18 § 4. Prior: 1987 c 137 § 1; 1987 c 96 § 1; 1985 c 370 § 62; 1983 c 285 § 1; 1982 1st ex.s. c 37 § 1; 1972 ex.s. c 149 § 1; 1971 ex.s. c 273 § 2.]

Notes:

Reviser's note: This section was amended by 2000 c 117 § 1 and by 2000 c 160 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Expiration date--2000 c 160: See note following RCW 28B.80.806.

Expiration date--2000 c 117 § 1: "Section 1 of this act expires June 30, 2002." [2000 c 117 § 4.]

Expiration date--1999 c 320: See note following RCW 28B.80.805.

Intent--Severability--1997 c 433: See notes following RCW 28B.15.725.

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date--1982 1st ex.s. c 37: "Sections 13 and 14 of this amendatory act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately. All other sections of this amendatory act shall take effect on June 1, 1982." [1982 1st ex.s. c 37 § 24.]

Severability--1982 1st ex.s. c 37: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 37 § 23.]

Severability--1971 ex.s. c 273: See note following RCW 28B.15.011.

RCW 28B.15.012 Classification as resident or nonresident student--Definitions. *(Effective June 30, 2002.)*

Whenever used in chapter 28B.15 RCW:

(1) The term "institution" shall mean a public university, college, or community college

within the state of Washington.

(2) The term "resident student" shall mean:

(a) A financially independent student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution and has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(b) A dependent student, if one or both of the student's parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution;

(c) A student classified as a resident based upon domicile by an institution on or before May 31, 1982, who was enrolled at a state institution during any term of the 1982-1983 academic year, so long as such student's enrollment (excepting summer sessions) at an institution in this state is continuous;

(d) Any student who has spent at least seventy-five percent of both his or her junior and senior years in high schools in this state, whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school, and who enrolls in a public institution of higher education within six months of leaving high school, for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year;

(e) A student who is on active military duty stationed in the state;

(f) A student who is the spouse or a dependent of a person who is on active military duty stationed in the state;

(g) A student of an out-of-state institution of higher education who is attending a Washington state institution of higher education pursuant to a home tuition agreement as described in RCW 28B.15.725; or

(h) A student who meets the requirements of RCW 28B.15.0131: PROVIDED, That a nonresident student enrolled for more than six hours per semester or quarter shall be considered as attending for primarily educational purposes, and for tuition and fee paying purposes only such period of enrollment shall not be counted toward the establishment of a bona fide domicile of one year in this state unless such student proves that the student has in fact established a bona fide domicile in this state primarily for purposes other than educational.

(3) The term "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of RCW 28B.15.012 and 28B.15.013. Except for students qualifying under subsection (2)(g) of this section, a nonresident student shall include:

(a) A student attending an institution with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one year after the completion of such semester or quarter.

(b) A person who is not a citizen of the United States of America who does not have permanent or temporary resident status or does not hold "Refugee-Parolee" or "Conditional Entrant" status with the United States immigration and naturalization service or is not otherwise permanently residing in the United States under color of law and who does not also meet and

comply with all the applicable requirements in RCW 28B.15.012 and 28B.15.013.

(4) The term "domicile" shall denote a person's true, fixed and permanent home and place of habitation. It is the place where the student intends to remain, and to which the student expects to return when the student leaves without intending to establish a new domicile elsewhere. The burden of proof that a student, parent or guardian has established a domicile in the state of Washington primarily for purposes other than educational lies with the student.

(5) The term "dependent" shall mean a person who is not financially independent. Factors to be considered in determining whether a person is financially independent shall be set forth in rules and regulations adopted by the higher education coordinating board and shall include, but not be limited to, the state and federal income tax returns of the person and/or the student's parents or legal guardian filed for the calendar year prior to the year in which application is made and such other evidence as the board may require.

[2000 c 117 § 2; 1997 c 433 § 2; 1994 c 188 § 2; 1993 sp.s. c 18 § 4. Prior: 1987 c 137 § 1; 1987 c 96 § 1; 1985 c 370 § 62; 1983 c 285 § 1; 1982 1st ex.s. c 37 § 1; 1972 ex.s. c 149 § 1; 1971 ex.s. c 273 § 2.]

Notes:

Effective date--2000 c 117 § 2: "Section 2 of this act takes effect June 30, 2002." [2000 c 117 § 5.]

Intent--Severability--1997 c 433: See notes following RCW 28B.15.725.

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date--1982 1st ex.s. c 37: "Sections 13 and 14 of this amendatory act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately. All other sections of this amendatory act shall take effect on June 1, 1982." [1982 1st ex.s. c 37 § 24.]

Severability--1982 1st ex.s. c 37: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 37 § 23.]

Severability--1971 ex.s. c 273: See note following RCW 28B.15.011.

RCW 28B.15.013 Classification as resident or nonresident student--Standards for determining domicile in the state--Presumptions--Cut-off date for classification application change.

(1) The establishment of a new domicile in the state of Washington by a person formerly domiciled in another state has occurred if such person is physically present in Washington primarily for purposes other than educational and can show satisfactory proof that such person is without a present intention to return to such other state or to acquire a domicile at some other place outside of Washington.

(2) Unless proven to the contrary it shall be presumed that:

(a) The domicile of any person shall be determined according to the individual's situation and circumstances rather than by marital status or sex.

(b) A person does not lose a domicile in the state of Washington by reason of residency in any state or country while a member of the civil or military service of this state or of the United States, nor while engaged in the navigation of the waters of this state or of the United

States or of the high seas if that person returns to the state of Washington within one year of discharge from said service with the intent to be domiciled in the state of Washington; any resident dependent student who remains in this state when such student's parents, having theretofore been domiciled in this state for a period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution, remove from this state, shall be entitled to continued classification as a resident student so long as such student's attendance (except summer sessions) at an institution in this state is continuous.

(3) To aid the institution in deciding whether a student, parent, legally appointed guardian or the person having legal custody of a student is domiciled in the state of Washington primarily for purposes other than educational, the rules and regulations adopted by the higher education coordinating board shall include but not be limited to the following:

(a) Registration or payment of Washington taxes or fees on a motor vehicle, mobile home, travel trailer, boat, or any other item of personal property owned or used by the person for which state registration or the payment of a state tax or fee is required will be a factor in considering evidence of the establishment of a Washington domicile.

(b) Permanent full time employment in Washington by a person will be a factor in considering the establishment of a Washington domicile.

(c) Registration to vote for state officials in Washington will be a factor in considering the establishment of a Washington domicile.

(4) After a student has registered at an institution such student's classification shall remain unchanged in the absence of satisfactory evidence to the contrary. A student wishing to apply for a change in classification shall reduce such evidence to writing and file it with the institution. In any case involving an application for a change from nonresident to resident status, the burden of proof shall rest with the applicant. Any change in classification, either nonresident to resident, or the reverse, shall be based upon written evidence maintained in the files of the institution and, if approved, shall take effect the semester or quarter such evidence was filed with the institution: PROVIDED, That applications for a change in classification shall be accepted up to the thirtieth calendar day following the first day of instruction of the quarter or semester for which application is made.

[1989 c 175 § 79; 1985 c 370 § 63; 1982 1st ex.s. c 37 § 2; 1979 ex.s. c 15 § 1; 1972 ex.s. c 149 § 2; 1971 ex.s. c 273 § 3.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.
Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.
Effective date--Severability--1982 1st ex.s. c 37: See notes following RCW 28B.15.012.
Severability--1971 ex.s. c 273: See note following RCW 28B.15.011.

RCW 28B.15.0131 Resident tuition rates--American Indian students.

For the purposes of determining resident tuition rates, resident students shall include American Indian students who meet two conditions. First, for a period of one year immediately

prior to enrollment at a state institution of higher education as defined in RCW 28B.10.016, the student must have been domiciled in one or a combination of the following states: Idaho; Montana; Oregon; or Washington. Second, the students must be members of one of the following American Indian tribes whose traditional and customary tribal boundaries included portions of the state of Washington, or whose tribe was granted reserved lands within the state of Washington:

(1) Colville Confederated Tribes;
(2) Confederated Tribes of the Chehalis Reservation;
(3) Hoh Indian Tribe;
(4) Jamestown S'Klallam Tribe;
(5) Kalispel Tribe of Indians;
(6) Lower Elwha Klallam Tribe;
(7) Lummi Nation;
(8) Makah Indian Tribe;
(9) Muckleshoot Indian Tribe;
(10) Nisqually Indian Tribe;
(11) Nooksack Indian Tribe;
(12) Port Gamble S'Klallam Community;
(13) Puyallup Tribe of Indians;
(14) Quileute Tribe;
(15) Quinault Indian Nation;
(16) Confederated Tribes of Salish Kootenai;
(17) Sauk Suiattle Indian Nation;
(18) Shoalwater Bay Indian Tribe;
(19) Skokomish Indian Tribe;
(20) Snoqualmie Tribe;
(21) Spokane Tribe of Indians;
(22) Squaxin Island Tribe;
(23) Stillaguamish Tribe;
(24) Suquamish Tribe of the Port Madison Reservation;
(25) Swinomish Indian Community;
(26) Tulalip Tribes;
(27) Upper Skagit Indian Tribe;
(28) Yakama Indian Nation;
(29) Coeur d'Alene Tribe;
(30) Confederated Tribes of the Umatilla Indian Reservation;
(31) Confederated Tribes of Warm Springs;
(32) Kootenai Tribe; and
(33) Nez Perce Tribe.

Any student enrolled at a state institution of higher education as defined in RCW 28B.10.016 who is paying resident tuition under this section, and who has not established domicile in the state of Washington at least one year before enrollment, shall not be included in

any calculation of state-funded enrollment for budgeting purposes, and no state general fund moneys shall be appropriated to a state institution of higher education for the support of such student.

[1994 c 188 § 1.]

RCW 28B.15.0139 Resident tuition rates--Border county higher education opportunity pilot project. ***(Expires June 30, 2002.)***

For the purposes of determining resident tuition rates, "resident student" includes a resident of Oregon, residing in Columbia, Multnomah, Clatsop, Clackamas, or Washington county, who meets the following conditions:

(1) The student is eligible to pay resident tuition rates under Oregon laws and has been domiciled in Columbia, Multnomah, Clatsop, Clackamas, or Washington county for at least ninety consecutive days immediately before enrollment at a community college located in Clark, Cowlitz, Wahkiakum, or Pacific county, Washington; or

(2) The student is enrolled in courses located at the Vancouver branch of Washington State University for eight credits or less.

[2000 c 160 § 2; 1999 c 320 § 4.]

Notes:

Expiration date--2000 c 160: See note following RCW 28B.80.806.
Expiration date--1999 c 320: See note following RCW 28B.80.805.

RCW 28B.15.014 Exemption from nonresident tuition fees differential.

Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may exempt the following nonresidents from paying all or a portion of the nonresident tuition fees differential:

(1) Any person who resides in the state of Washington and who holds a graduate service appointment designated as such by a public institution of higher education or is employed for an academic department in support of the instructional or research programs involving not less than twenty hours per week during the term such person shall hold such appointment.

(2) Any faculty member, classified staff member or administratively exempt employee holding not less than a half time appointment at an institution who resides in the state of Washington, and the dependent children and spouse of such persons.

(3) Any immigrant refugee and the spouse and dependent children of such refugee, if the refugee (a) is on parole status, or (b) has received an immigrant visa, or (c) has applied for United States citizenship.

(4) Any dependent of a member of the United States congress representing the state of Washington.

[2000 c 117 § 3; 1997 c 433 § 3; 1993 sp.s. c 18 § 5; 1992 c 231 § 3. Prior: 1989 c 306 § 3; 1989 c 290 § 3; 1985 c

362 § 1; 1984 c 232 § 1; 1982 1st ex.s. c 37 § 3; 1971 ex.s. c 273 § 4.]

Notes:

Intent--Severability--1997 c 433: See notes following RCW 28B.15.725.

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Effective date--1992 c 231: See note following RCW 28B.10.016.

Intent--1989 c 290: See note following RCW 28B.15.725.

Severability--1984 c 232: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 232 § 2.]

Effective date--Severability--1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability--1971 ex.s. c 273: See note following RCW 28B.15.011.

RCW 28B.15.015 Classification as resident or nonresident student--Board to adopt rules relating to students' residency status, recovery of fees.

The higher education coordinating board, upon consideration of advice from representatives of the state's institutions with the advice of the attorney general, shall adopt rules and regulations to be used by the state's institutions for determining a student's resident and nonresident status and for recovery of fees for improper classification of residency.

[1985 c 370 § 64; 1982 1st ex.s. c 37 § 4.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date--Severability--1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

RCW 28B.15.020 "Tuition fees" defined--Use.

The term "tuition fees" as used in this chapter shall mean the fees charged students registering at the state's colleges and universities which consist of:

(1) The "building fees" as defined in RCW 28B.15.025; and

(2) The "operating fees" as defined in RCW 28B.15.031.

[1985 c 390 § 11; 1977 ex.s. c 169 § 34; 1969 ex.s. c 223 § 28B.15.020. Prior: (i) 1967 ex.s. c 8 § 31, part. Formerly RCW 28.85.310, part. (ii) 1963 c 181 § 1, part; 1961 ex.s. c 10 § 1, part; 1959 c 186 § 1, part; 1947 c 243 § 1, part; 1945 c 187 § 1, part; 1933 c 169 § 1, part; 1931 c 48 § 1, part; 1921 c 139 § 1, part; 1919 c 63 § 1, part; 1915 c 66 § 2, part; RRS § 4546, part. Formerly RCW 28.77.030, part. (iii) 1963 c 180 § 1, part; 1961 ex.s. c 11 § 1, part; 1949 c 73 § 1, part; 1931 c 49 § 1, part; 1921 c 164 § 1, part; Rem. Supp. 1949 § 4569, part. Formerly RCW 28.80.030, part. (iv) 1967 c 47 § 10, part; 1965 ex.s. c 147 § 1, part; 1963 c 143 § 1, part; 1961 ex.s. c 13 § 3, part. Formerly RCW 28.81.080, part.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.15.022 "Nonresident tuition fees differential" defined.

Unless the context clearly requires otherwise, as used in this chapter "nonresident tuition fees differential" means the difference between resident tuition fees and nonresident tuition fees.

[1992 c 231 § 32.]

Notes:

Effective date--1992 c 231: See note following RCW 28B.10.016.

RCW 28B.15.025 "Building fees" defined--Use.

The term "building fees" means the fees charged students registering at the state's colleges and universities, which fees are to be used as follows: At the University of Washington, solely for the purposes provided in RCW 28B.15.210; at Washington State University, solely for the purposes provided in RCW 28B.15.310; at each of the regional universities and at The Evergreen State College, solely for the purposes provided in RCW 28B.35.370; and at the community colleges, for the purposes provided in RCW 28B.50.320, 28B.50.360 and 28B.50.370. The term "building fees" is a renaming of the "general tuition fee," and shall not be construed to affect otherwise moneys pledged to, or used for bond retirement purposes.

[1985 c 390 § 12.]

RCW 28B.15.031 "Operating fees"--Defined--Disposition.

The term "operating fees" as used in this chapter shall include the fees, other than building fees, charged all students registering at the state's colleges and universities but shall not include fees for short courses, self-supporting degree credit programs and courses, marine station work, experimental station work, correspondence or extension courses, and individual instruction and student deposits or rentals, disciplinary and library fines, which colleges and universities shall have the right to impose, laboratory, gymnasium, health, technology and student activity fees, or fees, charges, rentals, and other income derived from any or all revenue producing lands, buildings and facilities of the colleges or universities heretofore or hereafter acquired, constructed or installed, including but not limited to income from rooms, dormitories, dining rooms, hospitals, infirmaries, housing or student activity buildings, vehicular parking facilities, land, or the appurtenances thereon, or such other special fees as may be established by any college or university board of trustees or regents from time to time. All moneys received as operating fees at any institution of higher education shall be deposited in a local account containing only operating fees revenue and related interest: PROVIDED, That a minimum of three and one-half percent of operating fees shall be retained by the institutions, except the technical colleges, for the purposes of RCW 28B.15.820. Local operating fee accounts shall not be subject to appropriation by the legislature or allotment procedures under chapter 43.88 RCW.

[1996 c 142 § 2; 1995 1st sp.s. c 9 § 2. Prior: 1993 sp.s. c 18 § 6; 1993 c 379 § 201; 1987 c 15 § 2; prior: 1985 c 390 § 13; 1985 c 356 § 2; 1982 1st ex.s. c 37 § 12; 1981 c 257 § 1; 1979 c 151 § 14; 1977 ex.s. c 331 § 3; 1971 ex.s. c 279 § 2.]

Notes:

Severability--1996 c 142: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1996 c 142 § 4.]

Effective date--1996 c 142: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 25, 1996]." [1996 c 142 § 5.]

Intent--Purpose--1995 1st sp.s. c 9: "It is the intent of the legislature to address higher education funding through a cooperative bipartisan effort that includes the legislative and executive branches of government, parents, students, educators, and concerned citizens. This effort will begin in 1995, with the results providing the basis for discussion during the 1996 legislative session for future decisions and final legislative action in 1997.

The purpose of this act is to provide tuition increases for public institutions of higher education as a transition measure until final action is taken in 1997." [1995 1st sp.s. c 9 § 1.]

Effective date--1995 1st sp.s. c 9: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [June 14, 1995]." [1995 1st sp.s. c 9 § 14.]

Appropriation--1993 sp.s. c 18: "All moneys in the accounts established under *RCW 28B.15.824 on July 1, 1993, are hereby appropriated to the respective institutions of higher education for deposit in the institution's local account established under RCW 28B.15.031." [1993 sp.s. c 18 § 15.]

***Reviser's note:** RCW 28B.15.824 was repealed by 1993 c 379 § 206 and by 1993 sp.s. c 18 § 14, effective July 1, 1993.

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Intent--Severability--Effective date--1993 c 379: See notes following RCW 28B.10.029.

Effective date--1987 c 15: See note following RCW 28B.15.411.

Effective date--Severability--1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability--1981 c 257: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 257 § 13.]

Effective date--1977 ex.s. c 331: "The effective date of this 1977 amendatory act shall be September 1, 1977." [1977 ex.s. c 331 § 5.]

Severability--1977 ex.s. c 331: "If any provision of this 1977 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 331 § 4.]

Severability--1971 ex.s. c 279: See note following RCW 28B.15.005.

RCW 28B.15.041 "Services and activities fees" defined.

The term "services and activities fees" as used in this chapter is defined to mean fees, other than tuition fees, charged to all students registering at the state's community colleges, regional universities, The Evergreen State College, and state universities. Services and activities fees shall be used as otherwise provided by law or by rule or regulation of the board of trustees or regents of each of the state's community colleges, The Evergreen State College, the regional universities, or the state universities for the express purpose of funding student activities and programs of their particular institution. Student activity fees, student use fees, student building use fees, special student fees, or other similar fees charged to all full time students, or to all students, as the case may be, registering at the state's colleges or universities and pledged for the payment of bonds heretofore or hereafter issued for, or other indebtedness incurred to pay, all or part of the cost of acquiring, constructing or installing any lands, buildings, or facilities of the nature described in RCW 28B.10.300 as now or hereafter amended, shall be included within and deemed to be services and activities fees.

[1985 c 390 § 14; 1977 ex.s. c 169 § 35. Prior: 1973 1st ex.s. c 130 § 2; 1973 1st ex.s. c 46 § 1; 1971 ex.s. c 279 § 3.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.
Severability--1973 1st ex.s. c 46: See note following RCW 28B.10.704.
Severability--1971 ex.s. c 279: See note following RCW 28B.15.005.

RCW 28B.15.043 "Services and activities fees"--Allocations from for institutional loan fund for needy students.

See RCW 28B.10.825.

RCW 28B.15.044 Services and activities fees--Legislative declaration on expenditure.

It is the intent of the legislature that students will propose budgetary recommendations for consideration by the college or university administration and governing board to the extent that such budget recommendations are intended to be funded by services and activities fees. It is also the intent of the legislature that services and activities fee expenditures for programs devoted to political or economic philosophies shall result in the presentation of a spectrum of ideas.

[1986 c 91 § 1; 1980 c 80 § 1.]

Notes:

Severability--1980 c 80: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 80 § 4.]

RCW 28B.15.045 Services and activities fees--Guidelines governing establishment and funding of programs supported by--Scope--Mandatory provisions--Dispute resolution.

The legislature recognizes that institutional governing boards have a responsibility to manage and protect institutions of higher education. This responsibility includes ensuring certain lawful agreements for which revenues from services and activities fees have been pledged. Such lawful agreements include, but are not limited to, bond covenant agreements and other contractual obligations. Institutional governing boards are also expected to protect the stability of programs that benefit students.

The legislature also recognizes that services and activities fees are paid by students for the express purpose of funding student services and programs. It is the intent of the legislature that governing boards ensure that students have a strong voice in recommending budgets for services and activities fees. The boards of trustees and the boards of regents of the respective institutions of higher education shall adopt guidelines governing the establishment and funding of programs supported by services and activities fees. Such guidelines shall stipulate procedures for budgeting and expending services and activities fee revenue. Any such guidelines shall be

consistent with the following provisions:

(1) Student representatives from the services and activities fee committee and representatives of the college or university administration shall have an opportunity to address the board before board decisions on services and activities fee budgets and dispute resolution actions are made;

(2) Members of the governing boards shall adhere to the principle that services and activities fee committee desires be given priority consideration on funding items that do not fall into the categories of preexisting contractual obligations, bond covenant agreements, or stability for programs affecting students;

(3) Responsibility for proposing to the administration and the governing board program priorities and budget levels for that portion of program budgets that derive from services and activities fees shall reside with a services and activities fee committee, on which students shall hold at least a majority of the voting memberships, such student members shall represent diverse student interests, and shall be recommended by the student government association or its equivalent. The chairperson of the services and activities fee committee shall be selected by the members of that committee. The governing board shall insure that the services and activities fee committee provides an opportunity for all viewpoints to be heard at a public meeting during its consideration of the funding of student programs and activities.

(4) The services and activities fee committee shall evaluate existing and proposed programs and submit budget recommendations for the expenditure of those services and activities fees with supporting documents simultaneously to the college or university governing board and administration.

(5) The college or university administration shall review the services and activities fee committee budget recommendations and publish a written response to the services and activities fee committee. This response shall outline potential areas of difference between the committee recommendations and the administration's proposed budget recommendations. This response, with supporting documentation, shall be submitted to the services and activities fee committee in a timely manner to allow adequate consideration.

(6)(a) In the event of a dispute or disputes involving the services and activities fee committee recommendations, the college or university administration shall meet with the services and activities fee committee in a good faith effort to resolve such dispute or disputes prior to submittal of final recommendations to the governing board.

(b) If said dispute is not resolved within fourteen days, a dispute resolution committee shall be convened by the chair of the services and activities fee committee within fourteen days.

(7) The dispute resolution committee shall be selected as follows: The college or university administration shall appoint two nonvoting advisory members; the governing board shall appoint three voting members; and the services and activities fee committee chair shall appoint three student members of the services and activities fee committee who will have a vote, and one student representing the services and activities fee committee who will chair the dispute resolution committee and be nonvoting. The committee shall meet in good faith, and settle by vote any and all disputes. In the event of a tie vote, the chair of the dispute resolution committee shall vote to settle the dispute.

(8) The governing board may take action on those portions of the services and activities fee budget not in dispute in accordance with the customary budget approval timeline established by the board. The governing board shall consider the results, if any, of the dispute resolution committee and shall take action.

(9) Services and activities fees and revenues generated by programs and activities funded by such fees shall be deposited and expended through the office of the chief fiscal officer of the institution.

(10) Services and activities fees and revenues generated by programs and activities funded by such fees shall be subject to the applicable policies, regulations, and procedures of the institution and the budget and accounting act, chapter 43.88 RCW.

(11) All information pertaining to services and activities fees budgets shall be made available to interested parties.

(12) With the exception of any funds needed for bond covenant obligations, once the budget for expending service and activities fees is approved by the governing board, funds shall not be shifted from funds budgeted for associated students or departmentally related categories or the reserve fund until the administration provides written justification to the services and activities fee committee and the governing board, and the governing board and the services and activities fee committee give their express approval. In the event of a fund transfer dispute among the services and activities fee committee, the administration, or the governing board, said dispute shall be resolved pursuant to subsections (6)(b), (7), and (8) of this section.

(13) Any service and activities fees collected which exceed initially budgeted amounts are subject to subsections (1) through (10) and (12) of this section.

[1994 c 41 § 1; 1990 c 7 § 1; 1986 c 91 § 2; 1980 c 80 § 2.]

Notes:

Severability--1980 c 80: See note following RCW 28B.15.044.

RCW 28B.15.051 "Technology fees"--Defined--Use--Student government approval.

(1) The governing board of each of the state universities, the regional universities, and The Evergreen State College, upon the written agreement of its respective student government association or its equivalent, may establish and charge each enrolled student a technology fee, separate from tuition fees. During the 1996-97 academic year, any technology fee shall not exceed one hundred twenty dollars for a full-time student. Any technology fee charged to a part-time student shall be calculated as a pro rata share of the fee charged to a full-time student.

(2) Revenue from this fee shall be used exclusively for technology resources for general student use.

(3) Only changes in the amount of the student technology fee agreed upon by both the governing board and its respective student government association or its equivalent shall be used to adjust the amount charged to students. Changes in the amount charged to students, once implemented, become the basis for future changes.

(4) Annually, the student government association or its equivalent may abolish the fee by

a majority vote. In the event of such a vote, the student government association or its equivalent shall notify the governing board of the institution. The fee shall cease being collected the term after the student government association or its equivalent voted to eliminate the fee.

(5) The student government association or its equivalent shall approve the annual expenditure plan for the fee revenue.

(6) The universities and The Evergreen State College shall deposit three and one-half percent of revenues from the technology fee into the institutional financial aid fund under RCW 28B.15.820.

(7) As used in this section, "technology fee" is a fee charged to students to recover, in whole or in part, the costs of providing and maintaining services to students that include, but need not be limited to: Access to the internet and world wide web, e-mail, computer and multimedia work stations and laboratories, computer software, and dial-up telephone services.

(8) Prior to the establishment of a technology fee, a governing board shall provide to the student governing body a list of existing fees of a similar nature or for a similar purpose. The board and the student governing body shall ensure that student fees for technology are not duplicative.

[1996 c 142 § 1.]

Notes:

Severability--Effective date--1996 c 142: See notes following RCW 28B.15.031.

RCW 28B.15.065 Adjustment of state appropriations for needy student financial aid.

It is the intent of the legislature that needy students not be deprived of access to higher education due to increases in educational costs or consequent increases in tuition and fees. It is the sense of the legislature that state appropriations for student financial aid be adjusted in an amount which together with funds estimated to be available in the form of basic educational opportunity grants as authorized under Section 411 of the federal Higher Education Act of 1965 as now or hereafter amended will equal twenty-four percent of any change in revenue estimated to occur as a result of revisions in tuition and fee levels under the provisions of chapter 322, Laws of 1977 ex. sess.

[1977 ex.s. c 322 § 6.]

Notes:

Severability--1977 ex.s. c 322: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 322 § 17.]

RCW 28B.15.066 General fund appropriations to institutions of higher education.

It is the intent of the legislature that:

In making appropriations from the state's general fund to institutions of higher education, each appropriation shall conform to the following:

(1) The appropriation shall not be reduced by the amount of operating fees revenue estimated to be collected from students enrolled at the state-funded enrollment level specified in the omnibus biennial operating appropriations act;

(2) The appropriation shall not be reduced by the amount of operating fees revenue collected from students enrolled above the state-funded level, but within the over-enrollment limitations, specified in the omnibus biennial operating appropriations act; and

(3) The general fund state appropriation shall not be reduced by the amount of operating fees revenue collected as a result of waiving less operating fees revenue than the amounts authorized under RCW 28B.15.910. State general fund appropriations shall not be provided for revenue foregone as a result of or for waivers granted under RCW 28B.15.915.

[2000 c 152 § 2; 1999 c 309 § 932; 1995 1st sp.s. c 9 § 3; 1993 c 379 § 205.]

NOTES:

Severability--Effective date--1999 c 309: See notes following RCW 41.06.152.

Intent--Purpose--Effective date--1995 1st sp.s. c 9: See notes following RCW 28B.15.031.

Intent--Severability--Effective date--1993 c 379: See notes following RCW 28B.10.029.

RCW 28B.15.067 Tuition fees--Established.

(1) Tuition fees shall be established under the provisions of this chapter.

(2) Academic year tuition for full-time students at the state's institutions of higher education for the 1997-98 academic year, other than the summer term, shall be as provided in this subsection.

(a) At the University of Washington and Washington State University:

(i) For resident undergraduate students and other resident students not in graduate, law, or first professional programs, two thousand nine hundred eighty-eight dollars;

(ii)(A) For nonresident undergraduate students and other nonresident students at the University of Washington not in graduate, law, or first professional programs, ten thousand two hundred seventy-eight dollars;

(B) For nonresident undergraduate students and other nonresident students at Washington State University not in graduate or first professional programs, nine thousand eight hundred seventy dollars;

(iii) For resident graduate students, four thousand eight hundred fifty-four dollars;

(iv) For nonresident graduate students, twelve thousand five hundred eighty-eight dollars;

(v) For resident law students, five thousand ten dollars;

(vi) For nonresident law students, twelve thousand nine hundred fifteen dollars;

(vii) For resident first professional students, eight thousand one hundred twelve dollars; and

(viii) For nonresident first professional students, twenty-one thousand twenty-four dollars.

(b) At the regional universities and The Evergreen State College:

(i) For resident undergraduate and all other resident students not in graduate programs, two thousand two hundred eleven dollars;

(ii) For nonresident undergraduate and all other nonresident students not in graduate

programs, eight thousand six hundred forty-six dollars;

(iii) For resident graduate students, three thousand seven hundred twenty-six dollars; and

(iv) For nonresident graduate students, eleven thousand nine hundred seventy-six dollars.

(c) At the community colleges:

(i) For resident students, one thousand three hundred eleven dollars; and

(ii) For nonresident students, five thousand five hundred eighty-six dollars.

(3) Academic year tuition for full-time students at the state's institutions of higher education beginning with the 1998-99 academic year, other than the summer term, shall be as provided in this subsection unless different rates are adopted in the omnibus appropriations act.

(a) At the University of Washington and Washington State University:

(i) For resident undergraduate students and other resident students not in graduate, law, or first professional programs, three thousand one hundred eight dollars;

(ii)(A) For nonresident undergraduate students and other nonresident students at the University of Washington not in graduate, law, or first professional programs, eleven thousand one hundred thirty dollars;

(B) For nonresident undergraduate students and other nonresident students at Washington State University not in graduate or first professional programs, ten thousand two hundred sixty-six dollars;

(iii) For resident graduate students, five thousand forty-six dollars;

(iv) For nonresident graduate students, thirteen thousand ninety-two dollars;

(v) For resident law students, five thousand three hundred seventy-six dollars;

(vi) For nonresident law students, thirteen thousand seven hundred eighty-two dollars;

(vii) For resident first professional students, eight thousand four hundred thirty-six dollars; and

(viii) For nonresident first professional students, twenty-one thousand eight hundred sixty-four dollars.

(b) At the regional universities and The Evergreen State College:

(i) For resident undergraduate and all other resident students not in graduate programs, two thousand two hundred ninety-eight dollars;

(ii) For nonresident undergraduate and all other nonresident students not in graduate programs, eight thousand nine hundred ninety-one dollars;

(iii) For resident graduate students, three thousand eight hundred seventy-six dollars; and

(iv) For nonresident graduate students, twelve thousand four hundred fifty-six dollars.

(c) At the community colleges:

(i) For resident students, one thousand three hundred sixty-two dollars; and

(ii) For nonresident students, five thousand eight hundred eight dollars.

(4) For the 1997-98 and 1998-99 academic years, the University of Washington shall use at least ten percent of the revenue received from the difference between a four percent increase in tuition fees and the actual increase charged to law students to assist needy low and middle-income resident law students. For the 1997-98 and 1998-99 academic years, the University of Washington shall use at least ten percent of the revenue received from the difference between a four percent increase in tuition fees and the actual increase charged to

nonresident undergraduate students and all other nonresident students not in graduate, law, or first professional programs to assist needy low and middle-income resident undergraduate students and all other resident students not enrolled in graduate, law, or first professional programs. This requirement is in addition to the deposit requirements of the institutional aid fund under RCW 28B.15.820.

(5) The tuition fees established under this chapter shall not apply to high school students enrolling in participating institutions of higher education under RCW 28A.600.300 through *28A.600.395.

[1997 c 403 § 1; 1996 c 212 § 1; 1995 1st sp.s. c 9 § 4; 1992 c 231 § 4; 1990 1st ex.s. c 9 § 413; 1986 c 42 § 1; 1985 c 390 § 15; 1982 1st ex.s. c 37 § 15; 1981 c 257 § 2.]

Notes:

***Reviser's note:** RCW 28A.600.395 was repealed by 1994 c 205 § 12.

Severability--1996 c 212: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1996 c 212 § 2.]

Intent--Purpose--Effective date--1995 1st sp.s. c 9: See notes following RCW 28B.15.031.

Effective date--1992 c 231: See note following RCW 28B.10.016.

Finding--Severability--1990 1st ex.s. c 9: See notes following RCW 28A.225.220.

Effective date--Severability--1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability--1981 c 257: See note following RCW 28B.15.031.

RCW 28B.15.069 Tuition categories--Building fees--Services and activities fees--Other fees.

(1) As used in this section, each of the following subsections is a separate tuition category:

(a) Resident undergraduate students and all other resident students not in first professional, graduate, or law programs;

(b) Nonresident undergraduate students and all other nonresident students not in first professional graduate or law programs;

(c) Resident graduate students;

(d) Resident law students;

(e) Nonresident graduate students;

(f) Nonresident law students;

(g) Resident first professional students; and

(h) Nonresident first professional students.

(2) Unless the context clearly requires otherwise, as used in this section "first professional programs" means programs leading to one of the following degrees: Doctor of medicine, doctor of dental surgery, or doctor of veterinary medicine.

(3) The building fee for each academic year shall be a percentage of total tuition fees. This percentage shall be calculated by the higher education coordinating board and be based on the actual percentage the building fee is of total tuition for each tuition category in the 1994-95 academic year, rounded up to the nearest half percent.

(4) The governing boards of each institution of higher education, except for the technical colleges, shall charge to and collect from each student a services and activities fee. A governing board may increase the existing fee annually, consistent with budgeting procedures set forth in RCW 28B.15.045, by a percentage not to exceed the annual percentage increase in student tuition fees for the applicable tuition category: PROVIDED, That such percentage increase shall not apply to that portion of the services and activities fee previously committed to the repayment of bonded debt. The services and activities fee committee provided for in RCW 28B.15.045 may initiate a request to the governing board for a fee increase.

(5) Tuition and services and activities fees consistent with subsection (4) of this section shall be set by the state board for community and technical colleges for community college summer school students unless the community college charges fees in accordance with RCW 28B.15.515.

(6) Subject to the limitations of RCW 28B.15.910, each governing board of a community college may charge such fees for ungraded courses, noncredit courses, community services courses, and self-supporting courses as it, in its discretion, may determine, consistent with the rules of the state board for community and technical colleges.

[1997 c 403 § 2; 1995 1st sp.s. c 9 § 5.]

Notes:

Intent--Purpose--Effective date--1995 1st sp.s. c 9: See notes following RCW 28B.15.031.

RCW 28B.15.070 Development of definitions, criteria, and procedures for the educational costs of instruction--Educational cost study.

(1) The higher education coordinating board, in consultation with the house of representatives and senate committees responsible for higher education, the respective fiscal committees of the house of representatives and senate, the office of financial management, and the state institutions of higher education, shall develop by December of every fourth year beginning in 1989, definitions, criteria, and procedures for determining the undergraduate and graduate educational costs for the state universities, regional universities, and community colleges.

(2) Every four years, the state institutions of higher education in cooperation with the higher education coordinating board shall perform an educational cost study pursuant to subsection (1) of this section. The study shall be conducted based on every fourth academic year beginning with 1989-90. Institutions shall complete the studies within one year of the end of the study year and report the results to the higher education coordinating board for consolidation, review, and distribution.

(3) In order to conduct the study required by subsection (2) of this section, the higher education coordinating board, in cooperation with the institutions of higher education, shall develop a methodology that requires the collection of comparable educational cost data, which utilizes a faculty activity analysis or similar instrument.

[1995 1st sp.s. c 9 § 7; 1992 c 231 § 5; 1989 c 245 § 3. Prior: 1985 c 390 § 16; 1985 c 370 § 65; 1982 1st ex.s. c 37

§ 16; 1981 c 257 § 3; 1977 ex.s. c 322 § 7.]

Notes:

Intent--Purpose--Effective date--1995 1st sp.s. c 9: See notes following RCW 28B.15.031.

Effective date--1992 c 231: See note following RCW 28B.10.016.

Analyses--1989 c 245: "(1) The higher education coordinating board, with cooperation from the institutions of higher education, shall conduct a full review and analysis of the accuracy and consistency of the educational costs study. The board shall report to the legislature by December 1990, outlining its findings and making recommendations upon establishing a modified tuition fees structure based upon educational costs.

(2) The board shall conduct a full analysis and comparison of the educational costs at the University of Washington and Washington State University. The board shall also perform a comparison of the tuition fees charged at the University of Washington and Washington State University with tuition at their respective peer institutions. The board will provide recommendations on whether different levels of tuition fees should be charged at each of the state research universities." [1989 c 245 § 2.]

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date--Severability--1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability--1981 c 257: See note following RCW 28B.15.031.

Severability--1977 ex.s. c 322: See note following RCW 28B.15.065.

RCW 28B.15.076 Board to transmit amounts constituting approved educational costs.

The higher education coordinating board shall determine and transmit amounts constituting approved undergraduate and graduate educational costs to the several boards of regents and trustees of the state institutions of higher education by November 10 of each even-numbered year except the year 1990 for which the transmittal shall be made by December 17.

[1995 1st sp.s. c 9 § 6; 1989 c 245 § 4. Prior: 1985 c 390 § 17; 1985 c 370 § 66; 1982 1st ex.s. c 37 § 17; 1981 c 257 § 4.]

Notes:

Intent--Purpose--Effective date--1995 1st sp.s. c 9: See notes following RCW 28B.15.031.

Analyses--1989 c 245: See note following RCW 28B.15.070.

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date--Severability--1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability--1981 c 257: See note following RCW 28B.15.031.

RCW 28B.15.100 Tuition and fees set by individual institutions--Limitations--Tuition and fees for certain part-time, additional time, and out-of-state students.

(1) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges shall charge to and collect from each of the students registering at the particular institution for any quarter or semester such tuition fees and services and activities fees, and other fees as such board shall in its discretion determine. The total of all fees shall be rounded to the nearest whole dollar amount: PROVIDED, That such tuition fees for other than the summer term shall be in the amounts for the respective institutions as otherwise set forth in RCW 28B.15.067.

(2) Part-time students shall be charged tuition and services and activities fees proportionate to full-time student rates established for residents and nonresidents: PROVIDED, That except for students registered at community colleges, students registered for fewer than two credit hours shall be charged tuition and services and activities fees at the rate established for two credit hours: PROVIDED FURTHER, That, subject to the limitations of RCW 28B.15.910, residents of Idaho or Oregon who are enrolled in community college district number twenty for six or fewer credits during any quarter or semester may be exempted from payment of all or a portion of the nonresident tuition fees differential upon a declaration by the higher education coordinating board that it finds Washington residents from the community college district are afforded substantially equivalent treatment by such other states.

(3) Full-time students registered for more than eighteen credit hours shall be charged an additional operating fee for each credit hour in excess of eighteen hours at the applicable established per credit hour tuition fee rate for part-time students: PROVIDED, That, subject to the limitations of RCW 28B.15.910, the governing boards of the state universities and the community colleges may exempt all or a portion of the additional charge, for students who are registered exclusively in first professional programs in medicine, dental medicine, veterinary medicine, doctor of pharmacy, or law, or who are registered exclusively in required courses in vocational preparatory programs.

[1999 c 321 § 2; 1998 c 75 § 1; 1995 1st sp.s. c 9 § 8; 1993 sp.s. c 18 § 7; 1992 c 231 § 6. Prior: 1985 c 390 § 18; 1985 c 370 § 67; 1982 1st ex.s. c 37 § 11; 1981 c 257 § 5; 1977 ex.s. c 322 § 2; 1977 ex.s. c 169 § 36; 1971 ex.s. c 279 § 5; 1969 ex.s. c 223 § 28B.15.100; prior: (i) 1967 ex.s. c 8 § 31, part. Formerly RCW 28.85.310, part. (ii) 1963 c 181 § 1, part; 1961 ex.s. c 10 § 1, part; 1959 c 186 § 1, part; 1947 c 243 § 1, part; 1945 c 187 § 1, part; 1933 c 169 § 1, part; 1931 c 48 § 1, part; 1921 c 139 § 1, part; 1919 c 63 § 1, part; 1915 c 66 § 2, part; RRS § 4546, part. Formerly RCW 28.77.030, part. (iii) 1963 c 180 § 1, part; 1961 ex.s. c 11 § 1, part; 1949 c 73 § 1, part; 1931 c 49 § 1, part; 1921 c 164 § 1, part; Rem. Supp. 1949 § 4569, part. Formerly RCW 28.80.030, part. (iv) 1967 c 47 § 10, part; 1965 ex.s. c 147 § 1, part; 1963 c 143 § 1, part; 1961 ex.s. c 13 § 3, part. Formerly RCW 28.81.080, part.]

Notes:

Intent--1999 c 321: "The legislature recognizes that certain tuition policies may have an adverse impact on the unique role of community colleges.

Therefore, it is the intent of the legislature to eliminate impediments to the ability of community colleges to meet the diverse needs of students and business interests." [1999 c 321 § 1.]

Intent--Purpose--Effective date--1995 1st sp.s. c 9: See notes following RCW 28B.15.031.

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Effective date--1992 c 231: See note following RCW 28B.10.016.

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date--Severability--1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability--1981 c 257: See note following RCW 28B.15.031.

Severability--1977 ex.s. c 322: See note following RCW 28B.15.065.

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability--1971 ex.s. c 279: See note following RCW 28B.15.005.

RCW 28B.15.110 Tuition and fees when joint program of four year institutions--Supplemental fees, when.

Where students at any of the four year state colleges or universities participate in a joint program undertaken by two or more of such institutions, and which leads to a degree, the tuition and fees assessed each student participating in such joint program shall be equal.

The governing board at each state four year institution shall, where the tuition and fees which it charges resident students participating in a joint program falling within the scope of this section would be less than those charged to any such students from any other state four year institution who participates in such joint program, impose a supplemental fee upon its resident students so participating in order to make the tuition and fees charged to them equal to the highest amount charged to any other resident student from a state four year institution who participates in the program. Such governing board shall, where the tuition and fees which it charges nonresident students participating in a joint program falling within the scope of this section would be less than those charged to any such students participating from any other state four year institution who participates in such joint program, impose a supplemental fee upon its nonresident students so participating in order to make the tuition and fees charged to them equal to the highest amount charged to any other nonresident student from a state four year institution who participates in the program.

[1977 ex.s. c 126 § 1.]

Notes:

"State universities," "regional universities," "state college," "institutions of higher education," and "postsecondary institutions" defined: RCW 28B.10.016.

RCW 28B.15.210 Fees--University of Washington--Disposition of building fees.

Within thirty-five days from the date of collection thereof, all building fees at the University of Washington, including building fees to be charged students registering in the schools of medicine and dentistry, shall be paid into the state treasury and credited as follows:

One-half or such larger portion as may be necessary to prevent a default in the payments required to be made out of the bond retirement fund, and in no event shall such one-half be less than twelve dollars and fifty cents per each resident student per quarter, and thirty-seven dollars and fifty cents per each nonresident student per quarter to the "University of Washington bond retirement fund" and the remainder thereof to the "University of Washington building account." The sum so credited to the University of Washington building account shall be used exclusively for the purpose of erecting, altering, maintaining, equipping, or furnishing buildings except for any sums transferred as authorized in RCW 28B.20.725(3). The sum so credited to the University of Washington bond retirement fund shall be used for the payment of principal of and interest on bonds outstanding as provided by chapter 28B.20 RCW except for any sums transferred as authorized in RCW 28B.20.725(5).

[1985 c 390 § 20; 1969 ex.s. c 223 § 28B.15.210. Prior: 1963 c 224 § 1; 1959 c 193 § 7; 1957 c 254 § 6; 1947 c 243 § 2; 1945 c 187 § 2; 1939 c 156 § 1; 1933 c 169 § 2; 1921 c 139 § 2; 1919 c 63 § 2; 1915 c 66 § 3; Rem. Supp. 1947 § 4547. Formerly RCW 28.77.040.]

RCW 28B.15.220 Fees--University of Washington--Disposition of special fees.

All fees except building fees shall be held by the board of regents as a revolving fund and expended for the purposes for which collected and be accounted for in accordance with law: PROVIDED, That the board of regents shall have authority to place in a separate fund or funds any or all fees or rentals exacted for the use of facilities of any dormitory, hospital, or infirmary building, and the board of regents shall have authority to pledge any or all such fees for the retirement of any bonds that may be issued for the construction of such dormitory, hospital, or infirmary building.

[1985 c 390 § 21; 1969 ex.s. c 223 § 28B.15.220. Prior: 1961 c 229 § 6; prior: (i) 1933 ex.s. c 24 § 1; 1921 c 139 § 3; 1919 c 63 § 3; 1915 c 66 § 4; RRS § 4548. (ii) 1947 c 64 § 2, part; 1933 ex.s. c 23 § 2, part; 1925 ex.s. c 91 § 2, part; Rem. Supp. 1947 § 4543-2, part. Formerly RCW 28.77.050.]

RCW 28B.15.225 Exemption from fees of schools of medicine or dentistry at University of Washington--Exemption from nonresident tuition fees differential for participants in the Washington, Alaska, Montana, Idaho, or Wyoming program at Washington State University.

Subject to the limitations of RCW 28B.15.910, the governing board of the University of Washington may exempt the following students from the payment of all or a portion of the nonresident tuition fees differential: Students admitted to the university's school of medicine pursuant to contracts with the states of Alaska, Montana, Idaho, or Wyoming, or agencies thereof, providing for a program of regionalized medical education conducted by the school of medicine; or students admitted to the university's school of dentistry pursuant to contracts with the states of Utah, Idaho, or any other western state which does not have a school of dentistry, or agencies thereof, providing for a program of regionalized dental education conducted by the school of dentistry. The proportional cost of the program, in excess of resident student tuition and fees, will be reimbursed to the university by or on behalf of participating states or agencies. Subject to the limitations of RCW 28B.15.910, the governing board of Washington State University may exempt from payment all or a portion of the nonresident tuition fees differential for any student admitted to the University of Washington's school of medicine and attending Washington State University as a participant in the Washington, Alaska, Montana, Idaho, or Wyoming program in this section. Washington State University may reduce the professional student tuition for students enrolled in this program by the amount the student pays the University of Washington as a registration fee.

[1997 c 50 § 1; 1993 sp.s. c 18 § 9; 1992 c 231 § 8; 1981 c 20 § 1; 1975 1st ex.s. c 105 § 1.]

Notes:

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.
Effective date--1992 c 231: See note following RCW 28B.10.016.

RCW 28B.15.310 Fees--Washington State University--Disposition of building fees.

Within thirty-five days from the date of collection thereof, all building fees shall be paid

into the state treasury and credited to the Washington State University bond retirement fund, one-half or such larger portion as may be necessary to prevent a default in the payments required to be made out of such bond retirement fund; the remainder thereof to the Washington State University building account.

The sum so credited to the Washington State University building account shall be expended by the board of regents for buildings, equipment, or maintenance on the campus of Washington State University as may be deemed most advisable and for the best interests of the university, except for any sums transferred as authorized by law. Expenditures so made shall be accounted for in accordance with existing law and shall not be expended until appropriated by the legislature.

The sum so credited to the Washington State University bond retirement fund shall be used to pay and secure the payment of the principal of and interest on building bonds issued by the university, except for any sums which may be transferred out of such fund as authorized by law.

[1985 c 390 § 22; 1969 ex.s. c 223 § 28B.15.310. Prior: 1961 ex.s. c 11 § 2; 1935 c 185 § 1; 1921 c 164 § 2; RRS § 4570. Formerly RCW 28.80.040.]

Notes:
Chapter not to repeal, override, or limit other statutes or actions: RCW 28B.31.100.

RCW 28B.15.380 Exemption from payment of fees at state universities, regional universities, and The Evergreen State College--Veterans and children of certain law enforcement officers or fire fighters.

Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, and The Evergreen State College may exempt the following students from the payment of all or a portion of tuition fees and services and activities fees:

(1) All veterans as defined in RCW 41.04.005: PROVIDED, That such persons are no longer entitled to federal vocational or educational benefits conferred by virtue of their military service: AND PROVIDED FURTHER, That if any such veterans have not resided in this state for one year prior to registration, the board may exempt the student from paying up to fifty percent of the nonresident tuition fees differential. Such exemptions may be provided only to those persons otherwise covered who were enrolled in universities on or before October 1, 1977.

(2) Children of any law enforcement officer or fire fighter who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state: PROVIDED, That such persons may receive the exemption only if they begin their course of study at a state-supported college or university within ten years of their graduation from high school.

[1993 sp.s. c 18 § 10; 1992 c 231 § 9; 1990 c 154 § 1; 1985 c 390 § 23; 1979 c 82 § 1; 1977 ex.s. c 322 § 10; 1977 ex.s. c 169 § 37; 1973 1st ex.s. c 191 § 1; 1971 ex.s. c 279 § 8; 1969 ex.s. c 269 § 8; 1969 ex.s. c 223 § 28B.15.380. Prior: (i) 1947 c 46 § 1; 1921 c 139 § 5; Rem. Supp. 1947 § 4550. Formerly RCW 28.77.070. (ii) 1921 c 164 § 4,

part; RRS § 4572, part. Formerly RCW 28.80.060, part.]

Notes:

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Effective date--1992 c 231: See note following RCW 28B.10.016.

Severability--1979 c 82: "If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1979 c 82 § 3.]

Severability--1977 ex.s. c 322: See note following RCW 28B.15.065.

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

Effective date--1973 1st ex.s. c 191: "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1973." [1973 1st ex.s. c 191 § 4.]

Severability--1971 ex.s. c 279: See note following RCW 28B.15.005.

"Totally disabled" defined for certain purposes: RCW 28B.15.385.

RCW 28B.15.385 "Totally disabled" defined for certain purposes.

For the purposes of RCW 28B.15.380, 28B.15.385, 28B.15.520 and *28B.40.361 the phrase "totally disabled" as used in RCW 28B.15.380, 28B.15.520 and *28B.40.361 shall mean a person who has become totally and permanently disabled for life by bodily injury or disease, and is thereby prevented from performing any occupation or gainful pursuit.

[1973 1st ex.s. c 191 § 5.]

Notes:

***Reviser's note:** RCW 28B.40.361 was repealed by 1993 sp.s. c 18 § 14, effective July 1, 1993.

Effective date--1973 1st ex.s. c 191: See note following RCW 28B.15.380.

RCW 28B.15.411 Fees--Installment payments.

Each institution of higher education, at its discretion, may offer students an optional plan to pay in advance the building fees, operating fees, and services and activities fees for any quarter or semester in periodic installments, as established by that institution of higher education.

[1987 c 15 § 1; 1985 c 356 § 1.]

Notes:

Effective date--1987 c 15: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1987." [1987 c 15 § 3.]

Report to legislature--1985 c 356: "Any institution of higher education offering a payment plan under RCW 28B.15.411, shall report to the legislature by January 1, 1988, about the effectiveness of the plan and costs of administering the plan." [1985 c 356 § 3.]

RCW 28B.15.450 Gender equity--Intent.

The legislature finds that the ratio of women to men in intercollegiate athletics in Washington's higher education system is inequitable. It is the intent of the legislature, through additional tuition and fee waivers, to achieve gender equity in intercollegiate athletics.

[1989 c 340 § 1.]

RCW 28B.15.455 Gender equity--Goals.

Institutions of higher education shall strive to accomplish the following goals by June 30, 2002:

(1) Provide the following benefits and services equitably to male and female athletes participating in intercollegiate athletic programs: Equipment and supplies; medical services; services and insurance; transportation and per diem allowances; opportunities to receive coaching and instruction; scholarships and other forms of financial aid; conditioning programs; laundry services; assignment of game officials; opportunities for competition, publicity, and awards; and scheduling of games and practice times, including use of courts, gyms, and pools. Each institution which provides showers, toilets, lockers, or training room facilities for athletic purposes shall provide access to comparable facilities for both males and females.

(2) Provide equitable intercollegiate athletic opportunities for male and female students including opportunities to participate and to receive the benefits of the services listed in subsection (1) of this section.

(3) Provide participants with female and male coaches and administrators to act as role models.

[1997 c 5 § 1; 1989 c 340 § 3.]

Notes:

Effective date--1997 c 5: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997." [1997 c 5 § 7.]

RCW 28B.15.460 Gender equity--Tuition and fee waivers--Institutional plan for underrepresented gender class.

(1) An institution of higher education shall not grant any waivers for the purpose of achieving gender equity until the 1991-92 academic year, and may grant waivers for the purpose of achieving gender equity in intercollegiate athletic programs as authorized in RCW 28B.15.740, for the 1991-92 academic year only if the institution's governing board has adopted a plan for complying with the provisions of RCW 28B.15.455 and submitted the plan to the higher education coordinating board.

(2)(a) Beginning in the 1992-93 academic year, an institution of higher education shall not grant any waiver for the purpose of achieving gender equity in intercollegiate athletic programs as authorized in RCW 28B.15.740 unless the institution's plan has been approved by the higher education coordinating board.

(b) Beginning in the 1999-2000 academic year, an institution that did not provide, by June 30, 1998, athletic opportunities for an historically underrepresented gender class at a rate that meets or exceeds the current rate at which that class participates in high school athletics in Washington state shall have a new institutional plan approved by the higher education

coordinating board before granting further waivers.

(c) Beginning in the 2003-04 academic year, an institution of higher education that was not within five percent of the ratio of undergraduates described in RCW 28B.15.470 by June 30, 2002, shall have a new plan for achieving gender equity in intercollegiate athletic programs approved by the higher education coordinating board before granting further waivers.

(3) The plan shall include, but not be limited to:

(a) For any institution with an historically underrepresented gender class described in subsection (2)(b) of this section, provisions that ensure that by July 1, 2000, the institution shall provide athletic opportunities for the underrepresented gender class at a rate that meets or exceeds the current rate at which that class participates in high school interscholastic athletics in Washington state not to exceed the point at which the underrepresented gender class is no longer underrepresented;

(b) For any institution with an underrepresented gender class described in subsection (2)(c) of this section, provisions that ensure that by July 1, 2004, the institution will have reached substantial proportionality in its athletic program;

(c) Activities to be undertaken by the institution to increase participation rates of any underrepresented gender class in interscholastic and intercollegiate athletics. These activities may include, but are not limited to: Sponsoring equity conferences, coaches clinics and sports clinics; and taking a leadership role in working with athletic conferences to reduce barriers to participation by those gender classes in interscholastic and intercollegiate athletics;

(d) An identification of barriers to achieving and maintaining equitable intercollegiate athletic opportunities for men and women; and

(e) Measures to achieve institutional compliance with the provisions of RCW 28B.15.455.

[1997 c 5 § 2; 1989 c 340 § 4.]

Notes:

Effective date--1997 c 5: See note following RCW 28B.15.455.

RCW 28B.15.465 Gender equity--Reports.

(1) The higher education coordinating board shall report every four years, beginning December 1998, to the governor and the house of representatives and senate committees on higher education, on institutional efforts to comply with the requirements of RCW 28B.15.740, 28B.15.455, and 28B.15.460. Each report shall include recommendations on measures to assist institutions with compliance.

(2) Before the board makes its report in December 2006, the board shall assess the extent of institutional compliance with the requirements of RCW 28B.15.740, 28B.15.455, and 28B.15.460.

(3) The report in this section may be combined with the report required in RCW 28B.110.040(3).

[1997 c 5 § 3; 1989 c 340 § 5.]

Notes:

Effective date--1997 c 5: See note following RCW 28B.15.455.

RCW 28B.15.470 Gender equity--"Underrepresented gender class," "equitable" defined.

(1) As used in and for the limited purposes of RCW 28B.15.450 through 28B.15.465 and 28B.15.740, "underrepresented gender class" means female students or male students, where the ratio of participation of female or male students who are seventeen to twenty-four year old undergraduates enrolled full-time on the main campus, respectively, in intercollegiate athletics has historically been less than approximately the ratio of female to male students or male to female students, respectively, enrolled as undergraduates at an institution.

(2) As used in and for the limited purpose of RCW 28B.15.460(3)(a), an "underrepresented gender class" in interscholastic athletics means female students or male students, where the ratio of participation of female or male students, respectively, in K-12 interscholastic athletics has historically been less than approximately the ratio of female to male students or male to female students, respectively, enrolled in K-12 public schools in Washington.

(3) As used in and for the limited purposes of RCW 28B.15.460, "equitable" means that the ratio of female and male students participating in intercollegiate athletics is substantially proportionate to the percentages of female and male students who are seventeen to twenty-four year old undergraduates enrolled full time on the main campus.

[1997 c 5 § 4; 1989 c 340 § 6.]

Notes:

Effective date--1997 c 5: See note following RCW 28B.15.455.

RCW 28B.15.475 Gender equity--Construction--1989 c 340.

Nothing in this act shall be construed to excuse any institution from any more stringent requirement to achieve gender equity imposed by law, nor to permit any institution to decrease participation of any underrepresented gender class.

[1989 c 340 § 7.]

RCW 28B.15.515 Community colleges--State-funded enrollment levels--Summer school--Enrollment level variances.

(1) The boards of trustees of the community college districts may operate summer schools on either a self-supporting or a state-funded basis.

If summer school is operated on a self-supporting basis, the fees charged shall be retained by the colleges, and shall be sufficient to cover the direct costs, which are instructional salaries and related benefits, supplies, publications, and records.

Community colleges that have self-supporting summer schools shall continue to receive general fund state support for vocational programs that require that students enroll in a four quarter sequence of courses that includes summer quarter due to clinical or laboratory

requirements and for ungraded courses limited to adult basic education, vocational apprenticeship, aging and retirement, small business management, industrial first aid, and parent education.

(2) The board of trustees of a community college district may permit the district's state-funded, full-time equivalent enrollment level, as provided in the omnibus state appropriations act, to vary. If the variance is above the state-funded level, the district may charge those students above the state-funded level a fee equivalent to the amount of tuition and fees that are charged students enrolled in state-funded courses. These fees shall be retained by the colleges.

(3) The state board for community and technical colleges shall ensure compliance with this section.

[1993 sp.s. c 18 § 13; 1993 sp.s. c 15 § 8; 1991 c 353 § 1.]

Notes:

Reviser's note: This section was amended by 1993 sp.s. c 15 § 8 and by 1993 sp.s. c 18 § 13, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Findings--Effective date--1993 sp.s. c 15: See notes following RCW 28B.10.776.

Effective date--1991 c 353: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 15, 1991." [1991 c 353 § 3.]

RCW 28B.15.520 Waiver of fees and nonresident tuition fees differential--Community colleges.

Subject to the limitations of RCW 28B.15.910, the governing boards of the community colleges may:

(1) Waive all or a portion of tuition fees and services and activities fees for:

(a) Students nineteen years of age or older who are eligible for resident tuition and fee rates as defined in RCW 28B.15.012 through 28B.15.015 and who enroll in a course of study or program which will enable them to finish their high school education and obtain a high school diploma or certificate; and

(b) Children of any law enforcement officer or fire fighter who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state: PROVIDED, That such persons may receive the waiver only if they begin their course of study at a community college within ten years of their graduation from high school;

(2) Waive all or a portion of the nonresident tuition fees differential for:

(a) Nonresident students enrolled in a community college course of study or program which will enable them to finish their high school education and obtain a high school diploma or certificate. The waiver shall be in effect only for those courses which lead to a high school diploma or certificate; and

(b) Up to forty percent of the students enrolled in the regional education program for deaf

students, subject to federal funding of such program.

[1993 sp.s. c 18 § 16; 1992 c 231 § 12; 1990 c 154 § 2; 1987 c 390 § 1. Prior: 1985 c 390 § 26; 1985 c 198 § 1; 1982 1st ex.s. c 37 § 8; 1979 ex.s. c 148 § 1; 1973 1st ex.s. c 191 § 2; 1971 ex.s. c 279 § 12; 1970 ex.s. c 59 § 8; 1969 ex.s. c 261 § 29. Formerly RCW 28.85.310, part.]

Notes:

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Effective date--1992 c 231: See note following RCW 28B.10.016.

Effective date--Severability--1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Effective date--1973 1st ex.s. c 191: See note following RCW 28B.15.380.

Severability--1971 ex.s. c 279: See note following RCW 28B.15.005.

Severability--1970 ex.s. c 59: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 59 § 11.]

Severability--1969 ex.s. c 261: See note following RCW 28B.50.020.

GED test, eligibility: RCW 28A.305.190.

"Totally disabled" defined for certain purposes: RCW 28B.15.385.

RCW 28B.15.522 Waiver of tuition and fees for long-term unemployed or underemployed persons--Community colleges.

(1) The governing boards of the community colleges may waive all or a portion of the tuition and services and activities fees for persons under subsection (2) of this section pursuant to the following conditions:

(a) Such persons shall register for and be enrolled in courses on a space available basis and new course sections shall not be created as a result of the registration;

(b) Enrollment information on persons registered pursuant to this section shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor shall such persons be considered in any enrollment statistics which would affect budgetary determinations; and

(c) Persons who enroll under this section shall have the same access to support services as do all other students and shall be subject to all course prerequisite requirements.

(2) A person is eligible for the waiver under subsection (1) of this section if the person:

(a) Meets the requirements for a resident student under RCW 28B.15.011 through 28B.15.015;

(b) Is twenty-one years of age or older;

(c) At the time of initial enrollment under subsection (1) of this section, has not attended an institution of higher education for the previous six months;

(d) Is not receiving or is not entitled to receive unemployment compensation of any nature under Title 50 RCW; and

(e) Has an income at or below the need standard established under chapter 74.04 RCW by the department of social and health services.

(3) The state board for community and technical colleges shall adopt rules to carry out this section.

[1993 sp.s. c 18 § 17; 1992 c 231 § 13; 1985 c 390 § 27; 1984 c 50 § 2.]

Notes:

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Effective date--1992 c 231: See note following RCW 28B.10.016.

Intent--1984 c 50: "The legislature finds that providing educational opportunities to the long-term unemployed and underemployed is a valuable incentive to these individuals to reestablish themselves as contributing members of society. To this end, the legislature finds that creating the opportunity for these people to attend the state's community colleges on a space available basis, without charge, will provide the impetus for self-improvement without drawing upon the limited resources of the state or its institutions." [1984 c 50 § 1.]

Severability--1984 c 50: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 50 § 4.]

RCW 28B.15.524 Community college international student exchange program.

The community college international student exchange program is hereby established.

[1987 c 12 § 1.]

RCW 28B.15.526 Community college international student exchange program--Resident tuition for participants authorized.

The legislature intends to permit the governing boards of the community colleges to charge resident tuition and fees for students of foreign nations who are participants in the international student exchange program.

[1987 c 12 § 2.]

RCW 28B.15.527 Waiver of nonresident tuition fees differential for students of foreign nations--Community colleges.

Subject to the limitations of RCW 28B.15.910, the governing boards of the community colleges may waive all or a portion of the nonresident tuition fees differential for undergraduate students of foreign nations as follows:

(1) Priority in the awarding of waivers shall be given to students on academic exchanges and students participating in special programs recognized through formal agreements between states, cities, or institutions;

(2) The waiver programs under this section shall promote reciprocal placements and waivers in foreign nations for Washington residents. The number of foreign students granted waivers through this program shall not exceed the number of that institution's own students enrolled in approved study programs abroad during the same period;

(3) No reciprocal placements shall be required for up to thirty students participating in the Georgetown University scholarship program funded by the United States agency for international development;

(4) Participation shall be limited to one hundred full-time foreign students each year.

[1993 sp.s. c 18 § 18; 1992 c 231 § 14; 1989 c 245 § 5; 1987 c 12 § 3.]

Notes:

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.
Effective date--1992 c 231: See note following RCW 28B.10.016.
Analyses--1989 c 245: See note following RCW 28B.15.070.

RCW 28B.15.540 Waiver of tuition and fees for residents sixty years of age or older--Limitations.

Consistent with the regulations and procedures established by the governing boards of the state universities, the regional universities, and The Evergreen State College and the state board for community and technical colleges, each institution may for Washington residents who are sixty years of age or older:

(1) Waive, in whole or in part, the tuition and services and activities fees for students who qualify under this section and who are enrolled for credit, and

(2) Waive, in whole or in part, the tuition and services and activities fees for students who qualify under this section, but charge a nominal fee not to exceed five dollars per quarter, or semester, as the case may be, for such students who are enrolled on an audit basis: PROVIDED, That residents enrolling with fee exemptions under this section shall register for not more than two quarter or semester courses at one time on a space available basis, and no new course sections shall be created as a direct result of such registration: PROVIDED FURTHER, That such waivers shall not be available to students who plan to use the course credits gained thereby for increasing credentials or salary schedule increases: PROVIDED FURTHER, That enrollment information concerning fee exemptions awarded under this section shall be maintained separately from other enrollment information but shall not be included in official enrollment reports: PROVIDED, That persons who enroll pursuant to provisions of this section shall not be considered for any purpose in determining student-teacher ratio, nor for any purpose relating to enrollment totals, nor any other statistic which would affect budgetary determinations. Persons enrolling under the provisions of this section shall have, in equal with all other students, access to course counseling services and shall be subject to all course prerequisite requirements.

[1992 c 231 § 16; 1985 c 390 § 29; 1975 1st ex.s. c 157 § 2.]

Notes:

Effective date--1992 c 231: See note following RCW 28B.10.016.

Purpose--1975 1st ex.s. c 157: "In recognition of the worthwhile goal of making education a life-long process, it is the declared desire of the legislature to promote the availability of postsecondary education for the state's older residents." [1975 1st ex.s. c 157 § 1.]

RCW 28B.15.543 Waiver or grant of tuition and fees for recipients of the Washington scholars award--Qualifications.

(1) Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges shall waive tuition and service and activities fees for students named by the higher education

coordinating board on or before June 30, 1994, as recipients of the Washington scholars award under RCW 28A.600.100 through 28A.600.150. The waivers shall be used only for undergraduate studies. To qualify for the waiver, recipients shall enter the college or university within three years of high school graduation and maintain a minimum grade point average at the college or university equivalent to 3.30. Students shall be eligible to receive a maximum of twelve quarters or eight semesters of waivers and may transfer among state-supported institutions of higher education during that period and continue to have the tuition and services and activities fees waived by the state-supported institution of higher education that the student attends. Should the student's cumulative grade point average fall below 3.30 during the first three quarters or two semesters, that student may petition the higher education coordinating board which shall have the authority to establish a probationary period until such time as the student's grade point average meets required standards.

(2) Students named by the higher education coordinating board after June 30, 1994, as recipients of the Washington scholars award under RCW 28A.600.100 through 28A.600.150 shall be eligible to receive a grant for undergraduate course work as authorized under RCW 28B.80.245.

[1995 1st sp.s. c 5 § 2; 1993 sp.s. c 18 § 19; 1992 c 231 § 17; 1990 c 33 § 558; 1987 c 465 § 2. Prior: 1985 c 390 § 30; 1985 c 370 § 68; 1985 c 341 § 16; 1984 c 278 § 17.]

Notes:

Severability--Effective date--1995 1st sp.s. c 5: See notes following RCW 28A.600.130.

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Effective date--1992 c 231: See note following RCW 28B.10.016.

Purpose--Statutory references--Severability--1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Application--1987 c 465 § 2: "The amendments to RCW 28B.15.543 by section 2, chapter 465, Laws of 1987 shall apply to persons holding the Washington scholars award as of July 26, 1987, as well as persons holding the award after July 26, 1987." [1987 c 465 § 3.]

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--1984 c 278: See note following RCW 28A.185.010.

RCW 28B.15.544 Waiver of nonresident tuition fees differential for western undergraduate exchange program students.

Subject to the limitations of RCW 28B.15.910, the governing boards of Washington State University, Eastern Washington University, and Central Washington University may waive all or a portion of the difference between fifty percent of the resident tuition and fees amount and the nonresident tuition fees differential for nonresident students who enroll under the western interstate commission for higher education western undergraduate exchange program.

[1999 c 344 § 2.]

Notes:

Findings--Intent--1999 c 344: "The legislature finds that policies that encourage regional planning and access to higher education benefit both the students and the state. Such policies improve access, reduce unnecessary duplication, and make higher education more cost-effective. The western undergraduate exchange program,

coordinated by the western interstate commission for higher education is a program through which students in participating states may enroll in designated institutions in other participating states at a special, reduced tuition level. During the 1998-99 school year institutions in fifteen western states participated in the western undergraduate exchange program, including Washington's bordering states of Oregon and Idaho. Eastern Washington University participated on a pilot basis. It is the intent of the legislature to permit Washington's institutions of higher education to participate in the western undergraduate exchange program." [1999 c 344 § 1.]

RCW 28B.15.545 Waiver of tuition and fees for recipients of the Washington award for vocational excellence--Grants.

(1) Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges shall waive tuition and services and activities fees for a maximum of two years for those recipients of the Washington award for vocational excellence established under RCW 28C.04.520 through 28C.04.540 who received their awards before June 30, 1994. Each recipient shall not receive a waiver for more than six quarters or four semesters. To qualify for the waiver, recipients shall enter the college or university within three years of receiving the award. A minimum grade point average at the college or university equivalent to 3.00, or an above-average rating at a technical college, shall be required in the first year to qualify for the second-year waiver. The tuition waiver shall be granted for undergraduate studies only.

(2) Students named by the work force training and education coordinating board after June 30, 1994, as recipients of the Washington award for vocational excellence under RCW 28C.04.520 through 28C.04.550 shall be eligible to receive a grant for undergraduate course work as authorized under RCW 28B.80.272.

[1995 1st sp.s. c 7 § 7; 1993 sp.s. c 18 § 20; 1992 c 231 § 18; 1987 c 231 § 1; 1985 c 390 § 31; 1984 c 267 § 6.]

Notes:

Severability--1995 1st sp.s. c 7: See note following RCW 28C.04.520.
Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.
Effective date--1992 c 231: See note following RCW 28B.10.016.

RCW 28B.15.546 Second-year waiver of tuition and fees for recipients of the Washington award for vocational excellence.

Students receiving the Washington award for vocational excellence in 1987 and thereafter are eligible for a second-year waiver.

[1987 c 231 § 5.]

RCW 28B.15.555 Waiver of tuition and fees for students of foreign nations--Intent.

The legislature intends to permit the governing boards of the four-year institutions of higher education to waive tuition and fees for certain students of foreign nations. To the greatest extent possible, students chosen for these waivers and for the institutions' own approved study abroad programs shall reflect the range of socioeconomic and ethnic characteristics of the students' institutions and native countries.

[1986 c 232 § 1.]

RCW 28B.15.556 Waiver of tuition and fees for students of foreign nations--Authorized--Limitations.

Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, and The Evergreen State College may waive all or a portion of the tuition, and services and activities fees for undergraduate or graduate students of foreign nations subject to the following limitations:

(1) No more than the equivalent of one hundred waivers may be awarded to undergraduate or graduate students of foreign nations at each of the two state universities;

(2) No more than the equivalent of twenty waivers may be awarded to undergraduate or graduate students of foreign nations at each of the regional universities and The Evergreen State College;

(3) Priority in the awarding of waivers shall be given to students on academic exchanges or academic special programs sponsored by recognized international educational organizations; and

(4) An undergraduate or graduate student of a foreign nation receiving a waiver under this section is not eligible for any other waiver.

The waiver programs under this section, to the greatest extent possible, shall promote reciprocal placements and waivers in foreign nations for Washington residents. The number of waivers awarded by each institution shall not exceed the number of that institution's own students enrolled in approved study programs abroad during the same period.

[1993 sp.s. c 18 § 21; 1992 c 231 § 19; 1986 c 232 § 2.]

Notes:

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Effective date--1992 c 231: See note following RCW 28B.10.016.

RCW 28B.15.558 Waiver of tuition and fees for state employees and Washington national guard members.

(1) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may waive all or a portion of the tuition and services and activities fees for state employees as defined under subsection (2) of this section and members of the Washington national guard. The enrollment of these persons is pursuant to the following conditions:

(a) Such persons shall register for and be enrolled in courses on a space available basis and no new course sections shall be created as a result of the registration;

(b) Enrollment information on persons registered pursuant to this section shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor shall such persons be considered in any enrollment statistics that would affect budgetary determinations; and

(c) Persons registering on a space available basis shall be charged a registration fee of not less than five dollars.

(2) For the purposes of this section, "state employees" means persons employed half-time or more in one or more of the following employee classifications:

(a) Permanent employees in classified service under chapter 41.06 RCW;

(b) Permanent employees governed by chapter 41.56 RCW pursuant to the exercise of the option under RCW 41.56.201;

(c) Permanent classified employees and exempt paraprofessional employees of technical colleges; and

(d) Faculty, counselors, librarians, and exempt professional and administrative employees at institutions of higher education as defined in RCW 28B.10.016.

(3) In awarding waivers, an institution of higher education may award waivers to eligible persons employed by the institution before considering waivers for eligible persons who are not employed by the institution.

(4) If an institution of higher education exercises the authority granted under this section, it shall include all eligible state employees and members of the Washington national guard in the pool of persons eligible to participate in the program.

(5) In establishing eligibility to receive waivers, institutions of higher education may not discriminate between full-time employees and employees who are employed half-time or more.

[1997 c 211 § 1; 1996 c 305 § 3; 1992 c 231 § 20; 1990 c 88 § 1.]

Notes:

Effective date--1996 c 305 § 3: "Section 3 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 30, 1996]." [1996 c 305 § 4.]

Severability--1996 c 305: See note following RCW 28B.85.020.

Effective date--1992 c 231: See note following RCW 28B.10.016.

RCW 28B.15.600 Refunds or cancellation of fees--Four-year institutions of higher education.

The governing boards of the state universities, the regional universities, and The Evergreen State College may refund or cancel in full the tuition and services and activities fees if the student withdraws from a university or college course or program prior to the sixth day of instruction of the quarter or semester for which the fees have been paid or are due. If the student withdraws on or after the sixth day of instruction, the governing boards may refund or cancel up to one-half of the fees, provided such withdrawal occurs within the first thirty calendar days following the beginning of instruction. However, if a different policy is required by federal law in order for the institution of higher education to maintain eligibility for federal funding of programs, the governing board may adopt a refund policy that meets the minimum requirements of the federal law, and the policy may treat all students attending the institution in the same manner.

The governing boards of the respective universities and college may adopt rules for the refund of tuition and fees for courses or programs that begin after the start of the regular quarter

or semester. The governing boards may adopt rules to comply with *RCW 28B.15.623 and may extend the refund or cancellation period for students who withdraw for medical reasons or who are called into the military service of the United States and may refund other fees pursuant to such rules as they may prescribe.

[1995 c 36 § 1; 1993 sp.s. c 18 § 22; 1991 c 164 § 5; 1985 c 390 § 32; 1983 c 256 § 1; 1977 ex.s. c 169 § 40; 1973 1st ex.s. c 46 § 2; 1971 ex.s. c 279 § 15; 1969 ex.s. c 223 § 28B.15.600. Prior: 1963 c 89 § 1. Formerly RCW 28.76.430.]

Notes:

***Reviser's note:** RCW 28B.15.623 expired June 30, 1997, pursuant to 1994 c 208 § 3.

Effective date--1995 c 36: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 13, 1995]." [1995 c 36 § 3.]

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability--1973 1st ex.s. c 46: See note following RCW 28B.10.704.

Severability--1971 ex.s. c 279: See note following RCW 28B.15.005.

RCW 28B.15.605 Refunds or cancellation of fees--Community colleges and technical colleges.

(1) The governing boards of the community colleges and technical colleges shall refund or cancel up to one hundred percent but no less than eighty percent of the tuition and services and activities fees if the student withdraws from a college course or program before the sixth day of instruction of the regular quarter for which the fees have been paid or are due. If the student withdraws on or after the sixth day of instruction, the governing boards shall refund or cancel up to fifty percent but no less than forty percent of the fees provided such withdrawal occurs within the first twenty calendar days following the beginning of instruction. However, if a different policy is required by federal law in order for the college to maintain eligibility for federal funding of programs, the governing board may adopt a refund policy that meets the minimum requirements of the federal law and the policy may treat all students attending the institution in the same manner.

(2) The governing boards of the respective community college or technical college shall adopt rules consistent with subsection (1) of this section for the refund of tuition and fees for the summer quarter and for courses or programs that begin after the start of the regular quarter.

(3) The governing boards of community colleges and technical colleges may adopt rules to comply with *RCW 28B.15.623 and may extend the refund or cancellation period for students who withdraw for medical reasons or who are called into the military service of the United States.

[1995 c 36 § 2.]

Notes:

***Reviser's note:** RCW 28B.15.623 expired June 30, 1997, pursuant to 1994 c 208 § 3.

Effective date--1995 c 36: See note following RCW 28B.15.600.

RCW 28B.15.610 Voluntary fees of students.

The provisions of this chapter shall not apply to or affect any student fee or charge which the students voluntarily maintain upon themselves for student purposes only.

[1969 ex.s. c 223 § 28B.15.610. Prior: 1915 c 66 § 8; RRS § 4552. Formerly RCW 28.77.065.]

RCW 28B.15.615 Exemption from resident operating fees and technology fees for persons holding graduate service appointments.

Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities and the regional universities may exempt the following students from paying all or a portion of the resident operating fee and the technology fee: Students granted a graduate service appointment, designated as such by the institution, involving not less than twenty hours of work per week. The exemption shall be for the term of the appointment.

[1996 c 142 § 3; 1993 sp.s. c 18 § 23; 1992 c 231 § 21; 1984 c 105 § 1.]

Notes:

Severability--Effective date--1996 c 142: See notes following RCW 28B.15.031.
Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.
Effective date--1992 c 231: See note following RCW 28B.10.016.

RCW 28B.15.620 Exemption from tuition and fees increase at institutions of higher education--Vietnam veterans.

(1) The legislature finds that military and naval veterans who have served their country in wars on foreign soil have risked their own lives to defend both the lives of all Americans and the freedoms that define and distinguish our nation. The legislature also finds that veterans of the Vietnam conflict suffered during and after the war as the country anguished over its involvement in the conflict. It is the intent of the legislature to honor Vietnam veterans for the public service they have provided to their country. It is the further intent of the legislature that, for eligible Vietnam veterans, colleges and universities waive tuition and fee increases that have occurred since October 1, 1977.

(2) Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may exempt veterans of the Vietnam conflict who have served in the southeast Asia theater of operations from the payment of all or a portion of any increase in tuition and fees that occur after October 1, 1977, if the veteran qualifies as a resident student under RCW 28B.15.012.

(3) For the purposes of this section, "veterans of the Vietnam conflict" shall be those persons who have been on active federal service as a member of the armed military or naval forces of the United States between a period commencing August 5, 1964, and ending on May 7, 1975.

[1999 c 82 § 1; 1995 c 349 § 1; 1994 c 208 § 1; 1993 sp.s. c 18 § 24; 1992 c 231 § 22; 1989 c 306 § 4; 1983 c 307 § 1; 1979 ex.s. c 83 § 1; 1977 ex.s. c 322 § 9; 1972 ex.s. c 149 § 3; 1971 ex.s. c 279 § 22.]

Notes:

Effective date--1999 c 82: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 22, 1999]." [1999 c 82 § 4.]

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Effective date--1992 c 231: See note following RCW 28B.10.016.

Severability--1977 ex.s. c 322: See note following RCW 28B.15.065.

Severability--1971 ex.s. c 279: See note following RCW 28B.15.005.

RCW 28B.15.625 Persian Gulf veterans--Private higher education institutions--Tuition refund encouraged.

Private vocational schools and private higher education institutions are encouraged to provide students deployed either to the Persian Gulf combat zone, as designated by the president of the United States through executive order, or in another location in support of the Persian Gulf combat zone, with the choice of tuition refunds or one free term, as provided under RCW 28B.10.017 and *28B.15.623 for public higher education institutions.

[1991 c 164 § 10.]

Notes:

***Reviser's note:** RCW 28B.15.623 expired June 30, 1997, pursuant to 1994 c 208 § 3.

RCW 28B.15.628 Waiver of tuition and fees increases at institutions of higher education--Persian Gulf veterans.

(1) The legislature finds that military and naval veterans who have served their country in wars on foreign soil have risked their own lives to defend both the lives of all Americans and the freedoms that define and distinguish our nation. It is the intent of the legislature to honor Persian Gulf combat zone veterans for the public service they have provided to their country. It is the further intent of the legislature that, for eligible Persian Gulf combat zone veterans, institutions of higher education waive tuition and fee increases that have occurred after the 1990-91 academic year.

(2) Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may exempt veterans of the Persian Gulf combat zone from all or a portion of increases in tuition and fees that occur after the 1990-91 academic year, if the veteran could have qualified as a Washington resident student under RCW 28B.15.012(2), had he or she been enrolled as a student on August 1, 1990.

(3) For the purposes of this section, "a veteran of the Persian Gulf combat zone" means a person who served on active duty in the armed forces of the United States during any portion of the 1991 calendar year in the Persian Gulf combat zone as designated by executive order of the president of the United States.

[1999 c 82 § 2; 1996 c 169 § 1; 1994 c 208 § 2; 1993 sp.s. c 18 § 25; 1992 c 231 § 23; 1991 c 228 § 14.]

Notes:

Effective date--1999 c 82: See note following RCW 28B.15.620.
Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.
Effective date--1992 c 231: See note following RCW 28B.10.016.

RCW 28B.15.629 Tuition waivers at technical colleges--Vietnam veterans--Persian Gulf veterans.

Technical colleges are encouraged to provide veterans of the Vietnam conflict as defined in RCW 28B.15.620 and veterans of the Persian Gulf combat zone as defined in RCW 28B.15.628 with tuition waivers.

[1999 c 82 § 3.]

Notes:

Effective date--1999 c 82: See note following RCW 28B.15.620.

RCW 28B.15.700 Nonresident tuition fees--Exemption under Western regional higher education compact contracts.

See RCW 28B.70.050.

RCW 28B.15.725 Home tuition programs.

(1) The governing boards of the state universities, the regional universities, and The Evergreen State College may establish home tuition programs by negotiating home tuition agreements with an out-of-state institution or consortium of institutions of higher education if no loss of tuition and fee revenue occurs as a result of the agreements.

(2) Home tuition agreements allow students at Washington state institutions of higher education to attend an out-of-state institution of higher education as part of a student exchange. Students participating in a home tuition program shall pay an amount equal to their regular, full-time tuition and required fees to either the Washington institution of higher education or the out-of-state institution of higher education depending upon the provisions of the particular agreement. Payment of course fees in excess of generally applicable tuition and required fees must be addressed in each home tuition agreement to ensure that the instructional programs of the Washington institution of higher education do not incur additional uncompensated costs as a result of the exchange.

(3) Student participation in a home tuition agreement authorized by this section is limited to one academic year.

(4) Students enrolled under a home tuition agreement shall reside in Washington state for the duration of the program, may not use the year of enrollment under this program to establish Washington state residency, and are not eligible for state financial aid.

[1997 c 433 § 4; 1994 c 234 § 1; 1993 sp.s. c 18 § 26; 1992 c 231 § 24; 1989 c 290 § 2.]

Notes:

Intent--1997 c 433: "It is the intent of the legislature to provide for diverse educational opportunities at

the state's institutions of higher education and to facilitate student participation in educational exchanges with institutions outside the state of Washington. To accomplish this, this act establishes a home tuition program allowing students at Washington state institutions of higher education to take advantage of out-of-state and international educational opportunities while paying an amount equal to their regularly charged tuition and required fees." [1997 c 433 § 1.]

Severability--1997 c 433: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1997 c 433 § 6.]

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Effective date--1992 c 231: See note following RCW 28B.10.016.

Intent--1989 c 290; 1994 c 234: "The legislature recognizes that a unique educational experience can result from an undergraduate student attending an out-of-state institution. It also recognizes that some Washington residents may be unable to pursue such out-of-state enrollment owing to their limited financial resources and the higher cost of nonresident tuition. The legislature intends to facilitate expanded nonresident undergraduate enrollment opportunities for residents of the state by authorizing the governing boards of the four-year institutions of higher education to enter into exchange programs with other states' institutions with comparable programs wherein the participating institutions agree that visiting undergraduate students will pay resident tuition rates of the host institutions." [1994 c 234 § 2; 1989 c 290 § 1.]

RCW 28B.15.730 Waiver of nonresident tuition fees differential--Washington/Oregon reciprocity program.

Subject to the limitations of RCW 28B.15.910, the state board for community and technical colleges and the governing boards of the state universities, the regional universities, the community colleges, and The Evergreen State College may waive all or a portion of the nonresident tuition fees differential for residents of Oregon, upon completion of and to the extent permitted by an agreement between the higher education coordinating board and appropriate officials and agencies in Oregon granting similar waivers for residents of the state of Washington.

[1993 sp.s. c 18 § 27; 1992 c 231 § 25; 1985 c 370 § 69; 1983 c 104 § 1; 1979 c 80 § 1.]

Notes:

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Effective date--1992 c 231: See note following RCW 28B.10.016.

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--1979 c 80: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 c 80 § 5.]

RCW 28B.15.732 Washington/Oregon reciprocity tuition and fee program--Reimbursement when greater net revenue loss.

Prior to January 1 of each odd-numbered year the higher education coordinating board, in cooperation with the *state board for community college education, and in consultation with appropriate agencies and officials in the state of Oregon, shall determine for the purposes of RCW 28B.15.730 the number of students for whom nonresident tuition and fees have been

waived for the first academic year of the biennium and the fall term of the second academic year, and make an estimate of the number of such students for the remainder of the second academic year, and the difference between the aggregate amount of tuition and fees that would have been paid to the respective states by residents of the other state had such waivers not been made, and the aggregate amount of tuition and fees paid by residents of the other state. Should the board determine that the state of Oregon has experienced a greater net tuition and fee revenue loss than institutions in Washington, it shall pay from funds appropriated for this purpose to the appropriate agency or institutions in Oregon an amount determined by subtracting the net tuition and fee revenue loss of Washington from the net tuition and fee revenue loss of Oregon, minus twenty-five thousand dollars for each year of the biennium: PROVIDED, That appropriate officials in the state of Oregon agree to make similar restitution to the state of Washington should the net tuition and fee revenue loss in Washington be greater than that in Oregon.

[1985 c 370 § 70; 1979 c 80 § 2.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--1979 c 80: See note following RCW 28B.15.730.

RCW 28B.15.734 Washington/Oregon reciprocity tuition and fee program--Implementation agreement.

The higher education coordinating board may enter into an agreement with appropriate officials or agencies in Oregon to implement the provisions of RCW 28B.15.730 through 28B.15.734.

[1985 c 370 § 71; 1979 c 80 § 3.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--1979 c 80: See note following RCW 28B.15.730.

RCW 28B.15.736 Washington/Oregon reciprocity tuition and fee program--Program review.

By January 10 of each odd-numbered year, the higher education coordinating board shall review the costs and benefits of this program and shall transmit copies of their review to the governor and the appropriate policy and fiscal committees of the legislature.

[1985 c 370 § 72; 1983 c 104 § 2; 1979 c 80 § 4.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--1979 c 80: See note following RCW 28B.15.730.

RCW 28B.15.740 Limitation on total tuition and fee waivers.

(1) Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may waive all or a portion of tuition and fees for needy students who are eligible for resident tuition and fee rates pursuant to RCW 28B.15.012 and 28B.15.013. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may waive all or a portion of tuition and fees for other students at the discretion of the governing boards, except on the basis of participation in intercollegiate athletic programs, not to exceed three-fourths of one percent of gross authorized operating fees revenue under RCW 28B.15.910 for the community colleges considered as a whole and not to exceed two percent of gross authorized operating fees revenue for the other institutions of higher education.

(2) In addition to the tuition and fee waivers provided in subsection (1) of this section and subject to the provisions of RCW 28B.15.455, 28B.15.460, and 28B.15.910, a total dollar amount of tuition and fee waivers awarded by any state university, regional university, or state college under this chapter, not to exceed one percent, as calculated in subsection (1) of this section, may be used for the purpose of achieving or maintaining gender equity in intercollegiate athletic programs. At any institution that has an underrepresented gender class in intercollegiate athletics, any such waivers shall be awarded:

(a) First, to members of the underrepresented gender class who participate in intercollegiate athletics, where such waivers result in saved or displaced money that can be used for athletic programs for the underrepresented gender class. Such saved or displaced money shall be used for programs for the underrepresented gender class; and

(b) Second, (i) to nonmembers of the underrepresented gender class who participate in intercollegiate athletics, where such waivers result in saved or displaced money that can be used for athletic programs for members of the underrepresented gender class. Such saved or displaced money shall be used for programs for the underrepresented gender class; or (ii) to members of the underrepresented gender class who participate in intercollegiate athletics, where such waivers do not result in any saved or displaced money that can be used for athletic programs for members of the underrepresented gender class.

[1997 c 207 § 1; 1995 1st sp.s. c 9 § 9; 1993 sp.s. c 18 § 28; 1992 c 231 § 26; 1989 c 340 § 2; 1986 c 232 § 3; 1985 c 390 § 33; 1982 1st ex.s. c 37 § 9; 1980 c 62 § 1; 1979 ex.s. c 262 § 1.]

Notes:

Intent--Purpose--Effective date--1995 1st sp.s. c 9: See notes following RCW 28B.15.031.

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Effective date--1992 c 231: See note following RCW 28B.10.016.

Effective date--Severability--1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability--1979 ex.s. c 262: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 262 § 5.]

RCW 28B.15.750 Waiver of nonresident tuition fees differential--Washington/Idaho reciprocity program.

Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, and The Evergreen State College and the state board for community and technical colleges may waive all or a portion of the nonresident tuition fees differential for residents of Idaho, upon completion of and to the extent permitted by an agreement between the higher education coordinating board and appropriate officials and agencies in Idaho granting similar waivers for residents of the state of Washington.

[1993 sp.s. c 18 § 29; 1992 c 231 § 27; 1985 c 370 § 73; 1983 c 166 § 1.]

Notes:

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Effective date--1992 c 231: See note following RCW 28B.10.016.

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

RCW 28B.15.752 Washington/Idaho reciprocity tuition and fee program--Reimbursement when greater net revenue loss.

Prior to January 1 of each odd-numbered year, the higher education coordinating board, in cooperation with the *state board for community college education and in consultation with appropriate agencies and officials in the state of Idaho, shall determine for the purposes of RCW 28B.15.750 the number of students for whom nonresident tuition and fees have been waived for the first academic year of the biennium and the fall term of the second academic year, and make an estimate of the number of such students for the remainder of the second academic year, and the difference between the aggregate amount of tuition and fees that would have been paid to the respective states by residents of the other state had such waivers not been made, and the aggregate amount of tuition and fees paid by residents of the other state. Should the board determine that the state of Idaho has experienced a greater net tuition and fee revenue loss than institutions in Washington, it shall pay from funds appropriated for this purpose to the appropriate agency or institution in Idaho an amount determined by subtracting the net tuition and fee revenue loss of Washington from the net tuition and fee revenue loss of Idaho, minus twenty-five thousand dollars for each year of the biennium if the appropriate officials in the state of Idaho agree to make similar restitution to the state of Washington should the net tuition and fee revenue loss in Washington be greater than that in Idaho.

[1985 c 370 § 74; 1983 c 166 § 2.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

RCW 28B.15.754 Washington/Idaho reciprocity tuition and fee

program--Implementation agreement--Program review.

The higher education coordinating board may enter into an agreement with appropriate officials or agencies in the state of Idaho to implement RCW 28B.15.750 and 28B.15.752. By January 10 of each odd-numbered year, the board shall review the costs and benefits of any agreement entered into under RCW 28B.15.750 and shall transmit copies of their review to the governor and the appropriate policy and fiscal committees of the legislature.

[1987 c 446 § 1; 1985 c 370 § 75; 1983 c 166 § 3.]

Notes:

Effective date--1987 c 446: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1987." [1987 c 446 § 5.]

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

RCW 28B.15.756 Waiver of nonresident tuition fees differential--Washington/British Columbia reciprocity program.

Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, and The Evergreen State College and the state board for community and technical colleges may waive all or a portion of the nonresident tuition fees differential for residents of the Canadian province of British Columbia, upon completion of and to the extent permitted by an agreement between the higher education coordinating board and appropriate officials and agencies in the Canadian province of British Columbia providing for enrollment opportunities for residents of the state of Washington without payment of tuition or fees in excess of those charged to residents of British Columbia.

[1993 sp.s. c 18 § 30; 1992 c 231 § 28; 1987 c 446 § 2; 1985 c 370 § 76; 1983 c 166 § 4.]

Notes:

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Effective date--1992 c 231: See note following RCW 28B.10.016.

Effective date--1987 c 446: See note following RCW 28B.15.754.

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

RCW 28B.15.758 Washington/British Columbia reciprocity tuition and fee program--Implementation agreement--Program review.

The higher education coordinating board may enter into an agreement with appropriate officials or agencies in the Canadian province of British Columbia to implement RCW 28B.15.756. The agreement should provide for a balanced exchange of enrollment opportunities, without payment of excess tuition or fees, for residents of the state of Washington or the Canadian province of British Columbia. By January 10 of each odd-numbered year, the board shall review the costs and benefits of any agreement entered into under RCW 28B.15.756 and shall transmit copies of their review to the governor and the appropriate policy and fiscal committees of the legislature.

[1987 c 446 § 3; 1985 c 370 § 77; 1983 c 166 § 5.]

Notes:

Effective date--1987 c 446: See note following RCW 28B.15.754.

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

RCW 28B.15.760 Loan program for mathematics and science teachers--Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28B.15.762 and 28B.15.764.

(1) "Institution of higher education" or "institution" means a college or university in the state of Washington which is a member institution of an accrediting association recognized as such by rule of the higher education coordinating board.

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

(3) "Eligible student" means a student registered for at least ten credit hours or the equivalent and demonstrates achievement of a 3.00 grade point average for each academic year, who is a resident student as defined by RCW 28B.15.012 through 28B.15.015, who is a "needy student" as defined in RCW 28B.10.802, and who has a declared major in a program leading to a degree in teacher education in a field of science or mathematics, or a certificated teacher who meets the same credit hour and "needy student" requirements and is seeking an additional degree in science or mathematics.

(4) "Public school" means a middle school, junior high school, or high school within the public school system referred to in Article IX of the state Constitution.

(5) "Forgiven" or "to forgive" means to collect service as a teacher in a field of science or mathematics at a public school in the state of Washington in lieu of monetary payment.

(6) "Satisfied" means paid-in-full.

(7) "Borrower" means an eligible student who has received a loan under RCW 28B.15.762.

[1985 c 370 § 79; 1983 1st ex.s. c 74 § 1.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--1983 1st ex.s. c 74: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 1st ex.s. c 74 § 6.]

RCW 28B.15.762 Loan program for mathematics and science teachers--Terms and conditions--Collection--Disposition of payments--Rules.

(1) The board may make long-term loans to eligible students at institutions of higher education from the funds appropriated to the board for this purpose. The amount of any such loan shall not exceed the demonstrated financial need of the student or two thousand five hundred dollars for each academic year whichever is less, and the total amount of such loans to

an eligible student shall not exceed ten thousand dollars. The interest rates and terms of deferral of such loans shall be consistent with the terms of the guaranteed loan program established by 20 U.S.C. Sec. 1701 et seq. The period for repaying the loan principal and interest shall be ten years with payments accruing quarterly commencing nine months from the date the borrower graduated. The entire principal and interest of each loan payment shall be forgiven for each payment period in which the borrower teaches science or mathematics in a public school in this state until the entire loan is satisfied or the borrower ceases to teach science or mathematics at a public school in this state. Should the borrower cease to teach science or mathematics at a public school in this state before the time in which the principal and interest on the loan are satisfied, payments on the unsatisfied portion of the principal and interest on the loan shall begin the next payment period and continue until the remainder of the loan is paid.

(2) The board is responsible for collection of loans made under subsection (1) of this section and shall exercise due diligence in such collection, maintaining all necessary records to insure that maximum repayments are made. Collection and servicing of loans under subsection (1) of this section shall be pursued using the full extent of the law, including wage garnishment if necessary, and shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency. The board is responsible to forgive all or parts of such loans under the criteria established in subsection (1) of this section and shall maintain all necessary records of forgiven payments.

(3) Receipts from the payment of principal or interest or any other subsidies to which the board as lender is entitled, which are paid by or on behalf of borrowers under subsection (1) of this section, shall be deposited with the higher education coordinating board and shall be used to cover the costs of making the loans under subsection (1) of this section, maintaining necessary records, and making collections under subsection (2) of this section. The board shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to make loans to eligible students.

(4) Any funds not used to make loans, or to cover the cost of making loans or making collections, shall be placed in the state educational trust fund for needy or disadvantaged students.

(5) The board shall adopt necessary rules to implement this section.

[1996 c 107 § 2; 1985 c 370 § 80; 1983 1st ex.s. c 74 § 2.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--1983 1st ex.s. c 74: See note following RCW 28B.15.760.

RCW 28B.15.764 Loan program for mathematics and science teachers--Cooperation by board and institutions of higher education.

The board and institutions of higher education shall work cooperatively to implement RCW 28B.15.762 and to publicize this program to eligible students.

[1985 c 370 § 81; 1983 1st ex.s. c 74 § 3.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--1983 1st ex.s. c 74: See note following RCW 28B.15.760.

RCW 28B.15.766 Loan program for mathematics and science teachers--Duration--*Legislative budget committee review.

No loans shall be made after August 23, 1989, until the program is reviewed by the *legislative budget committee and is reenacted by the legislature.

[1983 1st ex.s. c 74 § 4.]

Notes:

***Reviser's note:** The "legislative budget committee" was redesignated the "joint legislative audit and review committee" by 1996 c 288 § 3.

Severability--1983 1st ex.s. c 74: See note following RCW 28B.15.760.

RCW 28B.15.790 Effective communication--Intent.

The legislature finds that the quality of undergraduate education is enhanced by association with graduate assistants from other countries who can effectively communicate their knowledge and diverse cultural backgrounds.

It is the intent of the legislature to assist the institutions in their effort to improve the quality of undergraduate education at the state's four-year colleges and universities. Attainment of an excellent education is facilitated when communication is clear, concise, sensitive to cultural differences, and demonstrative of proven pedagogical skills. It is the further intent of the legislature to assure students and parents that graduate teaching assistants at our state institutions of higher education are able to communicate effectively and understandably with undergraduate students.

[1991 c 228 § 1.]

RCW 28B.15.792 Effective communication--Principles.

The Washington state legislature affirms the following principles:

(1) Washington's college and university students are entitled to excellent instruction at the state's institutions of higher education. Excellent education requires the ability to communicate effectively in college classrooms and laboratories.

(2) The presence of students, faculty, and staff from other countries on Washington's college campuses enriches the educational experience of Washington's students and enhances scholarship and research at the state's colleges and universities.

(3) With the exception of courses designed to be taught primarily in a foreign language, undergraduate students shall be provided with classroom instruction, laboratory instruction, clinics, seminars, studios, and other participatory and activity courses by a person fluent in both the spoken and written English language.

(4) Persons of all nationalities, races, religions, and ethnic backgrounds are welcome and valued in the state of Washington.

[1991 c 228 § 2.]

RCW 28B.15.794 Effective communication--Implementation of principles.

The governing board of each state university, regional university, state college, and community college shall ensure that the principles in *section 1 of this act are implemented at its institution of higher education.

[1991 c 228 § 3.]

Notes:

***Reviser's note:** A translation of "section 1 of this act" is RCW 28B.15.790. RCW 28B.15.792 was apparently intended.

RCW 28B.15.796 Effective communication--Task force to improve communication and teaching skills of faculty and teaching assistants.

The council of presidents, in consultation with the higher education coordinating board, shall convene a task force of representatives from the four-year universities and colleges. The task force shall:

(1) Review institutional policies and procedures designed to ensure that faculty and teaching assistants are able to communicate effectively with undergraduate students in classrooms and laboratories;

(2) Research methods and procedures designed to improve the communication and teaching skills of any person funded by state money who instructs undergraduate students in classrooms and laboratories;

(3) Share the results of that research with each participating university and college; and

(4) Work with each participating university and college to assist the institution in its efforts to improve the communication and pedagogical skills of faculty and teaching assistants instructing undergraduate students.

[1991 c 228 § 4.]

RCW 28B.15.800 Pledged bond retirement funds to be set aside from tuition and fees--1977 ex.s. c 322.

Notwithstanding any other section of chapter 322, Laws of 1977 ex. sess., the boards of regents and trustees of the respective institutions of higher education shall set aside from tuition and fees charged in each schedule an amount heretofore pledged and necessary for the purposes of bond retirement until such time as any such debt has been satisfied.

[1985 c 390 § 34; 1977 ex.s. c 322 § 15.]

Notes:

Severability--1977 ex.s. c 322: See note following RCW 28B.15.065.

RCW 28B.15.805 Pledged bond retirement funds to be set aside from tuition and fees--1981 c 257.

Notwithstanding any other provision of chapter 257, Laws of 1981, the boards of regents and trustees of the respective institutions of higher education shall set aside from tuition and fees charged in each schedule an amount heretofore pledged and necessary for the purposes of bond retirement until such time as any such debt has been satisfied.

[1981 c 257 § 10.]

Notes:

Severability--1981 c 257: See note following RCW 28B.15.031.

RCW 28B.15.820 Institutional financial aid fund--"Eligible student" defined.

(1) Each institution of higher education, including technical colleges, shall deposit a minimum of three and one-half percent of revenues collected from tuition and services and activities fees in an institutional financial aid fund that is hereby created and which shall be held locally. Moneys in the fund shall be used only for the following purposes: (a) To make guaranteed long-term loans to eligible students as provided in subsections (3) through (8) of this section; (b) to make short-term loans as provided in subsection (9) of this section; or (c) to provide financial aid to needy students as provided in subsection (10) of this section.

(2) An "eligible student" for the purposes of subsections (3) through (8) and (10) of this section is a student registered for at least six credit hours or the equivalent, who is eligible for resident tuition and fee rates as defined in RCW 28B.15.012 through [and] 28B.15.013, and who is a "needy student" as defined in RCW 28B.10.802.

(3) The amount of the guaranteed long-term loans made under this section shall not exceed the demonstrated financial need of the student. Each institution shall establish loan terms and conditions which shall be consistent with the terms of the guaranteed loan program established by 20 U.S. Code Section 1071 et seq., as now or hereafter amended. All loans made shall be guaranteed by the Washington student loan guaranty association or its successor agency. Institutions are hereby granted full authority to operate as an eligible lender under the guaranteed loan program.

(4) Before approving a guaranteed long-term loan, each institution shall analyze the ability of the student to repay the loan based on factors which include, but are not limited to, the student's accumulated total education loan burdens and the employment opportunities and average starting salary characteristics of the student's chosen fields of study. The institution shall counsel the student on the advisability of acquiring additional debt, and on the availability of other forms of financial aid.

(5) Each institution is responsible for collection of guaranteed long-term loans made under this section and shall exercise due diligence in such collection, maintaining all necessary records to insure that maximum repayments are made. Institutions shall cooperate with other

lenders and the Washington student loan guaranty association, or its successor agency, in the coordinated collection of guaranteed loans, and shall assure that the guarantability of the loans is not violated. Collection and servicing of guaranteed long-term loans under this section shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency: PROVIDED, That institutions be permitted to perform such servicing if specifically recognized to do so by the Washington student loan guaranty association or its successor agency. Collection and servicing of guaranteed long-term loans made by community colleges under subsection (1) of this section shall be coordinated by the state board for community and technical colleges and shall be conducted under procedures adopted by the state board.

(6) Receipts from payment of interest or principal or any other subsidies to which institutions as lenders are entitled, that are paid by or on behalf of borrowers of funds under subsections (3) through (8) of this section, shall be deposited in each institution's financial aid fund and shall be used to cover the costs of making the guaranteed long-term loans under this section and maintaining necessary records and making collections under subsection (5) of this section: PROVIDED, That such costs shall not exceed five percent of aggregate outstanding loan principal. Institutions shall maintain accurate records of such costs, and all receipts beyond those necessary to pay such costs, shall be deposited in the institution's financial aid fund.

(7) The governing boards of the state universities, the regional universities, and The Evergreen State College, and the state board for community and technical colleges, on behalf of the community colleges and technical colleges, shall each adopt necessary rules and regulations to implement this section.

(8) First priority for any guaranteed long-term loans made under this section shall be directed toward students who would not normally have access to educational loans from private financial institutions in Washington state, and maximum use shall be made of secondary markets in the support of loan consolidation.

(9) Short-term loans, not to exceed one year, may be made from the institutional financial aid fund to students enrolled in the institution. No such loan shall be made to any student who is known by the institution to be in default or delinquent in the payment of any outstanding student loan. A short-term loan may be made only if the institution has ample evidence that the student has the capability of repaying the loan within the time frame specified by the institution for repayment.

(10) Any moneys deposited in the institutional financial aid fund that are not used in making long-term or short-term loans may be used by the institution for locally-administered financial aid programs for needy students, such as need-based institutional employment programs or need-based tuition and fee scholarship or grant programs. These funds shall be used in addition to and not to replace institutional funds that would otherwise support these locally-administered financial aid programs. First priority in the use of these funds shall be given to needy students who have accumulated excessive educational loan burdens. An excessive educational loan burden is a burden that will be difficult to repay given employment opportunities and average starting salaries in the student's chosen fields of study. Second priority in the use of these funds shall be given to needy single parents, to assist these students with their

educational expenses, including expenses associated with child care and transportation.

[1995 1st sp.s. c 9 § 10. Prior: 1993 c 385 § 1; 1993 c 173 § 1; 1985 c 390 § 35; 1983 1st ex.s. c 64 § 1; 1982 1st ex.s. c 37 § 13; 1981 c 257 § 9.]

Notes:

Intent--Purpose--Effective date--1995 1st sp.s. c 9: See notes following RCW 28B.15.031.
Effective date--Severability--1982 1st ex.s. c 37: See notes following RCW 28B.15.012.
Severability--1981 c 257: See note following RCW 28B.15.031.

RCW 28B.15.900 "State universities," "regional universities," "state college," "institutions of higher education," and "postsecondary institutions" defined.

See RCW 28B.10.016.

RCW 28B.15.910 Limitation on total operating fees revenue waived, exempted, or reduced.

(1) For the purpose of providing state general fund support to public institutions of higher education, except for revenue waived under programs listed in subsections (3) and (4) of this section, and unless otherwise expressly provided in the omnibus state appropriations act, the total amount of operating fees revenue waived, exempted, or reduced by a state university, a regional university, The Evergreen State College, or the community colleges as a whole, shall not exceed the percentage of total gross authorized operating fees revenue in this subsection. As used in this section, "gross authorized operating fees revenue" means the estimated gross operating fees revenue as estimated under RCW 82.33.020 or as revised by the office of financial management, before granting any waivers. This limitation applies to all tuition waiver programs established before or after July 1, 1992.

(a) University of Washington	21 percent
(b) Washington State University	20 percent
(c) Eastern Washington University	11 percent
(d) Central Washington University	8 percent
(e) Western Washington University	10 percent
(f) The Evergreen State College	6 percent
(g) Community colleges as a whole	35 percent

(2) The limitations in subsection (1) of this section apply to waivers, exemptions, or reductions in operating fees contained in the following:

(a) RCW 28B.10.265;
(b) RCW 28B.15.014;
(c) RCW 28B.15.100;
(d) RCW 28B.15.225;
(e) RCW 28B.15.380;
(f) RCW 28B.15.520;
(g) RCW 28B.15.526;

(h) RCW 28B.15.527;
(i) RCW 28B.15.543;
(j) RCW 28B.15.545;
(k) RCW 28B.15.555;
(l) RCW 28B.15.556;
(m) RCW 28B.15.615;
(n) RCW 28B.15.620;
(o) RCW 28B.15.628;
(p) RCW 28B.15.730;
(q) RCW 28B.15.740;
(r) RCW 28B.15.750;
(s) RCW 28B.15.756;
(t) RCW 28B.50.259;
(u) RCW 28B.70.050;
(v) *RCW 28B.80.580; and
(w) During the 1997-99 fiscal biennium, the western interstate commission for higher education undergraduate exchange program for students attending Eastern Washington University.

(3) The limitations in subsection (1) of this section do not apply to waivers, exemptions, or reductions in services and activities fees contained in the following:
(a) RCW 28B.15.522;
(b) RCW 28B.15.540; and
(c) RCW 28B.15.558.

(4) The total amount of operating fees revenue waived, exempted, or reduced by institutions of higher education participating in the western interstate commission for higher education western undergraduate exchange program under RCW 28B.15.544 shall not exceed the percentage of total gross authorized operating fees revenue in this subsection.

(a) Washington State University	1 percent
(b) Eastern Washington University	3 percent
(c) Central Washington University	3 percent

[2000 c 152 § 3; 1999 c 344 § 3; 1998 c 346 § 904; 1997 c 433 § 5; 1993 sp.s. c 18 § 31; 1992 c 231 § 33.]

NOTES:

***Reviser's note:** RCW 28B.80.580 was repealed by 1995 c 226 § 35, effective June 30, 2001.
Findings--Intent--1999 c 344: See note following RCW 28B.15.544.
Construction--Severability--Effective date--1998 c 346: See notes following RCW 50.24.014.
Intent--Severability--1997 c 433: See notes following RCW 28B.15.725.
Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.
Effective date--1992 c 231: See note following RCW 28B.10.016.

RCW 28B.15.915 Waiver of operating fees--Report.

In addition to waivers granted under the authority of RCW 28B.15.910, the governing

boards of the state universities, the regional universities, The Evergreen State College, and the community colleges, subject to state board policy, may waive all or a portion of the operating fees for any student. There shall be no state general fund support for waivers granted under this section.

By January 31st of each odd-numbered year, the institutions of higher education shall prepare a report of the costs and benefits of waivers granted under chapter 152, Laws of 2000 and shall transmit copies of their report to the appropriate policy and fiscal committees of the legislature.

[2000 c 152 § 1.]

Chapter 28B.16 RCW
STATE HIGHER EDUCATION PERSONNEL LAW

Sections

28B.16.015 Option to have relationship and obligations governed by chapter 41.56 RCW.

Notes:

Adoption of rules for leave sharing program: RCW 41.04.670.
Civil service
director of personnel: RCW 41.06.130.
Washington personnel resources board: RCW 41.06.110.
Peer review committees--Proceedings--Statement of reasons: RCW 28B.10.648.
State work-study program not to supplant classified positions: RCW 28B.12.060.

RCW 28B.16.015 Option to have relationship and obligations governed by chapter 41.56 RCW.

At any time after July 1, 1993, an institution of higher education and the exclusive bargaining representative of a bargaining unit of employees classified under this chapter or chapter 41.06 RCW as appropriate may exercise their option to have their relationship and corresponding obligations governed entirely by the provisions of chapter 41.56 RCW, by filing notice of the parties' intent to be so governed, subject to the mutual adoption of a collective bargaining agreement recognizing the notice of intent. The parties shall provide the notice to the board or its successor and the public employment relations commission. On the first day of the month following the month during which the institution of higher education and the exclusive bargaining representative provide notice to the board or its successor and the public employment relations commission that they have executed an initial collective bargaining agreement recognizing the notice of intent, this chapter shall cease to apply to all employees in the bargaining unit covered by the agreement, and all labor relations functions of the board or its successor with respect to these employees shall be transferred to the public employment relations commission.

[1993 c 379 § 310.]

Notes:

Intent--Severability--Effective date--1993 c 379: See notes following RCW 28B.10.029.

Chapter 28B.20 RCW
UNIVERSITY OF WASHINGTON

Sections

GENERAL

28B.20.010 Designation.
28B.20.020 Purpose.
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28B.20.057 Major lines common to University of Washington and Washington State University.
28B.20.060 Courses exclusive to University of Washington.
28B.20.095 University fees.
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28B.20.105 Regents--Organization and conduct of business--Bylaws, rules and regulations--Meetings.
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28B.20.145 Powers and duties of regents--Regents' spending limited by income.
28B.20.200 Faculty--Composition--General powers.
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28B.20.287 Washington technology center--Definitions.
28B.20.289 Washington technology center--Administration--Board of directors.
28B.20.291 Washington technology center--Support from participating institutions.
28B.20.293 Washington technology center--Role of department of community, trade, and economic development.
28B.20.295 Washington technology center--Availability of facilities to other institutions.

28B.20.300 Schools of medicine, dentistry, and related health services--Authorization.
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28B.20.352 1947 conveyance for arboretum and botanical garden purposes--Deed of conveyance.
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Bond issue for buildings and projects: RCW 43.83.090 through 43.83.104.
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Eye protection, public educational institutions: RCW 70.100.010 through 70.100.040.
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Museum, designated as state natural history and anthropology museum: RCW 27.40.010.
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Oregon--Tuition and fees--Reciprocity with Washington: RCW 28B.15.730 through 28B.15.736.
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Teachers
training courses for: RCW 28B.10.140.
use of district schools for training: RCW 28B.10.600 through 28B.10.605.
Toxicological laboratories: RCW 68.50.107.
Traffic regulations, penalty for violations: RCW 28B.10.560.
Tuition, exemptions of children of deceased or disabled veterans or citizens missing in action or prisoners of war: RCW 28B.10.265.

GENERAL

RCW 28B.20.010 Designation.

The state university located and established in Seattle, King county, shall be designated the University of Washington.

[1969 ex.s. c 223 § 28B.20.010. Prior: 1909 c 97 p 238 § 1; RRS § 4544; prior: 1897 c 118 § 182; 1890 p 395 § 1. Formerly RCW 28.77.010.]

RCW 28B.20.020 Purpose.

The aim and purpose of the University of Washington shall be to provide a liberal education in literature, science, art, law, medicine, military science and such other fields as may be established therein from time to time by the board of regents or by law.

[1969 ex.s. c 223 § 28B.20.020. Prior: 1909 c 97 p 238 § 2; RRS § 4545; prior: 1897 c 118 § 183; 1893 c 122 § 6; 1890 p 395 § 2. Formerly RCW 28.77.020.]

RCW 28B.20.054 Credits--State-wide transfer policy and agreement--Establishment.

See RCW 28B.80.280 and 28B.80.290.

RCW 28B.20.055 "Major line" defined.

See RCW 28B.10.100.

RCW 28B.20.057 Major lines common to University of Washington and Washington State University.

See RCW 28B.10.115.

RCW 28B.20.060 Courses exclusive to University of Washington.

The courses of instruction of the University of Washington shall embrace as exclusive major lines, law, medicine, forest products, logging engineering, library sciences, aeronautic and astronautic engineering, and fisheries.

[1985 c 218 § 2; 1969 ex.s. c 223 § 28B.20.060. Prior: 1963 c 23 § 1; 1961 c 71 § 1; prior: (i) 1917 c 10 § 2; RRS § 4533. (ii) 1917 c 10 § 5; RRS § 4536. Formerly RCW 28.77.025; 28.76.060.]

RCW 28B.20.095 University fees.

See chapter 28B.15 RCW.

RCW 28B.20.100 Regents--Appointment--Terms--Vacancies--Quorum.

(1) The governance of the University of Washington shall be vested in a board of regents to consist of ten members, one of whom shall be a student. The governor shall select the student member from a list of candidates, of at least three and not more than five, submitted by the governing body of the associated students. They shall be appointed by the governor with the consent of the senate, and, except for the student member, shall hold their offices for a term of six years from the first day of October and until their successors shall be appointed and qualified. The student member shall hold his or her office for a term of one year from the first day of June until his or her successor is appointed and qualified. The student member shall be a full-time student in good standing at the university at the time of appointment.

(2) Six members of said board shall constitute a quorum for the transaction of business. In the case of a vacancy, or when an appointment is made after the date of the expiration of a term, the governor shall fill the vacancy for the remainder of the term of the regent whose office has become vacant or expired.

(3) Except for the term of the student member, no more than the terms of two members will expire simultaneously on the last day of September in any one year.

(4) A student appointed under this section shall excuse himself or herself from participation or voting on matters relating to the hiring, discipline, or tenure of faculty members and personnel.

[1998 c 95 § 1; 1985 c 61 § 1; 1979 ex.s. c 103 § 2; 1973 c 62 § 7; 1969 ex.s. c 223 § 28B.20.100. Prior: 1909 c 97 p 239 § 3; RRS § 4554; prior: 1897 c 118 § 184; 1895 c 101 § 1; 1890 p 396 § 3. Formerly RCW 28.77.090, 28.77.100, part.]

Notes:

Present terms not affected--1979 ex.s. c 103: "Nothing in sections 2 through 6 of this amendatory act shall shorten the terms of regents or trustees presently in office." [1979 ex.s. c 103 § 7.]

Severability--1979 ex.s. c 103: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 103 § 8.]

Savings--Severability--1973 c 62: See notes following RCW 28B.10.510.

RCW 28B.20.105 Regents--Organization and conduct of business--Bylaws, rules and regulations--Meetings.

The board shall organize by electing from its membership a president and an executive committee, of which committee the president shall be ex officio chairman. The board may adopt bylaws or rules and regulations for its own government. The board shall hold regular quarterly meetings, and during the interim between such meetings the executive committee may transact business for the whole board: PROVIDED, That the executive committee may call special meetings of the whole board when such action is deemed necessary.

[1969 ex.s. c 223 § 28B.20.105. Prior: (i) 1909 c 97 p 240 § 4; RRS § 4555; prior: 1897 c 118 § 185. Formerly RCW 28.77.100. (ii) 1939 c 176 § 1, part; 1927 c 227 § 1, part; 1909 c 97 p 240 § 5, part; RRS § 4557, part. Formerly RCW 28.77.130, part.]

RCW 28B.20.110 Regents--Secretary--Treasurer--Duties--Treasurer's bond.

The board shall appoint a secretary and a treasurer who shall hold their respective offices during the pleasure of the board and carry out such respective duties as the board shall prescribe. In addition to such other duties as the board prescribes, the secretary shall record all proceedings of the board and carefully preserve the same. The treasurer shall give bond for the faithful performance of the duties of his office in such amount as the regents may require: PROVIDED, That the university shall pay the fee for such bond.

[1969 ex.s. c 223 § 28B.20.110. Prior: 1890 p 396 § 6; RRS § 4556. Formerly RCW 28.77.110.]

RCW 28B.20.115 Regents--Oaths.

See RCW 28B.10.520.

RCW 28B.20.116 Regents--Expenses.

See RCW 28B.10.525.

RCW 28B.20.117 Regents--Attorney general as advisor.

See RCW 28B.10.510.

RCW 28B.20.130 Powers and duties of regents--General.

General powers and duties of the board of regents are as follows:

(1) To have full control of the university and its property of various kinds, except as otherwise provided by law.

(2) To employ the president of the university, his or her assistants, members of the faculty, and employees of the institution, who except as otherwise provided by law, shall hold their positions during the pleasure of said board of regents.

(3) Establish entrance requirements for students seeking admission to the university which meet or exceed the standards specified under RCW 28B.80.350(2). Completion of examinations satisfactory to the university may be a prerequisite for entrance by any applicant at the university's discretion. Evidence of completion of public high schools and other educational institutions whose courses of study meet the approval of the university may be acceptable for entrance.

(4) Establish such colleges, schools, or departments necessary to carry out the purpose of the university and not otherwise proscribed by law.

(5) With the assistance of the faculty of the university, prescribe the course of study in the various colleges, schools, and departments of the institution and publish the necessary catalogues thereof.

(6) Grant to students such certificates or degrees as recommended for such students by

the faculty. The board, upon recommendation of the faculty, may also confer honorary degrees upon persons other than graduates of this university in recognition of their learning or devotion to literature, art, or science: PROVIDED, That no degree shall ever be conferred in consideration of the payment of money or the giving of property of whatsoever kind.

(7) Accept such gifts, grants, conveyances, bequests, and devises, whether real or personal property, or both, in trust or otherwise, for the use or benefit of the university, its colleges, schools, departments, or agencies; and sell, lease or exchange, invest or expend the same or the proceeds, rents, profits, and income thereof except as limited by the terms of said gifts, grants, conveyances, bequests, and devises. The board shall adopt proper rules to govern and protect the receipt and expenditure of the proceeds of all fees, and the proceeds, rents, profits, and income of all gifts, grants, conveyances, bequests, and devises above-mentioned.

(8) Except as otherwise provided by law, to enter into such contracts as the regents deem essential to university purposes.

(9) To submit upon request such reports as will be helpful to the governor and to the legislature in providing for the institution.

(10) Subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.340, offer new degree programs, offer off-campus programs, participate in consortia or centers, contract for off-campus educational programs, and purchase or lease major off-campus facilities.

[1998 c 245 § 16; 1985 c 370 § 92; 1977 c 75 § 20; 1969 ex.s. c 223 § 28B.20.130. Prior: 1939 c 176 § 1, part; 1927 c 227 § 1, part; 1909 c 97 p 240 § 5, part; RRS § 4557, part; prior: 1895 c 101 § 2, part; 1893 c 122 § 10, part; 1890 pp 396, 397, 398 §§ 7, 9, 11. Formerly RCW 28.77.130, 28.77.140.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

RCW 28B.20.134 Powers and duties of regents--Consent to sale of university granted lands.

See RCW 79.01.096.

RCW 28B.20.135 Powers and duties of regents--Employment of architects, engineers, for construction of buildings and facilities.

The board shall have power to employ or contract for the services of skilled architects and engineers to prepare plans and specifications, and supervise the construction of university buildings and facilities and to fix the compensation for such employees or for such services.

[1969 ex.s. c 223 § 28B.20.135. Prior: 1909 c 97 p 242 § 10; RRS § 4563. Formerly RCW 28.77.133.]

RCW 28B.20.140 Powers and duties of regents--Contracts for erection of buildings or improvements.

The board of regents shall enter into such contracts with one or more contractors for the

erection and construction of university buildings or improvements thereto as in their judgment shall be deemed for the best interest of the university; such contract or contracts shall be let after public notice and under such regulations as shall be established by said board or as otherwise provided by law to the person or persons able to perform the same on the most advantageous terms: PROVIDED, That in all cases said board shall require from contractors a good and sufficient bond for the faithful performance of the work, and the full protection of the state against mechanics' and other liens: AND PROVIDED FURTHER, That the board shall not have the power to enter into any contract for the erection of any buildings or improvements which shall bind said board to pay out any sum of money in excess of the amount provided for said purpose.

[1969 ex.s. c 223 § 28B.20.140. Prior: 1909 c 97 p 242 § 9; RRS § 4562. Formerly RCW 28.77.137.]

RCW 28B.20.145 Powers and duties of regents--Regents' spending limited by income.

The board of regents are hereby prohibited from creating any debt or in any manner encumbering the university beyond its capacity for payment thereof from the biennial income of the university for the then current biennium.

[1969 ex.s. c 223 § 28B.20.145. Prior: 1890 p 399 § 20; RRS § 4566. Formerly RCW 28.77.170.]

RCW 28B.20.200 Faculty--Composition--General powers.

The faculty of the University of Washington shall consist of the president of the university and the professors and the said faculty shall have charge of the immediate government of the institution under such rules as may be prescribed by the board of regents.

[1969 ex.s. c 223 § 28B.20.200. Prior: 1909 c 97 p 241 § 6; RRS § 4558; prior: 1897 c 118 § 187. Formerly RCW 28.77.120.]

RCW 28B.20.250 Liability coverage of university personnel and students--Authorized--Scope.

The board of regents of the University of Washington, subject to such conditions and limitations and to the extent it may prescribe, is authorized to provide by purchase of insurance, by self-insurance, or by any combination of arrangements, indemnification of regents, officers, employees, agents, and students from liability on any action, claim, or proceeding instituted against them arising out of the performance or failure of performance, of duties for or employment with the university, or of responsibilities imposed by approved programs of the university, and to hold such persons harmless from any expenses connected with the defense, settlement, or payment of monetary judgments from such action, claim, or proceeding.

[1975-'76 2nd ex.s. c 12 § 1.]

RCW 28B.20.253 Liability coverage of university personnel and

students--Self-insurance revolving fund.

(1) A self-insurance revolving fund in the custody of the university is hereby created to be used solely and exclusively by the board of regents of the University of Washington for the following purposes:

(a) The payment of judgments against the university, its schools, colleges, departments, and hospitals and against its regents, officers, employees, agents, and students for whom the defense of an action, claim, or proceeding has been provided pursuant to RCW 28B.20.250.

(b) The payment of claims against the university, its schools, colleges, departments, and hospitals and against its regents, officers, employees, agents, and students for whom the defense of an action, claim, or proceeding has been provided pursuant to RCW 28B.20.250: PROVIDED, That payment of claims in excess of twenty-five thousand dollars must be approved by the state attorney general.

(c) For the cost of investigation, administration, and defense of actions, claims, or proceedings, and other purposes essential to its liability program.

(2) Said self-insurance revolving fund shall consist of periodic payments by the University of Washington from any source available to it in such amounts as are deemed reasonably necessary to maintain the fund at levels adequate to provide for the anticipated cost of payments of incurred claims and other costs to be charged against the fund.

(3) No money shall be paid from the self-insurance revolving fund unless first approved by the board of regents, and unless all proceeds available to the claimant from any valid and collectible liability insurance shall have been exhausted.

[1997 c 288 § 1; 1991 sp.s. c 13 § 117; 1975-'76 2nd ex.s. c 12 § 2.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

RCW 28B.20.255 Liability coverage of university personnel and students--As exclusive authority.

RCW 28B.20.250 through 28B.20.255 constitutes the exclusive authority for the board of regents of the University of Washington to provide liability coverage for its regents, officers, employees, agents, and students, and further provides the means for defending and payment of all such actions, claims, or proceedings. RCW 28B.20.250 through 28B.20.255 shall govern notwithstanding the provisions of chapter 4.92 RCW and RCW 28B.10.842 and 28B.10.844.

[1975-'76 2nd ex.s. c 12 § 3.]

RCW 28B.20.277 Mathematics, engineering, and science achievement program--Establishment and administration through university.

See RCW 28A.625.210.

RCW 28B.20.279 High-technology education and training.

See chapter 28B.65 RCW.

RCW 28B.20.280 Masters and doctorate level degrees in technology authorized--Review by higher education coordinating board.

The board of regents of the University of Washington may offer masters level and doctorate level degrees in technology subject to review and approval by the higher education coordinating board.

[1985 c 370 § 82; 1983 1st ex.s. c 72 § 10.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date--Short title--1983 1st ex.s. c 72: See RCW 28B.65.905 and 28B.65.900.

RCW 28B.20.283 Washington technology center--Findings.

The legislature finds that the development and commercialization of new technology is a vital part of economic development.

The legislature also finds that it is in the interests of the state of Washington to provide a mechanism to transfer and apply research and technology developed at the institutions of higher education to the private sector in order to create new products and technologies which provide job opportunities in advanced technology for the citizens of this state.

It is the intent of the legislature that the University of Washington, the Washington State University, and the department of community, trade, and economic development work cooperatively with the private sector in the development and implementation of a world class technology transfer program.

[1995 c 399 § 25; 1992 c 142 § 1.]

RCW 28B.20.285 Washington technology center--Created--Purpose.

A Washington technology center is created to be a collaborative effort between the state's universities, private industry, and government. The technology center shall be headquartered at the University of Washington. The mission of the technology center shall be to perform and commercialize research on a state-wide basis that benefits the intermediate and long-term economic vitality of the state of Washington, and to develop and strengthen university-industry relationships through the conduct of research that is primarily of interest to Washington-based companies or state economic development programs. The technology center shall:

(1) Perform and/or facilitate research supportive of state science and technology objectives, particularly as they relate to state industries;

(2) Provide leading edge collaborative research and technology transfer opportunities primarily to state industries;

(3) Provide substantial opportunities for training undergraduate and graduate students through direct involvement in research and industry interactions;

(4) Emphasize and develop nonstate support of the technology center's research activities; and

(5) Provide a forum for effective interaction between the state's technology-based industries and its academic research institutions through promotion of faculty collaboration with industry, particularly within the state.

[1992 c 142 § 3; 1983 1st ex.s. c 72 § 11.]

Notes:

Effective date--Short title--1983 1st ex.s. c 72: See RCW 28B.65.905 and 28B.65.900.

RCW 28B.20.287 Washington technology center--Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28B.20.285 and *28B.20.289 through 28B.20.295.

(1) "Technology center" means the Washington technology center, including the affiliated staff, faculty, facilities, and research centers operated by the technology center.

(2) "Board" means the board of directors of the Washington technology center.

(3) "High technology" or "technology" includes but is not limited to the modernization, miniaturization, integration, and computerization of electronic, hydraulic, pneumatic, laser, mechanical, robotics, nuclear, chemical, telecommunication, and other technological applications to enhance productivity in areas including but not limited to manufacturing, communications, medicine, bioengineering, and commerce.

[1992 c 142 § 2.]

Notes:

***Reviser's note:** The reference to "sections 3 through 8 of this act" has been translated to "RCW 28B.20.289 through 28B.20.295." A literal translation would have been "RCW 28B.20.285 through 28B.20.295 and 1992 c 142 § 8 (uncodified)."

RCW 28B.20.289 Washington technology center--Administration--Board of directors.

(1) The technology center shall be administered by the board of directors of the technology center.

(2) The board shall consist of the following members: Fourteen members from among individuals who are associated with or employed by technology-based industries and have broad business experience and an understanding of high technology; eight members from the state's universities with graduate science and engineering programs; the executive director of the Spokane Intercollegiate Research and Technology Institute or his or her designated representative; the provost of the University of Washington or his or her designated representative; the provost of the Washington State University or his or her designated representative; and the director of the department of community, trade, and economic development or his or her designated representative. The term of office for each board member, excluding the executive director of the Spokane Intercollegiate Research and Technology Institute, the provost of the University of Washington, the provost of the Washington State University, and the director of the department of community, trade, and economic development, shall be three years. The executive director of the technology center shall be an ex officio, nonvoting member of the board. The board shall meet at least quarterly. Board members shall be

appointed by the governor based on the recommendations of the existing board of the technology center, and the research universities. The governor shall stagger the terms of the first group of appointees to ensure the long term continuity of the board.

(3) The duties of the board include:

(a) Developing the general operating policies for the technology center;

(b) Appointing the executive director of the technology center;

(c) Approving the annual operating budget of the technology center;

(d) Establishing priorities for the selection and funding of research projects that guarantee the greatest potential return on the state's investment;

(e) Approving and allocating funding for research projects conducted by the technology center, based on the recommendations of the advisory committees for each of the research centers;

(f) In cooperation with the department of community, trade, and economic development, developing a biennial work plan and five-year strategic plan for the technology center that are consistent with the state-wide technology development and commercialization goals;

(g) Coordinating with the University of Washington, Washington State University, and other participating institutions of higher education in the development of training, research, and development programs to be conducted at the technology center that shall be targeted to meet industrial needs;

(h) Assisting the department of community, trade, and economic development in the department's efforts to develop state science and technology public policies and coordinate publicly funded programs;

(i) Reviewing annual progress reports on funded research projects that are prepared by the advisory committees for each of the research centers;

(j) Providing an annual report to the governor and the legislature detailing the activities and performance of the technology center; and

(k) Submitting annually to the department of community, trade, and economic development an updated strategic plan and a statement of performance measured against the mission, roles, and contractual obligations of the technology center.

[1995 c 399 § 26; 1992 c 142 § 4.]

RCW 28B.20.291 Washington technology center--Support from participating institutions.

The University of Washington, Washington State University, and other participating institutions of higher education shall provide the affiliated staff, faculty, and facilities required to support the operation of the technology center.

[1992 c 142 § 5.]

RCW 28B.20.293 Washington technology center--Role of department of community, trade, and economic development.

The department of community, trade, and economic development shall contract with the University of Washington for the expenditure of state-appropriated funds for the operation of the Washington technology center. The department of community, trade, and economic development shall provide guidance to the technology center regarding expenditure of state-appropriated funds and the development of the center's strategic plan. The director of the department of community, trade, and economic development shall not withhold funds appropriated for the technology center if the technology center complies with the provisions of its contract with the department of community, trade, and economic development. The department shall be responsible to the legislature for the contractual performance of the center.

[1995 c 399 § 27; 1992 c 142 § 6.]

RCW 28B.20.295 Washington technology center--Availability of facilities to other institutions.

The facilities of the technology center shall be made available to other institutions of higher education within the state when this would benefit specific program needs.

[1992 c 142 § 7.]

RCW 28B.20.300 Schools of medicine, dentistry, and related health services--Authorization.

The board of regents of the University of Washington is hereby authorized and directed forthwith to establish, operate and maintain schools of medicine, dentistry, and related health sciences at the university.

[1969 ex.s. c 223 § 28B.20.300. Prior: 1945 c 15 § 1; Rem. Supp. 1945 § 4566-5. Formerly RCW 28.77.200.]

Notes:

Autopsy of deceased infant under three years, delivery of body to University of Washington medical school for purposes of, costs: RCW 68.50.100, 68.50.104.

Requisites for accreditation and approval of medical schools: RCW 18.71.055.

RCW 28B.20.305 Schools of medicine, dentistry, and related health services--Purpose.

The aim and purpose of the schools of medicine, dentistry and related health sciences shall be to provide for students of both sexes, on equal terms, all and every type of instruction in the various branches of medicine, dentistry, and related health sciences and to grant such degrees as are commonly granted by similar institutions.

[1969 ex.s. c 223 § 28B.20.305. Prior: 1945 c 15 § 2; Rem. Supp. 1945 § 4566-6. Formerly RCW 28.77.210.]

RCW 28B.20.315 Drug testing laboratory--Service--Employees as expert witnesses, traveling expenses and per diem.

The University of Washington is authorized and directed to arrange for a drug testing laboratory. The laboratory shall offer a testing service for law enforcement officers for the identification of known or suspected dangerous and narcotic drugs. Employees of the laboratory are authorized to appear as expert witnesses in criminal trials held within the state: PROVIDED, That the traveling expenses and per diem of such employees shall be borne by the party for the benefit of whom the testimony of such employees is requested.

[1969 ex.s. c 266 § 1. Formerly RCW 28.77.215.]

RCW 28B.20.320 Marine biological preserve--Established and described.

There is hereby created an area of preserve of marine biological materials useful for scientific purposes, except when gathered for human food, and except, also, the plant nereocystis, commonly called "kelp." Said area of preserve shall consist of the salt waters and the beds and shores of the islands constituting San Juan county and of Cypress Island in Skagit county.

[1969 ex.s. c 223 § 28B.20.320. Prior: 1923 c 74 § 1; RRS § 8436-1. Formerly RCW 28.77.230.]

RCW 28B.20.322 Marine biological preserve--Gathering permit.

No person shall gather said marine biological materials from said area of preserve, except upon permission first granted by the director of the Friday Harbor Laboratories of the University of Washington.

[1969 ex.s. c 223 § 28B.20.322. Prior: 1923 c 74 § 2; RRS § 8436-2. Formerly RCW 28.77.231, 28.77.230, part.]

RCW 28B.20.324 Marine biological preserve--Penalty for unlawful gathering.

Any person gathering said marine biological materials contrary to the terms of RCW 28B.20.320 and 28B.20.322 shall be guilty of a misdemeanor.

[1969 ex.s. c 223 § 28B.20.324. Prior: 1923 c 74 § 3; RRS § 8436-3. Formerly RCW 28.77.232, 28.77.230, part.]

RCW 28B.20.328 Lease of lands with outdoor recreation potential--Restrictions--Unlawful to use posted lands.

(1) Any lease of public lands with outdoor recreation potential authorized by the regents of the University of Washington shall be open and available to the public for compatible recreational use unless the regents of the University of Washington determine that the leased land should be closed in order to prevent damage to crops or other land cover, to improvements on the land, to the lessee, or to the general public or is necessary to avoid undue interference with carrying forward a university program. Any lessee may file an application with the regents of the University of Washington to close the leased land to any public use. The regents shall cause a written notice of the impending closure to be posted in a conspicuous place in the

university's business office and in the office of the county auditor in which the land is located thirty days prior to the public hearing. This notice shall state the parcel or parcels involved and shall indicate the time and place of the public hearing. Upon a determination by the regents that posting is not necessary, the lessee shall desist from posting. Upon a determination by the regents that posting is necessary, the lessee shall post his leased premises so as to prohibit recreational uses thereon. In the event any such lands are so posted, it shall be unlawful for any person to hunt or fish, or for any person other than the lessee or his immediate family to use any such posted lands for recreational purposes.

(2) The regents of the University of Washington may insert the provisions of subsection (1) of this section in all leases hereafter issued.

[1969 ex.s. c 46 § 3. Formerly RCW 28.77.235.]

RCW 28B.20.330 Rights-of-way to railroads and street car railways--Conditions.

Any railroad company now having in operation a line of railroad, or branches, sidings, or spurs thereof, upon any property in this state in use by the University of Washington for university purposes, or as a part of the grounds set aside or devoted to university purposes, may have such right-of-way confirmed to it, its successors and assigns, upon the following terms and conditions: Such railroad company shall file with the board of regents of said university a plat showing the right-of-way desired, and shall file a duplicate thereof with the commissioner of public lands; and any railroad company or street car company desiring hereafter to construct a railroad or street car line, or extensions thereof, with branches, sidings, or spurs, upon any property in this state in use by the University of Washington for university purposes, or as a part of the ground set aside or devoted to university purposes, may have such right-of-way confirmed to it, its successors and assigns, upon the following terms and conditions: Such railroad company or street car company shall file with the board of regents of said university a plat showing the right-of-way desired, and shall file a duplicate thereof with the commissioner of public lands.

[1969 ex.s. c 223 § 28B.20.330. Prior: 1909 c 248 § 1; RRS § 8095. Formerly RCW 28.77.240.]

RCW 28B.20.332 Rights-of-way to railroads and street car railways--Regents to make agreement.

The board of regents of said University of Washington are authorized, upon the filing of such plat with it, to agree in writing with any such railroad company or street car company, upon the boundaries and the extent of such right-of-way, the manner in which the same shall be maintained and fenced and occupied, and prescribe the number, character, and maintenance of crossings, cross-overs, and subways, and as to what sum said railroad company or street car company shall pay for the right-of-way granted.

[1969 ex.s. c 223 § 28B.20.332. Prior: 1909 c 248 § 2; RRS § 8096. Formerly RCW 28.77.250.]

RCW 28B.20.334 Rights-of-way to railroads and street car railways--Form of deed--Certified copy filed.

If such agreement is entered into, said board of regents shall transmit a certified copy thereof to the commissioner of public lands, who shall, after the full amount of money provided in such agreement shall be paid by said railroad company or street car company to the state treasurer, issue to such railroad company or street car company, in the name of the state of Washington, a deed for the right-of-way described in such agreement, which said deed shall recite and be subject to all the terms and conditions of such agreement, and certified copies of said deed shall be filed, one in the office of the commissioner of public lands, and the other with the secretary of said board of regents.

[1969 ex.s. c 223 § 28B.20.334. Prior: 1909 c 248 § 3; RRS § 8097. Formerly RCW 28.77.260.]

RCW 28B.20.336 Rights-of-way to railroads and street car railways--Deed conveys conditional easement.

The conveyance herein provided for shall not be deemed to convey the fee to the land described, but an easement only thereover and for railroad or street car purposes only, and when the right-of-way granted as aforesaid shall not be used for the purposes for which it was granted, then and thereupon the easement right shall immediately become void.

[1969 ex.s. c 223 § 28B.20.336. Prior: 1909 c 248 § 4; RRS § 8098. Formerly RCW 28.77.270.]

RCW 28B.20.340 University site dedicated for street and boulevard purposes--Description.

There is hereby dedicated to the public for street and boulevard purposes the following described lands situated in section 16, township 25 north, range 4 east, W.M., and blocks 7 and 8 of Lake Washington shore lands, to wit: Beginning at the one-quarter (1/4) corner on the north line of said section sixteen (16); thence east along the north line thereof, a distance of three hundred forty-nine and thirty-four one-hundredths (349.34) feet; thence south at right angles to the said north line, a distance of thirty-five feet to the point of beginning of this description; thence south eighty-nine degrees fifty-seven minutes and forty-three seconds (89°57'43") east a distance of six hundred seventy-three and seventeen one-hundredths (673.17) feet; thence southwesterly along the arc of a curve to the left, having a uniform radius of one thousand (1,000) feet, said curve being tangent to the last above described line, a distance of one thousand three hundred seventy-three and six one-hundredths (1,373.06) feet to a point of tangency; thence south eleven degrees twenty-two minutes and two seconds (11°22'02") west, a distance of five hundred fifty-six and twenty-two one-hundredths (556.22) feet to a point of tangency on the easterly margin of Montlake Boulevard as laid off and established by Ordinance No. 26332; thence along said easterly margin northerly along the arc of a curve to the left, having a uniform radius of four hundred sixty (460) feet, a distance of one hundred forty-three and forty-one one-hundredths (143.41) feet to a point of a reverse curve; thence northerly along the arc of a

curve to the right having a uniform radius of four hundred sixty (460) feet, a distance of one hundred twenty and ninety-four one-hundredths (120.94) feet to a point of reverse curve; thence northerly along the arc of a curve to the left, having a uniform radius of two thousand nine hundred seventy-four and ninety-three one-hundredths (2,974.93) feet, a distance of two hundred eighty-four (284) feet; thence departing from said easterly margin north eleven degrees twenty-two minutes and two seconds (11°22'02") east, a distance of fourteen and seventy-four one-hundredths (14.74) feet to the beginning of a curve to the right, having a uniform radius of one thousand seventy (1,070) feet; thence northeasterly along the arc of said curve, a distance of seven hundred ninety-six and thirty-three one-hundredths (796.33) feet to a point of reverse curve; thence northeasterly, northerly and northwesterly along the arc of a curve to the left, having a uniform radius of seventy-four and forty-six one-hundredths (74.46) feet, a distance of one hundred eighty-seven and ten one-hundredths (187.10) feet to the point of beginning.

Also the following described lands, to wit: Beginning at a point on the east line of said section, said point being distant nine hundred eighty-nine and sixty one-hundredths (989.60) feet south from the northeast corner of said section; thence south along said east line a distance of four hundred seventy-nine and fifty-three one-hundredths (479.53) feet to a point on the government meander line along the shore of Lake Washington; thence along said meander line south seventy-eight degrees thirteen minutes thirty-three seconds (78°13'33") west, a distance of sixty-six and fifty one-hundredths (66.50) feet; thence north twenty-nine degrees forty-six minutes twenty-seven seconds (29°46'27") west, a distance of one hundred sixty-six and ninety-two one-hundredths (166.92) feet; thence departing from said meander line north no degrees fifty-three minutes seven seconds (0°53'07") east, a distance of three hundred fifty-four and sixty-three one-hundredths (354.63) feet; thence northwesterly along the arc of a curve to the right having a uniform radius of one hundred eighty-five (185) feet, a distance of twenty-two and two one-hundredths (22.02) feet to a point of tangency on a line which bears north twenty-nine degrees six minutes fifty-three seconds (29°06'53") west; thence northwesterly along said line, a distance of nine hundred eighteen and sixty-five one-hundredths (918.65) feet to the beginning of a curve to the left, having a uniform radius of two hundred fifty (250) feet; thence northwesterly along the arc of said curve, a distance of two hundred sixty-five and fifty one-hundredths (265.50) feet to a point of tangency on the south margin of East Forty-fifth Street; thence east along said south margin, a distance of three hundred twenty-nine and fourteen one-hundredths (329.14) feet to a point which is distant five hundred ten and seventy-nine one-hundredths (510.79) feet west from the east line of said section sixteen (16); thence southwesterly, southerly and southeasterly along the arc of a curve to the left having a uniform radius of sixty (60) feet a distance of one hundred twenty-four and seventy-eight one-hundredths (124.78) feet to a point of tangency; thence south twenty-nine degrees six minutes fifty-three seconds (29°06'53") east, a distance of nine hundred twenty-four and twenty-four one-hundredths (924.24) feet to the beginning of a curve to the left having a uniform radius of one hundred fifteen (115) feet; thence southeasterly along the arc of said curve, a distance of one hundred twenty and fifty-one one-hundredths (120.51) feet to the point of beginning.

[1969 ex.s. c 223 § 28B.20.340. Prior: 1913 c 24 § 1. Formerly RCW 28.77.280.]

RCW 28B.20.342 University site dedicated for street and boulevard purposes--Local assessments barred against site.

No assessments for the opening, improvement or maintenance of any public street upon the tracts of land described in RCW 28B.20.340 shall ever be levied, assessed or collected upon any portion of section 16, township 25 north, range 4 east, W.M., or upon any portion of blocks 7 and 8 Lake Washington shorelands.

[1969 ex.s. c 223 § 28B.20.342. Prior: 1913 c 24 § 2. Formerly RCW 28.77.290.]

RCW 28B.20.344 University site dedicated for street and boulevard purposes--Eminent domain may not be exercised against site.

The power of eminent domain of any municipal or other corporation whatever is hereby declared not to extend to any portion of said section 16, township 25 north, range 4 east, W.M., and blocks 7 and 8 of Lake Washington shorelands.

[1969 ex.s. c 223 § 28B.20.344. Prior: 1913 c 24 § 3. Formerly RCW 28.77.300.]

RCW 28B.20.350 1947 conveyance for arboretum and botanical garden purposes--Description.

There is hereby granted to the University of Washington the following described land, to wit:

Lots two (2) and three (3), Block eleven-A (11-A) of the supplemental map of Lake Washington shorelands, filed September 5, 1916 in the office of the commissioner of public lands, to be used for arboretum and botanical garden purposes and for no other purposes, except as provided in RCW 28B.20.354.

[1969 ex.s. c 223 § 28B.20.350. Prior: 1947 c 45 § 1. Formerly RCW 28.77.310.]

RCW 28B.20.352 1947 conveyance for arboretum and botanical garden purposes--Deed of conveyance.

The commissioner of public lands is hereby authorized and directed to certify the lands described in RCW 28B.20.350 to the governor, and the governor is hereby authorized and directed to execute, and the secretary of state to attest, a deed of said shorelands to the university.

[1969 ex.s. c 223 § 28B.20.352. Prior: 1947 c 45 § 2. Formerly RCW 28.77.315.]

RCW 28B.20.354 1947 conveyance for arboretum and botanical garden purposes--Part may be conveyed by regents to city of Seattle.

(1) The board of regents of the University of Washington is hereby authorized to convey

to the city of Seattle that portion of said lot three (3) of the shorelands described in RCW 28B.20.350 which is within the following described tract, to wit:

A rectangular tract of land one hundred twenty (120) feet in north-south width, and four hundred (400) feet in east-west length, with the north boundary coincident with the north boundary of the old canal right of way, and the west boundary on the southerly extension of the west line of Lot eleven (11), Block four (4), Montlake Park, according to the recorded plat thereof, approximately five hundred sixty (560) feet east of the east line of Montlake Boulevard.

(2) The board of regents is authorized to convey to the city of Seattle free of all restrictions or limitations, or to incorporate in the conveyance to the city of Seattle such provisions for reverter of said land to the university as the board deems appropriate. Should any portion of the land so conveyed to the city of Seattle again vest in the university by reason of the operation of any provisions incorporated by the board in the conveyance to the city of Seattle, the University of Washington shall hold such reverted portion subject to the reverter provisions of RCW 28B.20.356.

[1969 ex.s. c 223 § 28B.20.354. Prior: 1947 c 45 § 3. Formerly RCW 28.77.320.]

RCW 28B.20.356 1947 conveyance for arboretum and botanical garden purposes--Reversion for unauthorized use--Reconveyance for highway purposes.

In case the University of Washington should attempt to use or permit the use of such shorelands or any portion thereof for any other purpose than for arboretum and botanical garden purposes, except as provided in RCW 28B.20.354, the same shall forthwith revert to the state of Washington without suit, action or any proceedings whatsoever or the judgment of any court forfeiting the same: PROVIDED, That the board of regents of the University of Washington is hereby authorized and directed to reconvey to the state of Washington block eleven-A (11-A) of the supplemental map of Lake Washington shorelands, filed September 5, 1916 in the office of the commissioner of public lands, or such portion thereof as may be required by the state of Washington or any agency thereof for state highway purposes. The state of Washington or any agency thereof requiring said land shall pay to the University of Washington the fair market value thereof and such moneys paid shall be used solely for arboretum purposes. Such reconveyance shall be made at such time as the state or such agency has agreed to pay the same.

[1969 ex.s. c 223 § 28B.20.356. Prior: 1959 c 164 § 2; 1947 c 45 § 4; No RRS. Formerly RCW 28.77.330.]

RCW 28B.20.360 1939 conveyance of shorelands to university--Description.

The commissioner of public lands of the state of Washington is hereby authorized and directed to certify in the manner now provided by law to the governor for deeding to the University of Washington all of the following described Lake Washington shorelands, to wit: Blocks sixteen (16) and seventeen (17), Lake Washington Shorelands, as shown on the map of said shorelands on file in the office of the commissioner of public lands.

[1969 ex.s. c 223 § 28B.20.360. Prior: 1939 c 60 § 1; No RRS. Formerly RCW 28.77.333.]

RCW 28B.20.362 1939 conveyance of shorelands to university--Deed of conveyance.

The governor is hereby authorized and directed to execute, and the secretary of state to attest, a deed conveying to the University of Washington all of said shorelands.

[1969 ex.s. c 223 § 28B.20.362. Prior: 1939 c 60 § 2; No RRS. Formerly RCW 28.77.335.]

RCW 28B.20.364 1939 conveyance of shorelands to university--Grant for arboretum and botanical garden purposes--Reversion for unauthorized use--Reconveyance for highway purposes.

All of the shorelands described in RCW 28B.20.360 are hereby granted to the University of Washington to be used for arboretum and botanical garden purposes and for no other purposes. In case the said University of Washington should attempt to use or permit the use of said shorelands or any portion thereof for any other purpose, the same shall forthwith revert to the state of Washington without suit, action or any proceedings whatsoever or the judgment of any court forfeiting the same: PROVIDED, That the board of regents of the University of Washington is hereby authorized and directed to reconvey to the state of Washington blocks 16 and 17 of Lake Washington shorelands, or such portions thereof as may be required by the state of Washington or any agency thereof for state highway purposes. The state of Washington or any agency thereof requiring said land shall pay to the University of Washington the fair market value thereof and such moneys paid shall be used solely for arboretum purposes. Such reconveyance shall be made at such time as the state or such agency has agreed to pay the same.

[1969 ex.s. c 223 § 28B.20.364. Prior: 1959 c 164 § 1; 1939 c 60 § 3; No RRS. Formerly RCW 28.77.337.]

RCW 28B.20.370 Transfer of certain Lake Union shorelands to university.

Block 18-A, Second Supplemental Maps of Lake Union Shore Lands, as shown on the official maps thereof on file in the office of the commissioner of public lands, is hereby transferred to the University of Washington and shall be held and used for university purposes only.

[1969 ex.s. c 223 § 28B.20.370. Prior: 1963 c 71 § 1. Formerly RCW 28.77.339.]

RCW 28B.20.381 "University tract" defined.

For the purposes of this chapter, "university tract" means the tract of land in the city of Seattle, consisting of approximately ten acres, originally known as the "old university grounds," and more recently referred to as the "metropolitan tract," together with all buildings, improvements, facilities, and appurtenances thereon.

[1999 c 346 § 2.]

Notes:

Purpose--Construction--1999 c 346: "The purpose of this act is to consolidate the statutes authorizing the board of regents of the University of Washington to control the property of the university. Nothing in this act may be construed to diminish in any way the powers of the board of regents to control its property including, but not limited to, the powers now or previously set forth in RCW *28B.20.392 through 28B.20.398." [1999 c 346 § 1.]

***Reviser's note:** RCW 28B.20.392 was repealed by 1999 c 346 § 8.

Effective date--1999 c 346: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 17, 1999]." [1999 c 346 § 9.]

RCW 28B.20.382 University tract--Conditions for sale, lease, or lease renewal--Inspection of records--Deposit of proceeds--University of Washington facilities bond retirement account.

(1) Until authorized by statute of the legislature, the board of regents of the university, with respect to the university tract, shall not sell the land or any part thereof or any improvement thereon, or lease the land or any part thereof or any improvement thereon or renew or extend any lease thereof for a term of more than eighty years. Any sale of the land or any part thereof or any improvement thereon, or any lease or renewal or extension of any lease of the land or any part thereof or any improvement thereon for a term of more than eighty years made or attempted to be made by the board of regents shall be null and void until the same has been approved or ratified and confirmed by legislative act.

(2) The board of regents shall have power from time to time to lease the land, or any part thereof or any improvement thereon for a term of not more than eighty years. Any and all records, books, accounts, and agreements of any lessee or sublessee under this section, pertaining to compliance with the terms and conditions of such lease or sublease, shall be open to inspection by the board of regents, the ways and means committee of the senate, the appropriations committee of the house of representatives, and the joint legislative audit and review committee or any successor committees. It is not intended that unrelated records, books, accounts, and agreements of lessees, sublessees, or related companies be open to such inspection. The board of regents shall make a full, detailed report of all leases and transactions pertaining to the land or any part thereof or any improvement thereon to the joint legislative audit and review committee, including one copy to the staff of the committee, during odd-numbered years.

(3) The net proceeds from the sale or lease of land in the university tract, or any part thereof or any improvement thereon, shall be deposited into the University of Washington facilities bond retirement account hereby established outside the state treasury as a nonappropriated local fund to be used exclusively for the purpose of erecting, altering, maintaining, equipping, or furnishing buildings at the University of Washington. The board of regents shall transfer from the University of Washington facilities bond retirement account to the University of Washington building account under RCW 43.79.080 any funds in excess of amounts reasonably necessary for payment of debt service in combination with other nonappropriated local funds related to capital projects for which debt service is required under section 4, chapter 380, Laws of 1999.

[1999 c 346 § 3; 1998 c 245 § 17; 1996 c 288 § 27; 1987 c 505 § 13; 1980 c 87 § 10; 1977 ex.s. c 365 § 1; 1974 ex.s. c 174 § 1.]

Notes:

Purpose--Construction--Effective date--1999 c 346: See notes following RCW 28B.20.381.

RCW 28B.20.394 University tract--Powers of regents--Agreements to pay for governmental services.

In addition to the powers conferred upon the board of regents of the University of Washington by RCW 28B.20.395, the board of regents is authorized and shall have the power to enter into an agreement or agreements with the city of Seattle and the county of King, Washington, to pay to the city and the county such sums as shall be mutually agreed upon for governmental services rendered to the university tract, which sums shall not exceed the amounts that would be received pursuant to limitations imposed by RCW 84.52.043 by the city of Seattle and county of King respectively from real and personal property taxes paid on the university tract or any leaseholds thereon if such taxes could lawfully be levied.

[1999 c 346 § 4; 1973 1st ex.s. c 195 § 10; 1972 ex.s. c 107 § 1; 1969 ex.s. c 223 § 28B.20.394. See also 1973 1st ex.s. c 195 § 140. Prior: 1955 c 229 § 1. Formerly RCW 28.77.361.]

Notes:

Purpose--Construction--Effective date--1999 c 346: See notes following RCW 28B.20.381.

Severability--Effective dates and termination dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 28B.20.395 University tract--Powers of regents, generally.

In addition to the powers conferred under the original deeds of conveyance to the state of Washington and under existing law, and subject to RCW 28B.20.382, the board of regents has full control of the university tract as provided in this chapter including, but not limited to:

(1) With regard to the whole or portions of the land, the authority to manage, to improve, to alter, to operate, to lease, to contract indebtedness, to borrow funds, to issue bonds, notes, and warrants, to provide for the amortization of and to pay the bonds, notes, warrants, and other evidences of indebtedness, at or prior to maturity, to use and pledge the income derived from operating, managing, and leasing the university tract for such purpose, and to otherwise own, operate, and control the university tract to the same extent as any other property of the university;

(2) With regard to the whole or portions of any building or buildings or other improvements thereon or appurtenances thereto, the authority to sell, subject to the terms of any underlying lease on the land, to manage, to improve, to alter, to operate, to lease, to grant a deed of trust or a mortgage lien, to contract indebtedness, to borrow funds, to issue bonds, notes, and warrants, to provide for the amortization thereof and to pay the bonds, notes, warrants, and other evidences of indebtedness, at or prior to maturity, to use and pledge the income derived from

operating, managing, and leasing the university tract for such purpose, and to otherwise own, operate, and control the university tract to the same extent as any other property of the university consistent with the purpose of the donors of the metropolitan tract.

[1999 c 346 § 5.]

Notes:

Purpose--Construction--Effective date--1999 c 346: See notes following RCW 28B.20.381.

RCW 28B.20.396 University tract--Bonding authority.

Bonds issued pursuant to the authority granted under RCW 28B.20.395:

(1) Shall not constitute (a) an obligation, either general or special, of the state or (b) a general obligation of the University of Washington or of the board of regents;

(2) Shall be:

(a) Either in bearer form or in registered form as provided in RCW 39.46.030, and

(b) Issued in denominations of not less than one hundred dollars;

(3) Shall state:

(a) The date of issue, and

(b) The series of the issue and be consecutively numbered within the series, and

(c) That the bond is payable only out of a special fund established for the purpose, and designate the fund;

(4) Shall bear interest, payable either annually, or semiannually as the board of regents may determine;

(5) Shall be payable solely out of:

(a) Revenue derived from operating, managing and leasing the university tract, and

(b) A special fund, created by the board of regents for the purpose, consisting either of (i) a fixed proportion, or (ii) a fixed amount out of and not exceeding a fixed proportion, or (iii) a fixed amount without regard to any fixed proportion, of the revenue so derived;

(6) May contain covenants by the board of regents in conformity with the provisions of RCW 28B.20.398(2);

(7) Shall be payable at such times over a period of not to exceed thirty years, in such manner and at such place or places as the board of regents determines;

(8) Shall be executed in such manner as the board of regents by resolution determines;

(9) Shall be sold in such manner as the board of regents deems for the best interest of the University of Washington;

(10) May be issued under chapter 39.46 RCW.

[1999 c 346 § 6; 1983 c 167 § 33; 1970 ex.s. c 56 § 25; 1969 ex.s. c 232 § 99; 1969 ex.s. c 223 § 28B.20.396. Prior: 1947 c 284 § 3; Rem. Supp. 1947 § 4566-13. Formerly RCW 28.77.370.]

Notes:

Purpose--Construction--Effective date--1999 c 346: See notes following RCW 28B.20.381.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 28B.20.398 University tract--Powers of regents--Bond issuance--Covenants--Redemption--Action for compliance.

(1) Any resolution of the board of regents pursuant to the provisions of RCW 28B.20.395 shall provide for the creation of a special fund, in conformity with the provisions of RCW 28B.20.396(5)(b).

(2) Any resolution authorizing the issuance of bonds pursuant to the provisions of RCW 28B.20.395, 28B.20.396, and 28B.20.398 may contain covenants of the board of regents to protect and safeguard the security and rights of the owners of any such bonds such as are then customary in connection with similar bonds and considered advisable in order to assure the maximum marketability for said bonds. Without limiting the generality of the foregoing, any such resolution may contain covenants as to:

(a) The creation of a special fund into which the proceeds of all bonds issued pursuant to the provisions of such resolution shall be deposited, the terms and conditions upon which payments may be made from such special fund, and for the payment of interest on bonds issued pursuant to such resolution from the moneys in said fund;

(b) Maintaining rental and leasehold rates and other charges at a level sufficient at all times to provide revenue (i) to pay the interest on and principal of all bonds and other obligations payable from said revenue, (ii) to make all other payments from said revenues required under the provisions of any resolution adopted in connection with the issuance of warrants or bonds under RCW 28B.20.395, 28B.20.396, and 28B.20.398 and (iii) to pay the operating, management, maintenance, repair and upkeep costs of the university tract;

(c) Collection, deposit, custody and disbursement of the revenues from the university tract or any portions thereof including (i) a specification of the depositaries to be designated, and (ii) authorization of such depositaries, or other banks or trust companies, to act as fiscal agent of the board of regents for the custody of the proceeds of bonds and the moneys held in any funds created pursuant to RCW 28B.20.395, 28B.20.396, and 28B.20.398, or any resolution authorizing such bonds, and to represent bond owners in the event of a default on such bonds or in the event of a default in the performance of any duty or obligation of the board of regents in connection therewith, with such power and duty as such resolution may provide;

(d) Creation and administration of reserve and other funds for the payment, at or prior to maturity, of any indebtedness chargeable against the revenues from the university tract and for creation of working funds, depreciation funds, replacement funds, reserves for extraordinary repairs and any other fund deemed necessary or desirable to insure the continued profitable operation of the said university tract;

(e) Deposit of collateral security or indemnity bonds to secure the proceeds (i) of bonds issued pursuant to the provisions of such resolution and (ii) of all revenues which are pledged to secure the repayment of bonds issued pursuant to the provisions of such resolution and (iii) of all moneys deposited in any special fund created under the authority of RCW 28B.20.395, 28B.20.396, and 28B.20.398 or any covenant thereunder;

(f) The obligation of the board of regents to maintain the building or buildings in good

condition and to operate and manage the same in an economical and efficient manner;

(g) The amount and kind of insurance to be carried by the board of regents in connection with the building or buildings, the companies in which such insurance shall be carried, the term thereof, the application of the proceeds of any such insurance, and adjustments of losses under any such policy of insurance;

(h) Limitations upon the amount of additional bonds, warrants and other obligations payable out of the revenues from the building or buildings which may be thereafter issued and the terms and conditions upon which such additional bonds, warrants or other obligations may be issued;

(i) Limitations upon the creation of additional liens or encumbrances on the building or buildings or the personal property used in connection therewith;

(j) The terms and conditions upon which the building or buildings, or any part thereof, may be sold, mortgaged, leased or otherwise disposed of, and the use or other disposition of the proceeds of any such sale, mortgage or lease;

(k) The methods of operation, management and maintenance of the building or buildings;

(l) Accounting and auditing and the keeping of records, reports and audits with respect to the building or buildings;

(m) The amendment or modification of any resolution authorizing the issuance of bonds pursuant to the provisions of RCW 28B.20.395, 28B.20.396, and 28B.20.398, including the terms and conditions upon which such amendment or modification may be effected and the number, amount or percentage of assenting bonds necessary to effectuate the same;

(n) Limitations upon the use of space or facilities in the building or buildings without payment therefor; and

(o) Such other matters as may be necessary or desirable to insure a successful and profitable operation of the building or buildings.

(3) The term "building or buildings" as used in subsection (2) of this section means the building or buildings or improvements upon the university tract with respect to which the revenues are pledged, under the terms of the resolution, to secure the payment of bonds issued under such resolution.

(4) The provisions of RCW 28B.20.395, 28B.20.396, and 28B.20.398 and of any resolution adopted in conformity with the provisions of this section shall constitute a contract with the owners of warrants or bonds issued pursuant thereto, and the provisions thereof shall be enforceable in any court of competent jurisdiction by any owner of such warrants or bonds by mandamus or any other appropriate suit, action or proceeding at law or in equity.

(5) Bonds issued pursuant to the provisions of RCW 28B.20.395, 28B.20.396, and 28B.20.398 may be redeemed, at the option of the board of regents, at such time or times, upon such terms and conditions, and at such premiums as the board of regents specifies in the resolution.

(6) If the board of regents fails to pay the required amounts into the special fund, established in conformity with subsection (2) of this section, the owner of any bond or bonds affected thereby may maintain an action against the board of regents to compel compliance with the terms of the resolution in this respect.

(7) Pending the preparation and execution of any bonds the issuance of which is authorized under the provisions of subsection (2) of this section, temporary bonds may be issued in such form as the board of regents determines.

[1999 c 346 § 7; 1983 c 167 § 34; 1969 ex.s. c 223 § 28B.20.398. Prior: 1947 c 284 § 4; Rem. Supp. 1947 § 4566-14. Formerly RCW 28.77.380.]

Notes:

Purpose--Construction--Effective date--1999 c 346: See notes following RCW 28B.20.381.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

SCHOLARSHIPS, FELLOWSHIPS, SPECIAL RESEARCH PROJECTS, AND HOSPITAL

RCW 28B.20.410 Children's center for research and training in mental retardation--Established.

There is hereby established at the University of Washington a children's center for research and training in mental retardation and other handicapping conditions.

[1969 ex.s. c 223 § 28B.20.410. Prior: 1963 c 193 § 1. Formerly RCW 28.77.430.]

RCW 28B.20.412 Children's center for research and training in mental retardation--Administration.

The center shall be administered by the board of regents of the University of Washington.

[1982 c 163 § 4; 1973 c 62 § 8; 1969 ex.s. c 223 § 28B.20.412. Prior: 1963 c 193 § 2. Formerly RCW 28.77.432.]

Notes:

Severability--Effective date--1982 c 163: See notes following RCW 2.10.052.

Savings--Severability--1973 c 62: See notes following RCW 28B.10.510.

RCW 28B.20.414 Children's center for research and training in mental retardation--Purpose.

The general purposes of the center shall be:

(1) To provide clinical and laboratory facilities for research on the causes, diagnosis, prevention, and treatment of mental retardation and other handicapping conditions in children;

(2) To develop improved professional and in-service training programs in the various disciplines concerned with handicapped children;

(3) To provide diagnostic and consultative services to various state programs and to regional and local centers, to an extent compatible with the primary research and teaching objectives of the center.

[1969 ex.s. c 223 § 28B.20.414. Prior: 1963 c 193 § 3. Formerly RCW 28.77.434.]

RCW 28B.20.420 Graduate scholarships for engineering research--Established.

In order to further the development of advance studies in engineering there shall be

established in the engineering laboratories of the University of Washington, ten graduate scholarships and/or fellowships to the amount of one thousand dollars and tuition each, per academic year. These scholarships shall be in the field of engineering which can best be used to aid the industrial development of the state of Washington and its resources. This graduate work shall be done in the laboratories of the university and shall be directed along the lines of professional research and testing.

[1969 ex.s. c 223 § 28B.20.420. Prior: 1945 c 241 § 1. Formerly RCW 28.77.220.]

RCW 28B.20.422 Graduate scholarships for engineering research--Studies published--Direction of program--Qualifications for candidates.

The studies and results of such scholarships shall be published as bulletins or engineering reports of the college of engineering of the university and a reasonable number of copies thereof shall be available to the public without cost. The provisions of RCW 28B.20.420 and this section shall include the cost of individual scholarships, the cost of necessary supplies and materials to be utilized, and the cost of printing and distribution of the bulletins or engineering reports. The direction of this research program shall rest in the proper department or departments and schools of the engineering college of the university and the candidates must meet the qualifications of the graduate school of the university for graduate students.

[1969 ex.s. c 223 § 28B.20.422. Prior: 1945 c 241 § 2. Formerly RCW 28.77.225; 28.77.220, part.]

RCW 28B.20.426 Fellowship program in forensic pathology--Funding--Recipient's services to county coroners.

(1) A fellowship program in forensic pathology is created in the school of medicine at the University of Washington. The program shall provide training for one person per year. The program shall be funded from funds in the death investigation[s] account of the general fund under RCW 43.79.445.

(2) The fellowship recipient, during the period of his or her fellowship, shall be available, as soon as his or her level of expertise warrants it, to the county coroners of the state without charge to perform autopsies, for consultations, and to provide testimony in court.

(3) The forensic pathology fellowship shall be administered according to the provisions in RCW 43.103.030, as amended.

[1991 c 176 § 3; 1986 c 31 § 1.]

Notes:

Effective date--1986 c 31: "This act shall take effect July 1, 1986." [1986 c 31 § 3.]

RCW 28B.20.440 University hospital.

The board of regents of the University of Washington is hereby authorized to operate a hospital upon university grounds to be used in conjunction with the university's medical and dental schools, including equipping and additional construction to the same.

[1969 ex.s. c 223 § 28B.20.440. Cf. (i) 1947 c 286 § 2. No RRS. (ii) 1945 c 15 § 4. No RRS.]

RCW 28B.20.450 Occupational and environmental research facility--Construction and maintenance authorized--Purpose.

There shall be constructed and maintained at the University of Washington an occupational and environmental research facility in the school of medicine having as its objects and purposes testing, research, training, teaching, consulting and service in the fields of industrial and occupational medicine and health, the prevention of industrial and occupational disease among workers, the promotion and protection of safer working environments and dissemination of the knowledge and information acquired from such objects and purposes.

[1989 c 12 § 4; 1969 ex.s. c 223 § 28B.20.450. Prior: 1963 c 151 § 1. Formerly RCW 28.77.410.]

RCW 28B.20.452 Occupational and environmental research facility--Industry to share costs.

See RCW 51.16.042.

RCW 28B.20.454 Occupational and environmental research facility--Submission of industrial and occupational health problems to facility--Availability of information.

Any matter or problem relating to the industrial and occupational health of workers may be submitted to the environmental research facility by any public agency or interested party. All research data and pertinent information available or compiled at such facility related to the industrial and occupational health of workers shall be made available and supplied without cost to any public agency or interested party.

[1989 c 12 § 5; 1969 ex.s. c 223 § 28B.20.454. Prior: 1963 c 151 § 3. Formerly RCW 28.77.414.]

RCW 28B.20.456 Occupational and environmental research facility--Advisory committee.

There is hereby created an advisory committee to the environmental research facility consisting of eight members. Membership on the committee shall consist of the director of the department of labor and industries, the assistant secretary for the division of health services of the department of social and health services, the president of the Washington state labor council, the president of the association of Washington business, the dean of the school of public health and community medicine of the University of Washington, the dean of the school of engineering of the University of Washington, the president of the Washington state medical association, or their representatives, and the chairman of the department of environmental health of the University of Washington, who shall be ex officio chairman of the committee without vote. Such committee shall meet at least semiannually at the call of the chairman. Members shall serve without compensation. It shall consult, review and evaluate policies, budgets, activities and

programs of the facility relating to industrial and occupational health to the end that the facility will serve in the broadest sense the health of the workman as it may be related to his employment.

[1973 c 62 § 9; 1969 ex.s. c 223 § 28B.20.456. Prior: 1963 c 151 § 4. Formerly RCW 28.77.416.]

Notes:

Savings--Severability--1973 c 62: See notes following RCW 28B.10.510.

RCW 28B.20.458 Occupational and environmental research facility--Acceptance of loans, gifts, etc.--Presentment of vouchers for payments from accident and medical aid funds.

The University of Washington may accept and administer loans, grants, funds, or gifts, conditional or otherwise, in furtherance of the objects and purposes of RCW 28B.20.450 through 28B.20.458, from the federal government and from other sources public or private. For the purpose of securing payment from the accident fund and medical aid fund as funds are required, vouchers shall be presented to the department of labor and industries.

[1969 ex.s. c 223 § 28B.20.458. Prior: 1963 c 151 § 5. Formerly RCW 28.77.418.]

RCW 28B.20.462 Warren G. Magnuson institute for biomedical research and health professions training--Established.

The Warren G. Magnuson institute for biomedical research and health professions training is established within the Warren G. Magnuson health sciences center at the University of Washington. The institute shall be administered by the university. The institute may be funded through a combination of federal, state, and private funds, including earnings on the endowment fund in RCW 28B.20.472.

[1990 c 282 § 1.]

RCW 28B.20.464 Warren G. Magnuson institute--Purposes.

The purposes of the Warren G. Magnuson institute for biomedical research and health professions training are as follows:

(1) Supporting one or more individuals engaged in biomedical research into the causes of, the treatments for, or the management of diabetes is the primary purpose of the institute;

(2) Providing financial assistance to students in graduate or postgraduate training programs in the health professions at the university is the secondary purpose of the institute;

(3) Supporting biomedical research into the causes of, the treatment for, or the management of Parkinson's disease, osteoporosis, or any other disease or medical disorder where the achievement of a significant result in the near term is especially promising; and

(4) Enhancing the training, research, and public service missions of the health sciences schools of the University of Washington.

[1990 c 282 § 2.]

RCW 28B.20.466 Warren G. Magnuson institute--Endowment fund earnings.

Unless designated otherwise by donors, the earnings on the endowment fund in RCW 28B.20.472 shall be distributed as follows:

(1) Earnings on the first seven hundred fifty thousand dollars shall be expended at the direction of the dean of the school of medicine, in support of one or more individuals engaged in biomedical research into the causes of, the treatments for, or the management of diabetes;

(2) Earnings on the next two hundred fifty thousand dollars shall be expended to provide financial assistance to students in graduate or postgraduate training programs in the health professions at the university, including: Medicine, nursing, public health and community medicine, dentistry, pharmacy, and social work. At least one such student at all times shall be in a career pathway preparing for or engaged in research related to diabetes, its antecedents, or complications; and

(3) Earnings on additional funds within the endowment may be used for any purpose of the institute as outlined in RCW 28B.20.464.

[1990 c 282 § 3.]

RCW 28B.20.468 Warren G. Magnuson institute--Trust fund.

The Warren G. Magnuson institute trust fund is hereby established. The trust fund shall be administered by the state treasurer. Funds appropriated by the legislature for the trust fund shall be deposited into the trust fund. At the request of the board of regents of the University of Washington, and when conditions set forth in RCW 28B.20.470 are met, the treasurer shall release state matching moneys in the fund to the University of Washington's local endowment fund. No appropriation is required for expenditures from the trust fund.

[1991 sp.s. c 13 § 106; 1990 c 282 § 4.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

RCW 28B.20.470 Warren G. Magnuson institute--State matching funds.

The University of Washington may apply to the treasurer for five hundred thousand dollars from the Warren G. Magnuson institute trust fund when the university can match the state funds with an amount of cash donations equal to twice the state funds provided. Private donations mean moneys from nonstate sources that include, but are not limited to federal moneys and assessments by commodity commissions authorized to conduct research activities including but not limited to research studies authorized under RCW 15.66.030 and 15.65.040.

[1990 c 282 § 5.]

RCW 28B.20.472 Warren G. Magnuson institute--Local endowment fund.

The state matching funds and the private donations shall be deposited in the university's

local endowment fund. The university is responsible for investing and maintaining all moneys within the fund. The principal of the invested endowment fund shall not be invaded. The university may augment the endowment fund with additional private donations. The earnings of the fund shall be used solely to support the purposes of the Warren G. Magnuson institute for biomedical research and health professions training as set forth in RCW 28B.20.464.

[1990 c 282 § 6.]

RCW 28B.20.500 Medical students from rural areas--Admission preference.

The school of medicine at the University of Washington shall develop and implement a policy to grant admission preference to prospective medical students from rural areas of the state who agree to serve for at least five years as primary care physicians in rural areas of Washington after completion of their medical education and have applied for and meet the qualifications of the program under chapter 28B.115 RCW. Should the school of medicine be unable to fill any or all of the admission openings due to a lack of applicants from rural areas who meet minimum qualifications for study at the medical school, it may admit students not eligible for preferential admission under this section.

[1991 c 332 § 26; 1990 c 271 § 9.]

Notes:

Application to scope of practice--Captions not law--1991 c 332: See notes following RCW 18.130.010.

FINANCING BUILDINGS AND FACILITIES--1957 ACT

RCW 28B.20.700 Construction, remodeling, improvement, financing, etc., authorized.

The board of regents of the University of Washington is empowered, in accordance with the provisions of this chapter, to provide for the construction, completion, reconstruction, remodeling, rehabilitation and improvement of buildings and facilities authorized by the legislature for the use of the university and to finance the payment thereof by bonds payable out of a special fund from revenues hereafter derived from the payment of building fees, gifts, bequests or grants, and such additional funds as the legislature may provide.

[1985 c 390 § 36; 1969 ex.s. c 223 § 28B.20.700. Prior: 1959 c 193 § 1; 1957 c 254 § 1. Formerly RCW 28.77.500.]

RCW 28B.20.705 Definitions.

The following terms, whenever used or referred to in this chapter, shall have the following meaning, excepting in those instances where the context clearly indicates otherwise:

(1) The word "board" means the board of regents of the University of Washington.

(2) The words "building fees" mean the building fees charged students registering at the university.

(3) The words "bond retirement fund" mean the special fund created by chapter 254,

Laws of 1957, to be known as the University of Washington bond retirement fund.

(4) The word "bonds" means the bonds payable out of the bond retirement fund.

(5) The word "projects" means the construction, completion, reconstruction, remodeling, rehabilitation, or improvement of any building or other facility of the university authorized by the legislature at any time and to be financed by the issuance and sale of bonds.

[1985 c 390 § 37; 1969 ex.s. c 223 § 28B.20.705. Prior: 1963 c 224 § 2; 1963 c 182 § 1; 1959 c 193 § 2; 1957 c 254 § 2. Formerly RCW 28.77.510.]

RCW 28B.20.710 Contracts, issuance of evidences of indebtedness, acceptance of grants.

In addition to the powers conferred under existing law, the board is authorized and shall have the power:

(1) To contract for the construction, completion, reconstruction, remodeling, rehabilitation and improvement of such buildings or other facilities of the university as are and which may hereafter be authorized by the legislature.

(2) To finance the same by the issuance of bonds secured by the pledge of any or all of the revenues and receipts of the bond retirement fund.

(3) Without limitation of the foregoing, to accept grants from the United States government, or any federal or state agency or instrumentality, or any public or private corporation, association, or person to aid in defraying the costs of any such projects.

[1969 ex.s. c 223 § 28B.20.710. Prior: 1963 c 182 § 2; 1959 c 193 § 3; 1957 c 254 § 3. Formerly RCW 28.77.520.]

RCW 28B.20.715 Bonds--Issuance, sale, form, term, interest, etc.--Covenants--Deposit of proceeds.

For the purpose of financing the cost of any projects, the board is hereby authorized to adopt the resolution or resolutions and prepare all other documents necessary for the issuance, sale and delivery of the bonds or any part thereof at such time or times as it shall deem necessary and advisable. Said bonds:

(1) Shall not constitute

(a) An obligation, either general or special, of the state; or

(b) A general obligation of the University of Washington or of the board;

(2) Shall be

(a) Either registered or in coupon form; and

(b) Issued in denominations of not less than one hundred dollars; and

(c) Fully negotiable instruments under the laws of this state; and

(d) Signed on behalf of the university by the president of the board, attested by the secretary of the board, have the seal of the university impressed thereon or a facsimile of such seal printed or lithographed in the bottom border thereof, and the coupons attached thereto shall be signed with the facsimile signatures of such president and secretary;

(3) Shall state

(a) The date of issue; and

(b) The series of the issue and be consecutively numbered within the series; and

(c) That the bond is payable both principal and interest solely out of the bond retirement fund;

(4) Each series of bonds shall bear interest, payable either annually or semiannually, as the board may determine;

(5) Shall be payable both principal and interest out of the bond retirement fund;

(6) Shall be payable at such times over a period of not to exceed forty years from date of issuance, at such place or places, and with such reserved rights of prior redemption, as the board may prescribe;

(7) Shall be sold in such manner and at such price as the board may prescribe;

(8) Shall be issued under and subject to such terms, conditions and covenants providing for the payment of the principal thereof and interest thereon and such other terms, conditions, covenants and protective provisions safeguarding such payment, not inconsistent with this chapter, and as found to be necessary by the board for the most advantageous sale thereof, which may include but not be limited to:

(a) A covenant that the building fees shall be established, maintained and collected in such amounts that will provide money sufficient to pay the principal of and interest on all bonds payable out of the bond retirement fund, to set aside and maintain the reserves required to secure the payment of such principal and interest, and to maintain any coverage which may be required over such principal and interest;

(b) A covenant that a reserve account shall be created in the bond retirement fund to secure the payment of the principal of and interest on all bonds issued and a provision made that certain amounts be set aside and maintained therein;

(c) A covenant that sufficient moneys may be transferred from the University of Washington building account to the bond retirement fund when ordered by the board of regents in the event there is ever an insufficient amount of money in the bond retirement fund to pay any installment of interest or principal and interest coming due on the bonds or any of them;

(d) A covenant fixing conditions under which bonds on a parity with any bonds outstanding may be issued.

The proceeds of the sale of all bonds, exclusive of accrued interest which shall be deposited in the bond retirement fund, shall be deposited in the state treasury to the credit of the University of Washington building account and shall be used solely for paying the costs of the projects.

[1985 c 390 § 38; 1970 ex.s. c 56 § 26; 1969 ex.s. c 232 § 100; 1969 ex.s. c 223 § 28B.20.715. Prior: 1959 c 193 § 4; 1957 c 254 § 4. Formerly RCW 28.77.530.]

Notes:

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 28B.20.720 University of Washington bond retirement fund--Composition--Pledge of building fees.

For the purpose of paying and securing the payment of the principal of and interest on the

bonds as the same shall become due, there shall be paid into the state treasury and credited to a special trust fund to be known as the University of Washington bond retirement fund, the following:

(1) One-half of such building fees as the board may from time to time determine, or such larger portion as may be necessary to prevent default in the payments required to be made out of the bond retirement fund, and in no event shall such one-half be less than twelve dollars and fifty cents per each resident student per quarter and less than thirty-seven dollars and fifty cents per each nonresident student per quarter;

(2) Any gifts, bequests, or grants which may be made, or may become available, for the purpose of furthering the construction of any authorized projects, or for the repayment of the costs thereof;

(3) Such additional funds as the legislature may provide.

Said bond retirement fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or any interest thereon remains unpaid, be available solely for the payment thereof except as provided in RCW 28B.20.725(5). As a part of the contract of sale of such bonds, the board undertakes to charge and collect building fees and to deposit the portion of such fees in the bond retirement fund in amounts which will be sufficient to pay the principal of, and interest on all such bonds outstanding.

[1985 c 390 § 39; 1969 ex.s. c 223 § 28B.20.720. Prior: 1959 c 193 § 5; 1957 c 254 § 5. Formerly RCW 28.77.540.]

Notes:

1977 Bond act for the refunding of outstanding limited obligation revenue bonds of institutions of higher education, as affecting: RCW 28B.14C.080 through 28B.14C.130.

RCW 28B.20.721 Revenues derived from certain university lands deposited in University of Washington bond retirement fund.

All moneys received from the lease or rental of lands set apart by the enabling act for university purposes; all interest or income arising from the proceeds of the sale of such lands or of the timber, fallen timber, stone, gravel, or other valuable material thereon; and all moneys received as interest on deferred payments on contracts for the sale of such lands shall be deposited in the "University of Washington bond retirement fund" to be expended for the purposes set forth in RCW 28B.20.720.

[1969 ex.s. c 223 § 28B.20.721. Prior: 1963 c 216 § 1. Formerly RCW 28.77.541.]

RCW 28B.20.725 Additional powers of board--Issuance of bonds, investments, transfer of funds, etc.

The board is hereby empowered:

(1) To reserve the right to issue bonds later on a parity with any bonds being issued;

(2) To authorize the investing of moneys in the bond retirement fund and any reserve account therein;

(3) To authorize the transfer of money from the University of Washington building account to the bond retirement fund when necessary to prevent a default in the payments required to be made out of such fund;

(4) To create a reserve account or accounts in the bond retirement fund to secure the payment of the principal of and interest on any bonds;

(5) To authorize the transfer to the University of Washington building account of any money on deposit in the bond retirement fund in excess of debt service for a period of three years from the date of such transfer on all outstanding bonds payable out of such fund.

[1969 ex.s. c 223 § 28B.20.725. Prior: 1959 c 193 § 6. Formerly RCW 28.77.545.]

Notes:

1977 Bond act for the refunding of outstanding limited obligation revenue bonds of institutions of higher education, as affecting: RCW 28B.14C.080 through 28B.14C.130.

RCW 28B.20.730 Refunding bonds.

The board is hereby empowered to issue refunding bonds to provide funds to refund any or all outstanding bonds payable from the bond retirement fund and to pay any redemption premium payable on such outstanding bonds being refunded. Such refunding bonds may be issued in the manner and on terms and conditions and with the covenants permitted by this chapter for the issuance of bonds. The refunding bonds shall be payable out of the bond retirement fund and shall not constitute an obligation either general or special, of the state or a general obligation of the University of Washington or the board. The board may exchange the refunding bonds at par for the bonds which are being refunded or may sell them in such manner, at such price and at such rate or rates of interest as it deems for the best interest of the university.

[1970 ex.s. c 56 § 27; 1969 ex.s. c 232 § 101; 1969 ex.s. c 223 § 28B.20.730. Prior: 1959 c 193 § 8. Formerly RCW 28.77.547.]

Notes:

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 28B.20.735 Bonds not general obligations--Legislature may provide additional means of payment.

The bonds authorized to be issued pursuant to the provisions of RCW 28B.20.700 through 28B.20.740 shall not be general obligations of the state of Washington, but shall be limited obligation bonds payable only from the special fund created for their payment derived from the building fees as herein provided. The legislature may provide additional means for raising money for the payment of interest and principal of said bonds. RCW 28B.20.700 through 28B.20.740 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section to provide additional means for raising money is permissive, and shall not in any way be construed as a pledge of the general credit of the state of Washington.

[1985 c 390 § 40; 1969 ex.s. c 223 § 28B.20.735. Prior: 1957 c 254 § 7. Formerly RCW 28.77.550.]

RCW 28B.20.740 RCW 28B.20.700 through 28B.20.740 as concurrent with other laws.

RCW 28B.20.700 through 28B.20.740 is to be construed as concurrent with other legislation with reference to providing funds for the construction of buildings at the University of Washington, and is not to be construed as limiting any other provision of law with reference thereto.

[1969 ex.s. c 223 § 28B.20.740. Prior: 1957 c 254 § 10. Formerly RCW 28.77.580.]

MISCELLANEOUS

RCW 28B.20.745 Validation--1959 c 193.

Any covenants of the bonds issued by the University of Washington under the authority of chapter 254, Laws of 1957 not expressly authorized by said chapter but authorized in chapter 193, Laws of 1959 are hereby declared to be legal and binding in all respects.

[1969 ex.s. c 223 § 28B.20.745. Prior: 1959 c 193 § 11. Formerly RCW 28.77.590.]

RCW 28B.20.750 Hospital project bonds--State general obligation bonds in lieu of revenue bonds.

The legislature has previously approved by its appropriation of funds from time to time, a capital improvement project for the University of Washington hospital, which project was to be partly funded by the issuance, by the university board of regents, of revenue bonds payable from certain university hospital fees. In order that such project may be funded on terms most advantageous to the state, it is hereby determined to be in the public interest that state general obligation bonds be issued to provide part of the funds for such project in lieu of revenue bonds.

[1975 1st ex.s. c 88 § 1.]

Notes:

Severability--1975 1st ex.s. c 88: "If any provision of this 1975 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances, shall in no way be affected." [1975 1st ex.s. c 88 § 12.]

RCW 28B.20.751 Hospital project bonds--Amount authorized.

For the purpose of providing financing for needed acquisition, construction, remodeling, furnishing or equipping of buildings and facilities of the University of Washington hospital, the state finance committee is hereby authorized to issue from time to time general obligation bonds of the state of Washington in the aggregate principal amount of eight million dollars, or so much thereof as shall be required to finance the university hospital improvements project described in

RCW 28B.20.750, to be paid and discharged within thirty years of the date of issuance, in accordance with Article VIII, section 1, of the Constitution of the state of Washington.

[1975 1st ex.s. c 88 § 2.]

Notes:

Severability--1975 1st ex.s. c 88: See note following RCW 28B.20.750.

RCW 28B.20.752 Hospital project bonds--Bond anticipation notes, authorized, payment.

When the state finance committee has determined to issue such general obligation bonds or a portion thereof, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of principal and redemption premium, if any, of and interest on such notes shall be applied thereto when such bonds are issued.

[1975 1st ex.s. c 88 § 3.]

Notes:

Severability--1975 1st ex.s. c 88: See note following RCW 28B.20.750.

RCW 28B.20.753 Hospital project bonds--Form, terms, conditions, sale, and covenants for bonds and notes.

The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds and/or the bond anticipation notes, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and the interest thereon when due.

[1975 1st ex.s. c 88 § 4.]

Notes:

Severability--1975 1st ex.s. c 88: See note following RCW 28B.20.750.

RCW 28B.20.754 Hospital project bonds--Disposition of proceeds.

Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 28B.20.752, the proceeds from the sale of the bonds and/or bond anticipation notes authorized herein, together with all grants, donations, transferred funds and other moneys which the state finance committee or the board of regents of the University of Washington may direct the state treasurer to deposit therein, shall be deposited in the building authority construction account in the state treasury.

[1975 1st ex.s. c 88 § 5.]

Notes:

Severability--1975 1st ex.s. c 88: See note following RCW 28B.20.750.

RCW 28B.20.755 Hospital project bonds--Administration of proceeds from bonds and notes.

Subject to legislative appropriation, all proceeds of the bonds and/or bond anticipation notes authorized in RCW 28B.20.750 through 28B.20.759 shall be administered and expended by the board of regents of the University of Washington exclusively for the purposes specified in RCW 28B.20.750 through 28B.20.759 and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes.

[1975 1st ex.s. c 88 § 6.]

Notes:

Severability--1975 1st ex.s. c 88: See note following RCW 28B.20.750.

RCW 28B.20.756 Hospital project bonds--1975 University of Washington hospital bond retirement fund, created, purpose.

The 1975 University of Washington hospital bond retirement fund is hereby created in the state treasury for the purpose of the payment of principal of and interest on the bonds authorized to be issued pursuant to RCW 28B.20.750 through 28B.20.759.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on such bonds. On July 1st of each such year the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1975 University of Washington hospital bond retirement fund an amount equal to the amount certified by the state finance committee.

[1975 1st ex.s. c 88 § 7.]

Notes:

Severability--1975 1st ex.s. c 88: See note following RCW 28B.20.750.

RCW 28B.20.757 Hospital project bonds--Regents to accumulate moneys for bond payments.

On or before June 30th of each year, the board of regents of the university shall cause to be accumulated, in an appropriate local fund, from fees charged patients of the university hospital and other moneys legally available for such purposes, an amount at least equal to the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on the bonds issued pursuant to RCW 28B.20.750 through 28B.20.759.

Notwithstanding the provisions of RCW 28B.15.220, on July 1st of each such year the board of regents of the university shall cause to be paid to the state treasurer for deposit into the general fund of the state treasury, the sum so accumulated.

[1975 1st ex.s. c 88 § 8.]

Notes:

Severability--1975 1st ex.s. c 88: See note following RCW 28B.20.750.

RCW 28B.20.758 Hospital project bonds--As legal investment for public funds.

The bonds authorized in RCW 28B.20.750 through 28B.20.759 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

[1975 1st ex.s. c 88 § 9.]

Notes:

Severability--1975 1st ex.s. c 88: See note following RCW 28B.20.750.

RCW 28B.20.759 Hospital project bonds--Prerequisite to issuance.

The bonds authorized in RCW 28B.20.750 through 28B.20.759 shall be issued only after the university board of regents has certified to the state finance committee that projected revenue from fees charged patients of the university hospital shall be adequate, based upon reasonable projections for that revenue, to enable the board of regents to meet the requirement of RCW 28B.20.757 during the life of the bonds proposed to be issued.

[1975 1st ex.s. c 88 § 10.]

Notes:

Severability--1975 1st ex.s. c 88: See note following RCW 28B.20.750.

RCW 28B.20.770 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College.

See RCW 28B.10.300 through 28B.10.330.

RCW 28B.20.800 Revenues derived from certain university lands and income from university permanent fund deposited in University of Washington bond retirement fund--Covenant.

All moneys hereafter received from the lease or rental of lands set apart for the University of Washington by chapter 91, Laws of 1903 and section 9, chapter 122, Laws of 1893, and all interest or income arising from the proceeds of the sale of such land, less the allocation to the state treasurer's service account [fund] pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160, and all proceeds from the sale

of timber, fallen timber, stone, gravel, or other valuable material and all other receipts therefrom shall be deposited to the credit of the "University of Washington bond retirement fund" to be expended for the purposes set forth in RCW 28B.20.720. All proceeds of sale of such lands, exclusive of investment income, shall be deposited to the credit of the state university permanent fund, shall be retained therein and shall not be transferred to any other fund or account. All interest earned or income received from the investment of the money in the state university permanent fund shall be deposited to the credit of the University of Washington bond retirement fund less the allocations to the state treasurer's service fund pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160.

As a part of the contract of sale of bonds payable out of the University of Washington bond retirement fund, the board of regents of the University of Washington may covenant that all moneys derived from the above provided sources, which are required to be paid into the bond retirement fund, shall continue to be paid into such bond retirement fund for as long as any of such bonds are outstanding.

[1991 sp.s. c 13 § 97; 1969 ex.s. c 223 § 28B.20.800. Prior: 1965 ex.s. c 135 § 1. Formerly RCW 28.77.620.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

1977 Bond act for the refunding of outstanding limited obligation revenue bonds of institutions of higher education, as affecting: RCW 28B.14C.080 through 28B.14C.130.

RCW 28B.20.805 Revenues derived from certain university lands and income from university permanent fund deposited in University of Washington bond retirement fund--Ratification of previous transfers.

The transfers heretofore made of all moneys from the sources described in RCW 28B.20.800 and 43.79.201 into the University of Washington bond retirement fund and permanent fund are in all respects ratified and confirmed.

[1969 ex.s. c 223 § 28B.20.805. Prior: 1965 ex.s. c 135 § 3. Formerly RCW 28.77.630.]

RCW 28B.20.810 Revenues derived from certain university lands and income from university permanent fund deposited in University of Washington bond retirement fund--Transfers of certain funds and investments from university permanent fund to University of Washington bond retirement fund and University of Washington building account.

The board of regents of the University of Washington is empowered to authorize from time to time the transfer from the state university permanent fund to be held in reserve in the bond retirement fund created by RCW 28B.20.720 any unobligated funds and investments derived from lands set apart for the support of the university by chapter 91, Laws of 1903 and section 9, chapter 122, Laws of 1893, to the extent required to comply with bond covenants regarding principal and interest payments and reserve requirements for bonds payable out of the

bond retirement fund up to a total amount of five million dollars, and to transfer any or all of said unobligated funds and investments in excess of five million dollars to the university building account created by RCW 43.79.330(22). Any funds transferred to the bond retirement fund pursuant to this section shall be replaced by moneys first available out of the moneys required to be deposited in such fund pursuant to RCW 28B.20.800. The board is further empowered to direct the state finance committee to convert any investments in such permanent fund acquired with funds derived from such lands into cash or obligations of or guaranteed by the United States of America prior to the transfer of such funds and investments to such reserve account or building account.

[1991 sp.s. c 13 § 78; 1969 ex.s. c 223 § 28B.20.810. Prior: 1965 ex.s. c 135 § 4. Formerly RCW 28.77.640.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

RCW 28B.20.820 Revenues derived from certain university lands and income from university permanent fund deposited in University of Washington bond retirement fund--RCW 79.64.040 not affected.

Nothing contained in RCW 28B.20.800 through 28B.20.820 and RCW 43.79.201 is intended to amend or modify RCW 79.64.040 (section 4, chapter 178, Laws of 1961).

[1969 ex.s. c 223 § 28B.20.820. Prior: 1965 ex.s. c 135 § 5. Formerly RCW 28.77.650.]

Chapter 28B.25 RCW
JOINT CENTER FOR HIGHER EDUCATION

Sections

28B.25.020 Coordination of programs--Master plan for Riverpoint higher education park.

RCW 28B.25.020 Coordination of programs--Master plan for Riverpoint higher education park.

Notes:

Reviser's note: RCW 28B.25.020 was amended by 1998 c 245 § 18 without reference to its repeal by 1998 c 344 § 17. It has been decodified for publication purposes under RCW 1.12.025.

Chapter 28B.30 RCW
WASHINGTON STATE UNIVERSITY

Sections

28B.30.010 Designation.
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28B.30.054 Credits--State-wide transfer policy and agreement--Establishment.
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28B.30.057 Major lines common to University of Washington and Washington State University.
28B.30.060 Courses exclusive to Washington State University.
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28B.30.820 Dairy/forage and agricultural research facility--Transfer of property and facilities for.
28B.30.900 Transfer of energy education, applied research, and technology transfer programs from state energy office.
28B.30.901 Establishment of administrative units to coordinate energy education or energy program delivery programs.
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Notes:

Acquisition of property, powers: RCW 28B.10.020.
Admission requirements: RCW 28B.10.050.
Agricultural college grant: RCW 43.79.120.

Agricultural extension work: RCW 36.50.010.
Athletic printing and concessions, bids required: RCW 28B.10.640.
Blind students
defined: RCW 28B.10.210.
funds for assistance: RCW 28B.10.215, 28B.10.220.
Bond issue for projects: RCW 43.83.090 through 43.83.104.
Bond issue of 1977 for the refunding of outstanding limited obligation revenue bonds of institutions of higher education: Chapter 28B.14C RCW.
Bond issues for buildings and facilities: RCW 28B.10.300 through 28B.10.330.
Branch campuses
Southwest Washington area: RCW 28B.45.040.
Spokane area: RCW 28B.45.050.
Tri-Cities area: RCW 28B.45.030.
British Columbia--Tuition and fees--Reciprocity with Washington: RCW 28B.15.756 and 28B.15.758.
Buildings and facilities
borrowing money for: RCW 28B.10.300(4).
no state liability: RCW 28B.10.330.
rate of interest: RCW 28B.10.325.
contracts for construction and installation: RCW 28B.10.300(1).
contracts to pay as rentals the costs of acquiring: 28B.10.300(5).
lease of campus lands for: RCW 28B.10.300(3).
purchase or lease of land for: RCW 28B.10.300(2).
use of acquired: RCW 28B.10.305.
Commercial activities by institutions of higher education--Development of policies governing: Chapter 28B.63 RCW.
County hospitals, contracts with state universities relating to medical services, teaching and research: RCW 36.62.290.
Courses, studies, and instruction
education courses approved by state board of education: RCW 28A.305.130(1).
graduate work: RCW 28B.10.120.
home economics extension work: RCW 36.50.010.
major courses common to Washington State University and University of Washington: RCW 28B.10.115.
physical education: RCW 28B.10.700.
studies on alternate agricultural practices to open burning of grasses grown for seed--Report: RCW 70.94.656.
Development of definitions, criteria, and procedures for the operating cost of instruction--Educational cost study: RCW 28B.15.070.
Eminent domain by: RCW 28B.10.020.
Entrance requirements: RCW 28B.10.050.
Eye protection, public educational institutions: RCW 70.100.010 through 70.100.040.
Faculty members and employees
annuity and retirement plans: RCW 28B.10.400 through 28B.10.423.
insurance: RCW 28B.10.660.
leaves of absence: RCW 28B.10.560.
Flag, display: RCW 28B.10.030.
Funds
agricultural permanent fund
created: RCW 43.79.130.
investment in regents' revenue bonds: RCW 43.84.140.
source: RCW 43.79.130.

Clarke-McNary fund, receipt and disbursement of authorized: RCW 43.30.360.
cooperative farm forestry fund, receipt and disbursement of authorized: RCW 43.30.370.
scientific permanent fund
created: RCW 43.79.110.
investment in regents' revenue bonds: RCW 43.84.140.
Washington State University fund, sources: RCW 43.79.140.
Governing body of recognized student association at college or university, open public meetings act applicable to: RCW 42.30.200.
Home economics extension work: RCW 36.50.010.
Idaho--Tuition and fees--Reciprocity with Washington: RCW 28B.15.750 through 28B.15.754.
Insurance for officers, employees and students: RCW 28B.10.660.
Liquor revolving fund, alcoholism and drug abuse research, use for: RCW 66.08.180.
1977 Washington State University buildings and facilities financing act: Chapter 28B.31 RCW.
Oregon--Tuition and fees--Reciprocity with Washington: RCW 28B.15.730 through 28B.15.736.
Parking facilities: RCW 28B.10.300.
Pest districts, general supervision over: RCW 17.12.060.
Police force: RCW 28B.10.550 through 28B.10.567.
Real property
acquisition of authorized: RCW 28B.10.020.
share crop leasing authorized: RCW 79.12.570.
state lands, included in definition: RCW 79.01.004.
Scientific school grant: RCW 43.79.100.
Stadium approach highway authorized
acquisition of property for: RCW 47.20.600.
condemnation for: RCW 47.20.610.
measure of damage to buildings: RCW 47.20.620.
sale of buildings and personalty acquired in acquisition of land: RCW 47.20.630.
use declared public use: RCW 47.20.605.
State building authority, projects approved: Chapter 43.75 RCW.
State College of Washington building account, name changed to Washington State University building account: RCW 43.79.335.
Students
insurance: RCW 28B.10.660.
loan fund for national defense education act: RCW 28B.10.280.
Teachers
training courses: RCW 28B.10.140.
use of district schools for training: RCW 28B.10.600 through 28B.10.605.
Traffic regulations, penalty for violations: RCW 28B.10.560.
Tuition, exemptions of children of deceased or disabled veterans or certain citizens missing in action or prisoners of war: RCW 28B.10.265.

RCW 28B.30.010 Designation.

The state university located and established in Pullman, Whitman county, shall be designated Washington State University.

[1969 ex.s. c 223 § 28B.30.010. Prior: 1959 c 77 § 1; 1905 c 53 § 1; 1891 c 145 § 1; RRS § 4567. Formerly RCW 28.80.010.]

RCW 28B.30.015 Purpose.

The aim and the purpose of Washington State University shall be to provide a higher education in such fields as may be established therein from time to time by the board of regents or by law, including instruction in agriculture or other industrial pursuits, mechanical arts and the natural sciences.

[1969 ex.s. c 223 § 28B.30.015. Prior: 1909 c 97 p 243 § 1, part; RRS § 4568, part; prior: 1897 c 118 § 190, part; 1891 c 145 § 1, part. Formerly RCW 28.80.015; 28.76.040, part and 28.76.050, part.]

RCW 28B.30.054 Credits--State-wide transfer policy and agreement--Establishment.

See RCW 28B.80.280 and 28B.80.290.

RCW 28B.30.055 "Major line" defined.

See RCW 28B.10.100.

RCW 28B.30.057 Major lines common to University of Washington and Washington State University.

See RCW 28B.10.115.

RCW 28B.30.060 Courses exclusive to Washington State University.

The courses of instruction of Washington State University shall embrace as exclusive major lines, agriculture in all its branches and subdivisions, veterinary medicine, and economic science in its application to agriculture and rural life.

[1969 ex.s. c 223 § 28B.30.060. Prior: 1917 c 10 § 3; RRS § 4534. Formerly RCW 28.80.025; 28.76.070, part.]

RCW 28B.30.065 Exclusive instruction in agriculture.

Work and instruction in agriculture in all its branches and subdivisions shall be offered and taught in Washington State University exclusively.

[1969 ex.s. c 223 § 28B.30.065. Prior: 1917 c 10 § 6; RRS § 4537. Formerly RCW 28.80.026; 28.76.070, part.]

RCW 28B.30.067 Wine grape industry, instruction relating to--Purpose.

Marked increases in state and national consumption make it evident that our developing wine grape industry has a bright future. To help assure its success the legislature concludes that Washington State University should provide a sound research, extension, and resident instruction base for both wine grape production and the processing aspects of the wine industry.

[1981 1st ex.s. c 5 § 5.]

Notes:

Severability--Effective date--1981 1st ex.s. c 5: See RCW 66.98.090 and 66.98.100.

Liquor revolving fund--Distribution--Reserve for administration--Disbursement to universities and department of social and health services: RCW 66.08.180.

RCW 28B.30.068 Wine grape industry, instruction relating to--Administration.

Revenues received from RCW 66.08.180 for wine and wine grape research, extension programs related to wine and wine grape research, and resident instruction in both wine grape production and the processing aspects of the wine industry by Washington State University shall be administered by the College of Agriculture. When formulating or changing plans for programs and research, the College of Agriculture shall confer with representatives of the Washington Wine Society.

[1981 1st ex.s. c 5 § 7.]

Notes:

Severability--Effective date--1981 1st ex.s. c 5: See RCW 66.98.090 and 66.98.100.

Liquor revolving fund--Distribution--Reserve for administration--Disbursement to universities and department of social and health services: RCW 66.08.180.

RCW 28B.30.075 University fees.

See chapter 28B.15 RCW.

RCW 28B.30.095 Management.

The management of Washington State University and its experiment stations, the care and preservation of all property of which the institution shall become possessed, the erection and construction of all buildings necessary for the use of said university and stations, and the disbursement and expenditure of all money provided for said university, shall be vested in the board of regents, constituted as provided in RCW 28B.30.100; said regents and their successors in office shall have the right to cause all things to be done necessary to carry out the provisions of this chapter or as otherwise provided by law.

[1969 ex.s. c 223 § 28B.30.095. Prior: 1949 c 115 § 1, part; 1909 c 97 p 245 § 5, part; Rem. Supp. 1949 § 4576, part; prior: 1897 c 118 § 194, part; 1891 c 145 § 4, part. Formerly RCW 28.80.070, part, 28.80.080, part and 28.80.130, part.]

RCW 28B.30.100 Regents--Appointment--Terms--Vacancies--Quorum--Bond.

(1) The governance of Washington State University shall be vested in a board of regents to consist of ten members one of whom shall be a student. The governor shall select the student member from a list of candidates, of at least three and not more than five, submitted by the governing body of the associated students. They shall be appointed by the governor, by and with the consent of the senate and, except for the student member, shall hold their offices for a term of

six years from the first day of October and until their successors are appointed and qualified. The student member shall hold his or her office for a term of one year from the first day of June until his or her successor is appointed and qualified. The student member shall be a full-time student in good standing at the university at the time of appointment.

(2) Six members of said board shall constitute a quorum for the transaction of business. In the case of a vacancy or when an appointment is made after the date of the expiration of a term, the governor shall fill the vacancy for the remainder of the term of the regent whose office has become vacant or expired.

(3) Except for the term of the student member, no more than the terms of two members will expire simultaneously on the last day of September in any one year.

(4) Each regent shall, before entering upon the discharge of his respective duties as such, execute a good and sufficient bond to the state of Washington, with two or more sufficient sureties, residents of the state, or with a surety company licensed to do business within the state, in the penal sum of not less than five thousand dollars, conditioned for the faithful performance of his duties as such regent: PROVIDED, That the university shall pay any fees incurred for any such bonds for their board members.

(5) A student appointed under this section shall excuse himself or herself from participation or voting on matters relating to the hiring, discipline, or tenure of faculty members and personnel.

[1998 c 95 § 2; 1985 c 61 § 2; 1979 ex.s. c 103 § 3; 1973 c 62 § 10; 1969 ex.s. c 223 § 28B.30.100. Prior: 1949 c 115 § 1, part; 1909 c 97 p 245 § 5, part; Rem. Supp. 1949 § 4576, part; prior: 1897 c 118 § 194, part; 1891 c 145 § 4, part. Formerly RCW 28.80.070, part, 28.80.080, part and 28.80.130, part.]

Notes:

Present terms not affected--Severability--1979 ex.s. c 103: See notes following RCW 28B.20.100.

Savings--Severability--1973 c 62: See notes following RCW 28B.10.510.

RCW 28B.30.115 Regents--Oaths.

See RCW 28B.10.520.

RCW 28B.30.116 Regents--Expenses.

See RCW 28B.10.525.

RCW 28B.30.117 Regents--Attorney general as advisor.

See RCW 28B.10.510.

RCW 28B.30.120 Regents--Meetings--Vacancy not to affect rights of remaining members.

Meetings of the board of regents may be called in such manner as the board may prescribe, and a full meeting of the board shall be called at least once a year. No vacancy in said board shall impair the rights of the remaining members of the board.

[1979 ex.s. c 103 § 6; 1969 ex.s. c 223 § 28B.30.120. Prior: 1909 c 97 p 248 § 12; RRS § 4592; prior: 1897 c 118 § 201; 1891 c 145 § 12. Formerly RCW 28.80.100.]

Notes:

Present terms not affected--Severability--1979 ex.s. c 103: See notes following RCW 28B.20.100.

RCW 28B.30.125 Regents--Board organization--President--President's duties--Bylaws, laws.

The board of regents shall meet and organize by the election of a president from their own number on or as soon as practicable after the first Wednesday in April of each year.

The board president shall be the chief executive officer of the board and shall preside at all meetings thereof, except that in his absence the board may appoint a chairman pro tempore. The board president shall sign all instruments required to be executed by said board other than those for the disbursement of funds.

The board may adopt bylaws for its own organizational purposes and enact laws for the government of the university and its properties.

[1969 ex.s. c 223 § 28B.30.125. Prior: (i) 1955 c 346 § 1, part; 1909 c 97 p 246 § 6, part; RRS § 4577, part. Formerly RCW 28.80.110, part. (ii) 1909 c 97 p 247 § 7, part; RRS § 4578, part; prior: 1897 c 118 § 196, part; 1891 c 145 § 7, part. Formerly RCW 28.80.120, part. (iii) 1909 c 97 p 249 § 16, part; RRS § 4596, part; prior: 1897 c 118 § 205, part; 1891 c 145 § 19, part. Formerly RCW 28.80.160, part.]

RCW 28B.30.130 Regents--Treasurer of board--Bond--Disbursement of funds by.

The board of regents shall appoint a treasurer who shall be the financial officer of the board and who shall hold office during the pleasure of the board. The treasurer shall render a true and faithful account of all moneys received and paid out by him, and shall give bond for the faithful performance of the duties of his office in such amount as the regents require: PROVIDED, That the university shall pay the fee for such bond.

The treasurer shall make disbursements of the funds in his hands on the order of the board, which order shall be countersigned by the secretary of the board, and shall state on what account the disbursement is made.

[1969 ex.s. c 223 § 28B.30.130. Prior: (i) 1955 c 346 § 1, part; 1909 c 97 p 246 § 6, part; RRS § 4577, part. Formerly RCW 28.80.110, part. (ii) 1909 c 97 p 246 § 7, part; RRS § 4578, part; prior: 1897 c 118 § 196, part; 1891 c 145 § 7, part. Formerly RCW 28.80.120, part. (iii) 1909 c 97 p 249 § 16, part; RRS § 4596, part; prior: 1897 c 118 § 205, part; 1891 c 145 § 19, part. Formerly RCW 28.80.160, part.]

RCW 28B.30.135 Regents--University president as secretary of board--Duties--Bond.

The president of the university shall be secretary of the board of regents but he shall not have the right to vote; as such he shall be the recording officer of said board, shall attest all instruments required to be signed by the board president, shall keep a true record of all the proceedings of the board, and shall perform all the duties pertaining to the office and do all other things required of him by the board. The secretary shall give a bond in the penal sum of not less

than five thousand dollars conditioned for the faithful performance of his duties as such officer: PROVIDED, That the university shall pay the fee for such bond.

[1969 ex.s. c 223 § 28B.30.135. Prior: (i) 1955 c 346 § 1, part; 1909 c 97 p 246 § 6, part; RRS § 4577, part. Formerly RCW 28.80.110, part. (ii) 1909 c 97 p 247 § 7, part; RRS § 4578, part; prior: 1897 c 118 § 196, part; 1891 c 145 § 7, part. Formerly RCW 28.80.120, part.]

RCW 28B.30.140 Regents--Employees, board members, to have no interest in contracts.

No employee or member of the university board of regents shall be interested pecuniarily, either directly or indirectly, in any contract for any building or improvement at said university, or for the furnishing of supplies for the same.

[1969 ex.s. c 223 § 28B.30.140. Prior: 1909 c 97 p 249 § 17; RRS § 4597; prior: 1897 c 118 § 206; 1891 c 145 § 21. Formerly RCW 28.80.170.]

Notes:
Code of ethics, interest in contract, public officers and employees: Chapters 42.23, 42.52 RCW.

RCW 28B.30.150 Regents--General powers and duties.

The regents of Washington State University, in addition to other duties prescribed by law, shall:

(1) Have full control of the university and its property of various kinds, except as otherwise provided by law.

(2) Employ the president of the university, his or her assistants, members of the faculty, and employees of the university, who, except as otherwise provided by law, shall hold their positions during the pleasure of said board of regents.

(3) Establish entrance requirements for students seeking admission to the university which meet or exceed the standards specified under RCW 28B.80.350(2). Completion of examinations satisfactory to the university may be a prerequisite for entrance by any applicant, at the university's discretion. Evidence of completion of public high schools and other educational institutions whose courses of study meet the approval of the university may be acceptable for entrance.

(4) Establish such colleges, schools, or departments necessary to carry out the purpose of the university and not otherwise proscribed by law.

(5) Subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.340, offer new degree programs, offer off-campus programs, participate in consortia or centers, contract for off-campus educational programs, and purchase or lease major off-campus facilities.

(6) With the assistance of the faculty of the university, prescribe the courses of instruction in the various colleges, schools, and departments of the institution and publish the necessary catalogues thereof.

(7) Collect such information as the board deems desirable as to the schemes of technical instruction adopted in other parts of the United States and foreign countries.

(8) Provide for holding agricultural institutes including farm marketing forums.

(9) Provide that instruction given in the university, as far as practicable, be conveyed by means of laboratory work and provide in connection with the university one or more physical, chemical, and biological laboratories, and suitably furnish and equip the same.

(10) Provide training in military tactics for those students electing to participate therein.

(11) Establish a department of elementary science and in connection therewith provide instruction in elementary mathematics, including elementary trigonometry, elementary mechanics, elementary and mechanical drawing, and land surveying.

(12) Establish a department of agriculture and in connection therewith provide instruction in physics with special application of its principles to agriculture, chemistry with special application of its principles to agriculture, morphology and physiology of plants with special reference to common grown crops and fungus enemies, morphology and physiology of the lower forms of animal life, with special reference to insect pests, morphology and physiology of the higher forms of animal life and in particular of the horse, cow, sheep, and swine, agriculture with special reference to the breeding and feeding of livestock and the best mode of cultivation of farm produce, and mining and metallurgy, appointing demonstrators in each of these subjects to superintend the equipment of a laboratory and to give practical instruction therein.

(13) Establish agricultural experiment stations in connection with the department of agriculture, including at least one in the western portion of the state, and appoint the officers and prescribe regulations for their management.

(14) Grant to students such certificates or degrees, as recommended for such students by the faculty.

(15) Confer honorary degrees upon persons other than graduates of the university in recognition of their learning or devotion to literature, art, or science when recommended thereto by the faculty: PROVIDED, That no degree shall ever be conferred in consideration of the payment of money or the giving of property of whatsoever kind.

(16) Adopt plans and specifications for university buildings and facilities or improvements thereto and employ skilled architects and engineers to prepare such plans and specifications and supervise the construction of buildings or facilities which the board is authorized to erect, and fix the compensation for such services. The board shall enter into contracts with one or more contractors for such suitable buildings, facilities, or improvements as the available funds will warrant, upon the most advantageous terms offered at a public competitive letting, pursuant to public notice under rules established by the board. The board shall require of all persons with whom they contract for construction and improvements a good and sufficient bond for the faithful performance of the work and full protection against all liens.

(17) Except as otherwise provided by law, direct the disposition of all money appropriated to or belonging to the state university.

(18) Receive and expend the money appropriated under the act of congress approved May 8, 1914, entitled "An Act to provide for cooperative agricultural extension work between the agricultural colleges in the several States receiving the benefits of the Act of Congress approved July 2, 1862, and Acts supplemental thereto and the United States Department of Agriculture" and organize and conduct agricultural extension work in connection with the state

university in accordance with the terms and conditions expressed in the acts of congress.

(19) Except as otherwise provided by law, to enter into such contracts as the regents deem essential to university purposes.

(20) Acquire by lease, gift, or otherwise, lands necessary to further the work of the university or for experimental or demonstrational purposes.

(21) Establish and maintain at least one agricultural experiment station in an irrigation district to conduct investigational work upon the principles and practices of irrigational agriculture including the utilization of water and its relation to soil types, crops, climatic conditions, ditch and drain construction, fertility investigations, plant disease, insect pests, marketing, farm management, utilization of fruit byproducts, and general development of agriculture under irrigation conditions.

(22) Supervise and control the agricultural experiment station at Puyallup.

(23) Establish and maintain at Wenatchee an agricultural experiment substation for the purpose of conducting investigational work upon the principles and practices of orchard culture, spraying, fertilization, pollenization, new fruit varieties, fruit diseases and pests, byproducts, marketing, management, and general horticultural problems.

(24) Accept such gifts, grants, conveyances, devises, and bequests, whether real or personal property, in trust or otherwise, for the use or benefit of the university, its colleges, schools, or departments; and sell, lease or exchange, invest or expend the same or the proceeds, rents, profits, and income thereof except as limited by the terms of said gifts, grants, conveyances, bequests, and devises; and adopt proper rules to govern and protect the receipt and expenditure of the proceeds of all fees, and the proceeds, rents, profits, and income of all gifts, grants, conveyances, bequests, and devises.

(25) Construct when the board so determines a new foundry and a mining, physical, technological building, and fabrication shop at the university, or add to the present foundry and other buildings, in order that both instruction and research be expanded to include permanent molding and die casting with a section for new fabricating techniques, especially for light metals, including magnesium and aluminum; purchase equipment for the shops and laboratories in mechanical, electrical, and civil engineering; establish a pilot plant for the extraction of alumina from native clays and other possible light metal research; purchase equipment for a research laboratory for technological research generally; and purchase equipment for research in electronics, instrumentation, energy sources, plastics, food technology, mechanics of materials, hydraulics, and similar fields.

(26) Make and transmit to the governor and members of the legislature upon request such reports as will be helpful in providing for the institution.

[1998 c 245 § 19; 1985 c 370 § 93; 1977 c 75 § 21; 1973 1st ex.s. c 154 § 47; 1969 ex.s. c 223 § 28B.30.150. Prior: (a) 1953 c 101 § 1, amending (i) 1909 c 97 p 244 § 4; 1897 c 118 § 193; 1890 p 263 § 8; RRS § 4575. (ii) 1949 c 115 § 1, part; 1909 c 97 p 245 § 5, part; 1897 c 118 § 194; 1891 c 145 § 4; Rem. Supp. 1949 § 4576, part. (iii) 1909 c 97 p 249 § 19; 1897 c 118 § 208; 1895 c 146 § 1; RRS § 4599. (iv) 1909 c 97 p 247 § 8; 1897 c 118 § 197; 1891 c 145 § 8; RRS § 4579. (v) 1909 c 97 p 247 § 9; 1897 c 118 § 198; 1891 c 145 § 9; RRS § 4580. (vi) 1915 c 125 § 1; RRS § 4583. (vii) 1909 c 97 p 250 § 20; 1897 c 118 § 209; 1891 c 145 § 17; RRS § 4600. (viii) 1909 c 97 p 250 § 21; 1897 c 118 § 210; 1891 c 145 § 18; RRS § 4601. (ix) 1909 c 228 § 1; RRS § 4588. (x) 1917 c 101 § 1; RRS §

4589. (xi) 1917 c 101 § 2; RRS § 4590. (xii) 1909 c 97 p 249 § 15; 1897 c 118 § 204; 1891 c 145 § 16; RRS § 4595. (xiii) 1909 c 97 p 244 § 3, part; 1897 c 118 § 192; 1891 c 145 § 3; RRS § 4574, part. (xiv) 1899 c 107 § 1; RRS § 4603. (xv) 1899 c 82 § 1; RRS § 4587. (xvi) 1937 c 25 § 1; RRS § 4579-1. (xvii) 1937 c 25 § 2; RRS § 4579-2. Formerly RCW 28.80.130. (b) 1961 c 25 § 1. Formerly RCW 28.80.135.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

RCW 28B.30.200 Morrill act funds allotted to university.

All funds granted by the United States government under the Morrill act, passed by congress and approved July 2, 1892 [1862], together with all acts amendatory thereof and supplementary thereto, for the support and in aid of colleges of agriculture and mechanic arts, as well as experiment stations and farms and extension work in agriculture and home economics in connection with colleges of agriculture and mechanic arts are hereby allotted to Washington State University.

[1969 ex.s. c 223 § 28B.30.200. Prior: 1917 c 11 § 2; RRS § 4584. Formerly RCW 28.80.180.]

RCW 28B.30.210 Acceptance of federal aid--1907 c 198--Assent.

The state of Washington hereby assents to the purposes, terms, provisions and conditions of the grant of money provided in an act of congress approved March 16, 1906, said act being entitled "An Act to provide for an increased annual appropriation for agricultural experiment stations and regulating the expenditure thereof," and having for its purpose the more complete endowment and maintenance of agricultural experiment stations theretofore or thereafter established under an act of congress approved March 2, 1887.

[1969 ex.s. c 223 § 28B.30.210. Prior: 1907 c 198 § 1; RRS § 4585. Formerly RCW 28.80.190.]

RCW 28B.30.215 Acceptance of certain federal aid.

Said annual sum appropriated and granted to the state of Washington in pursuance of said act of congress approved March 16, 1906, shall be paid as therein provided to the treasurer or other officer duly appointed by the board of regents of Washington State University at Pullman, Washington; and the board of regents of such university are hereby required to report thereon as the secretary of agriculture may prescribe.

[1977 c 75 § 22; 1969 ex.s. c 223 § 28B.30.215. Prior: 1907 c 198 § 2; RRS § 4586. Formerly RCW 28.80.200.]

RCW 28B.30.220 Acceptance of federal aid--1925 ex.s. c 182.

The assent of the legislature of the state of Washington to the provisions of the act of congress approved February 24, 1925, entitled "An Act to authorize the more complete endowment of agricultural experiment stations and for other purposes," is hereby given.

[1969 ex.s. c 223 § 28B.30.220. Prior: 1925 ex.s. c 182 § 1. Formerly RCW 28.80.205; 28.80.190, part.]

RCW 28B.30.250 University designated as recipient of all federal aid to agricultural experiment stations.

The agricultural experiment stations in connection with Washington State University shall be under the direction of said board of regents of said university for the purpose of conducting experiments in agriculture according to the terms of section one of an act of congress approved March 2, 1887, and entitled "An Act to establish agricultural experiment stations in connection with the colleges established in the several states, under the provisions of an act approved July 2, 1862, and of the acts supplementary thereto." The said university and experiment stations shall be entitled to receive all the benefits and donations made and given to similar institutions of learning in other states and territories of the United States by the legislation of the congress of the United States now in force, or that may be enacted, and particularly to the benefits and donations given by the provisions of an act of congress entitled "An Act donating public lands to the several states and territories which may provide colleges for the benefit of agricultural and mechanic arts," approved July 2, 1862, and all acts supplementary thereto, including the acts entitled "An Act to establish agricultural experiment stations in connection with colleges established in the several states under the provisions of an act approved July 2, 1862, and of the acts supplementary thereto," which said last entitled act was approved March 2, 1887; also, "An Act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts, established under the provisions of an act of congress approved July 2, 1862," which said last mentioned act was approved August 30, 1890.

[1969 ex.s. c 223 § 28B.30.250. Prior: 1909 c 97 p 247 § 10; RRS § 4581; prior: 1897 c 118 § 199; 1891 c 145 § 10. Formerly RCW 28.80.210.]

RCW 28B.30.255 University designated as recipient of all federal aid to agricultural experiment stations--Assent to congressional grants to university.

The assent of the legislature of the state of Washington is hereby given, in pursuance of the requirements of section nine of said act of congress, approved March 2, 1887, to the granting of money therein made to the establishment of experiment stations in accordance with section one of said last mentioned act, and assent is hereby given to carry out, within the state of Washington, every provision of said act.

[1969 ex.s. c 223 § 28B.30.255. Prior: 1909 c 97 p 248 § 11; RRS § 4582; prior: 1897 c 118 § 200; 1891 c 145 § 11. Formerly RCW 28.80.220.]

RCW 28B.30.270 State treasurer receiving agent of certain federal aid--Acts enumerated.

The state treasurer is designated as agent of the state of Washington to receive all federal

appropriations for the land grant colleges in accordance with the following federal acts:

(1) Second Morrill act, approved August 30, 1890 (26 Stat. L. 417).

(2) Nelson amendment to the Morrill act making appropriations for the department of agriculture for the fiscal year ending June 30, 1908, approved March 4, 1907 (34 Stat. L. 1281).

(3) Title II, section 22 of the Bankhead-Jones act, approved June 29, 1935 (49 Stat. L. 436).

(4) Any subsequent federal act appropriating funds to the state of Washington or to Washington State University for a similar or related purpose.

[1969 ex.s. c 223 § 28B.30.270. Prior: 1955 c 66 § 1. Formerly RCW 28.80.221.]

RCW 28B.30.275 State treasurer receiving agent of certain federal aid--Morrill Fund.

Upon receipt of the federal grant pursuant to federal statutes, the treasurer shall deposit the same in a special trust fund to be designated "Morrill Fund" which is hereby created for the use of the designated land grant college in the teaching of agriculture and mechanic art.

[1969 ex.s. c 223 § 28B.30.275. Prior: 1955 c 66 § 2. Formerly RCW 28.80.222.]

RCW 28B.30.280 State treasurer receiving agent of certain federal aid--Withdrawals.

The board of regents of Washington State University may authorize the treasurer or comptroller of Washington State University to withdraw such federal grants for the use of the university for the purposes of such grant and in accordance with state law.

[1969 ex.s. c 223 § 28B.30.280. Prior: 1955 c 66 § 3. Formerly RCW 28.80.223.]

RCW 28B.30.285 State treasurer receiving agent of certain federal aid--Trust funds not subject to appropriation.

All federal grants received by the state treasurer pursuant to RCW 28B.30.270 shall be deemed trust funds under the control of the state treasurer and not subject to appropriation by the legislature.

[1969 ex.s. c 223 § 28B.30.285. Prior: 1955 c 66 § 4. Formerly RCW 28.80.224.]

RCW 28B.30.300 State treasurer to report annually on university assets held in trust.

It shall be the duty of the state treasurer to make a report to the board of regents of Washington State University on or as soon as practicable after the close of each fiscal year, which shall contain a complete detailed statement as to the status of any university assets held in trust by the treasurer and the annual income therefrom.

[1977 c 75 § 23; 1969 ex.s. c 223 § 28B.30.300. Prior: 1899 c 9 § 2; RRS § 7850. Formerly RCW 28.80.230.]

Notes:

College funds: RCW 43.79.100 through 43.79.140.

RCW 28B.30.310 Department of natural resources to report annually on university trust lands transactions.

It shall be the duty of the department of natural resources to make a report to the board of regents of Washington State University on or as soon as practicable after the close of each fiscal year, which shall contain a complete detailed statement of the current status of trust land sale contracts and income for the university from trust lands managed by the department.

[1988 c 128 § 6; 1977 c 75 § 24; 1969 ex.s. c 223 § 28B.30.310. Prior: 1899 c 9 § 1; RRS § 7849. Formerly RCW 28.80.240.]

RCW 28B.30.325 Lease of lands with outdoor recreation potential--Restrictions--Unlawful to use posted lands.

(1) Any lease of public lands with outdoor recreation potential authorized by the regents of Washington State University shall be open and available to the public for compatible recreational use unless the regents of Washington State University determine that the leased land should be closed in order to prevent damage to crops or other land cover, to improvements on the land, to the lessee, or to the general public or is necessary to avoid undue interference with carrying forward a university program. Any lessee may file an application with the regents of Washington State University to close the leased land to any public use. The regents shall cause written notice of the impending closure to be posted in a conspicuous place in the university's business office, and in the office of the county auditor in which the land is located thirty days prior to the public hearing. This notice shall state the parcel or parcels involved and shall indicate the time and place of the public hearing. Upon a determination by the regents that posting is not necessary, the lessee shall desist from posting. Upon a determination by the regents that posting is necessary, the lessee shall post his leased premises so as to prohibit recreational uses thereon. In the event any such lands are so posted, it shall be unlawful for any person to hunt or fish, or for any person other than the lessee or his immediate family to use such posted land for recreational purposes.

(2) The regents of Washington State University may insert the provisions of subsection (1) of this section in all leases hereafter issued.

[1969 ex.s. c 46 § 4. Formerly RCW 28.80.246.]

RCW 28B.30.350 Medical, health and hospital service--Authorized.

The board of regents of Washington State University is hereby granted authority to enter into such contracts, leases, or agreements as may be necessary to provide adequate medical, health, and hospital service for students of Washington State University and the people of the surrounding community and to provide adequate practice facilities for students enrolled in nursing courses.

[1969 ex.s. c 223 § 28B.30.350. Prior: 1947 c 95 § 1; Rem. Supp. 1947 § 4603-20. Formerly RCW 28.80.250.]

RCW 28B.30.355 Medical, health and hospital service--Leases, contracts and agreements.

The board of regents may lease lands, buildings, or other facilities from or to nonprofit corporations or associations, and may enter into such contracts and agreements with such units, agencies, corporations, or associations as will promote the intents and purposes of RCW 28B.30.350.

[1969 ex.s. c 223 § 28B.30.355. Prior: 1947 c 95 § 2; Rem. Supp. 1947 § 4603-21. Formerly RCW 28.80.260.]

RCW 28B.30.499 High-technology education and training.

See chapter 28B.65 RCW.

RCW 28B.30.500 Masters and doctorate level degrees in technology authorized--Review by higher education coordinating board.

The board of regents of Washington State University may offer masters level and doctorate level degrees in technology subject to review and approval by the higher education coordinating board.

[1985 c 370 § 83; 1983 1st ex.s. c 72 § 12.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Effective date--Short title--1983 1st ex.s. c 72: See RCW 28B.65.905 and 28B.65.900.

RCW 28B.30.520 State-wide off-campus telecommunications system--Authorized--Purpose, education in high-technology fields--Availability of facilities.

The board of regents of Washington State University is hereby authorized to establish a state-wide off-campus telecommunications system to provide for graduate and continuing education in high-technology fields to citizens of the state of Washington. The state-wide telecommunications system shall be administered by Washington State University with the advice of the high-technology coordinating board. Washington State University shall make the facilities of the state-wide telecommunications system available to other institutions of higher education when specific program needs so require.

[1983 1st ex.s. c 72 § 14.]

Notes:

Effective date--Short title--1983 1st ex.s. c 72: See RCW 28B.65.905 and 28B.65.900.

RCW 28B.30.530 Small business development center--Services--Use of funds.

(1) The board of regents of Washington State University shall establish the Washington State University small business development center.

(2) The center shall provide management and technical assistance including but not

limited to training, counseling, and research services to small businesses throughout the state. The center shall work with public and private community development and economic assistance agencies and shall work towards the goal of coordinating activities with such agencies to avoid duplication of services.

(3) The administrator of the center may contract with other public or private entities for the provision of specialized services.

(4) The small business and development center may accept and disburse federal grants or federal matching funds or other funds or donations from any source when made, granted, or donated to carry out the center's purposes.

[1984 c 77 § 1.]

RCW 28B.30.533 Construction of RCW 28B.30.530--Conflict with federal requirements.

If any part of RCW 28B.30.530 is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of RCW 28B.30.530 is hereby declared to be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of RCW 28B.30.530 in its application to the agencies concerned.

[1984 c 77 § 2.]

RCW 28B.30.535 International marketing program for agricultural commodities and trade (IMPACT) center created--Primary functions.

There is created an international marketing program for agricultural commodities and trade (IMPACT) center at Washington State University.

In carrying out each of its responsibilities under RCW 28B.30.537, the primary functions of the center shall be: Providing practical solutions to marketing-related problems; and developing and disseminating information which is directly applicable to the marketing of agricultural commodities and goods from this state in foreign countries or to introducing the production of commodities and goods in this state for marketing in foreign countries.

[1985 c 39 § 1; 1984 c 57 § 1.]

Notes:

Effective date--1985 c 39: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985." [1985 c 39 § 10.]

RCW 28B.30.537 IMPACT center--Duties.

The IMPACT center shall:

(1) Coordinate the teaching, research, and extension expertise of the college of agriculture and home economics at Washington State University to assist in:

(a) The design and development of information and strategies to expand the long-term international markets for Washington agricultural products; and

(b) The dissemination of such information and strategies to Washington exporters, overseas users, and public and private trade organizations;

(2) Research and identify current impediments to increased exports of Washington agricultural products, and determine methods of surmounting those impediments and opportunities for exporting new agricultural products and commodities to foreign markets;

(3) Prepare curricula to present and distribute information concerning international trade in agricultural commodities and products to students, exporters, international traders, and the public;

(4) Provide high-quality research and graduate education and professional nondegree training in international trade in agricultural commodities in cooperation with other existing programs;

(5) Ensure that activities of the center adequately reflect the objectives for the state's agricultural market development programs established by the department of agriculture as the lead state agency for such programs under chapter 43.23 RCW; and

(6) Link itself through cooperative agreements with the center for international trade in forest products at the University of Washington, the state department of agriculture, the department of community, trade, and economic development, Washington's agriculture businesses and associations, and other state agency data collection, processing, and dissemination efforts.

[1998 c 245 § 20; 1995 c 399 § 28. Prior: 1987 c 505 § 14; 1987 c 195 § 3; 1985 c 39 § 2; 1984 c 57 § 2.]

Notes:

Effective date--1985 c 39: See note following RCW 28B.30.535.

RCW 28B.30.539 IMPACT center--Director.

The IMPACT center shall be administered by a director appointed by the dean of the college of agriculture and home economics of Washington State University.

[1985 c 39 § 3; 1984 c 57 § 3.]

Notes:

Effective date--1985 c 39: See note following RCW 28B.30.535.

RCW 28B.30.541 IMPACT center--Use of research and services--Fees.

The governor, the legislature, state agencies, and the public may use the IMPACT center's trade policy research and advisory services as may be needed. The IMPACT center shall establish a schedule of fees for actual services rendered.

[1985 c 39 § 4; 1984 c 57 § 6.]

Notes:

Effective date--1985 c 39: See note following RCW 28B.30.535.

RCW 28B.30.543 IMPACT center--Contributions and support.

The IMPACT center shall aggressively solicit financial contributions and support from nonstate sources, including the agricultural industries and producer organizations and individuals, to help fund its research and education programs, and shall use previously appropriated funds of Washington State University and existing resources as much as is possible to further the center's activities.

[1985 c 39 § 5; 1984 c 57 § 7.]

Notes:

Effective date--1985 c 39: See note following RCW 28B.30.535.

RCW 28B.30.600 Tree fruit research center facility, financing--Bonds, authorization conditional--Amount--Discharge.

For the purpose of funding and providing the planning, construction, furnishing and equipping, together with all improvements thereon, of an office-laboratory facility at Washington State University Tree Fruit Research Center, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one million nine hundred fifty thousand dollars, or so much thereof as may be required, to finance the project defined in RCW 28B.30.600 through 28B.30.619 as now or hereafter amended and all costs incidental thereto, but only if the state finance committee determines that the interest on the bonds will be exempt from federal income tax. Such bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

[1977 c 32 § 1; 1975 1st ex.s. c 109 § 1; 1974 ex.s. c 109 § 1.]

Notes:

Severability--1975 1st ex.s. c 109: "If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 109 § 7.]

Severability--1974 ex.s. c 109: "If any provision of this 1974 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 109 § 14.]

RCW 28B.30.602 Tree fruit research center facility, financing--Bonds, committee to control issuance, sale and retirement of.

The issuance, sale and retirement of said bonds shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale, issuance and redemption. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and notes, if any. Such

bonds shall be payable at such places as the committee may provide.

[1974 ex.s. c 109 § 2.]

Notes:

Severability--1974 ex.s. c 109: See note following RCW 28B.30.600.

RCW 28B.30.604 Tree fruit research center facility, financing--Anticipation notes authorized--Use of proceeds.

At the time the state finance committee determines to issue such bonds or a portion thereof, it may, pending the issuance of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes". The proceeds from the sale of bonds and notes authorized by RCW 28B.30.600 through 28B.30.619 shall be used exclusively for the purposes specified in RCW 28B.30.600 through 28B.30.619 and for the payment of expenses incurred in the issuance and sale of bonds: PROVIDED, That such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and interest on such anticipation notes as have been issued, shall be deposited in the bond redemption fund created in RCW 28B.30.610.

[1980 c 32 § 5; 1975 1st ex.s. c 109 § 2; 1974 ex.s. c 109 § 3.]

Notes:

Severability--1975 1st ex.s. c 109: See note following RCW 28B.30.600.
Severability--1974 ex.s. c 109: See note following RCW 28B.30.600.

RCW 28B.30.606 Tree fruit research center facility, financing--Administration of proceeds from sale of bonds or notes--Investment of surplus funds.

The principal proceeds from the sale of the bonds or notes deposited in the office-laboratory construction account of the general fund shall be administered by Washington State University. Whenever there is a surplus of funds available in the office-laboratory construction account of the general fund to meet current expenditures payable therefrom, the state finance committee may invest such portion of said funds as the university deems appropriate in securities issued by the United States or agencies of the United States government as defined by RCW 43.84.080 (1) and (4). All income received from such investments shall be deposited to the credit of the bond retirement fund created in RCW 28B.30.610.

[1975 1st ex.s. c 109 § 3; 1974 ex.s. c 109 § 4.]

Notes:

Severability--1975 1st ex.s. c 109: See note following RCW 28B.30.600.
Severability--1974 ex.s. c 109: See note following RCW 28B.30.600.

RCW 28B.30.608 Tree fruit research center facility, financing--Security for bonds issued.

Bonds issued under the provisions of RCW 28B.30.600 through 28B.30.619 as now or hereafter amended shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay such principal and interest as the same shall become due.

[1977 c 32 § 2; 1974 ex.s. c 109 § 5.]

Notes:

Severability--1974 ex.s. c 109: See note following RCW 28B.30.600.

RCW 28B.30.610 Tree fruit research center facility, financing--Office-laboratory facilities bond redemption fund created, use.

The office-laboratory facilities bond redemption fund is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of the principal of and interest on the bonds and notes authorized by RCW 28B.30.600 through 28B.30.619. The state finance committee, shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements which may exceed cash available in the bond redemption fund from rental revenues, and on July 1st of each year the state treasurer shall deposit such amount in the office-laboratory facilities bond redemption fund from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues.

[1975 1st ex.s. c 109 § 4; 1974 ex.s. c 109 § 6.]

Notes:

Severability--1975 1st ex.s. c 109: See note following RCW 28B.30.600.
Severability--1974 ex.s. c 109: See note following RCW 28B.30.600.

RCW 28B.30.612 Tree fruit research center facility, financing--Rights of owner and holder of bonds.

The owner and holder of any of the bonds authorized by RCW 28B.30.600 through 28B.30.619 may by a mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein.

[1974 ex.s. c 109 § 7.]

Notes:

Severability--1974 ex.s. c 109: See note following RCW 28B.30.600.

RCW 28B.30.614 Tree fruit research center facility, financing--Lease agreement prerequisite to sale of bonds--Disposition of lease payments.

None of the bonds authorized in RCW 28B.30.600 through 28B.30.619 as now or hereafter amended shall be sold unless a long-term lease agreement shall be entered into between

Washington State University and the general services administration of the federal government providing for the occupancy of this facility by the United States Department of Agriculture and the National Weather Service for tree fruit research similar to the research performed at the Washington State University Tree Fruit Center. The lease payments by the federal government shall be in an amount at least equal to the amount required to provide for the amortization of the principal of and interest on the bonds authorized by RCW 28B.30.600 through 28B.30.619 as now or hereafter amended as certified by the state finance committee, in addition to custodial, maintenance and utility services costs. A portion of the annual lease payments received by the university equal to the amount required for payment of the principal and interest on the bonds shall be forthwith remitted by the university and deposited in the state treasury to the credit of the state general fund.

[1977 c 32 § 3; 1975 1st ex.s. c 109 § 5; 1974 ex.s. c 109 § 8.]

Notes:

Severability--1975 1st ex.s. c 109: See note following RCW 28B.30.600.

Severability--1974 ex.s. c 109: See note following RCW 28B.30.600.

RCW 28B.30.616 Tree fruit research center facility, financing--Bonds, legislature may provide additional means for payment.

The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 28B.30.600 through 28B.30.619, and RCW 28B.30.600 through 28B.30.619 shall not be deemed to provide an exclusive method for such payments.

[1974 ex.s. c 109 § 9.]

Notes:

Severability--1974 ex.s. c 109: See note following RCW 28B.30.600.

RCW 28B.30.618 Tree fruit research center facility, financing--Bonds as legal investment for public funds.

The bonds authorized in RCW 28B.30.600 through 28B.30.619 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body.

[1974 ex.s. c 109 § 10.]

Notes:

Severability--1974 ex.s. c 109: See note following RCW 28B.30.600.

RCW 28B.30.619 Tree fruit research center facility, financing--Appropriation.

There is hereby appropriated to Washington State University from the office-laboratory construction account of the general fund, out of the sale of the bonds or notes authorized by

RCW 28B.30.600 through 28B.30.619, the sum of one million nine hundred fifty thousand dollars, or such lesser amount as may be required, to finance the planning, construction, furnishing and equipping, together with all improvements thereon, of the facility authorized by RCW 28B.30.600 through 28B.30.619.

[1975 1st ex.s. c 109 § 6; 1974 ex.s. c 109 § 11.]

Notes:

Severability--1975 1st ex.s. c 109: See note following RCW 28B.30.600.
Severability--1974 ex.s. c 109: See note following RCW 28B.30.600.

RCW 28B.30.620 Tree fruit research center facility, financing--Alternatives authorized.

In the event the state finance committee determines that interest on the bonds authorized in RCW 28B.30.600 through 28B.30.619 as now or hereafter amended will not be exempt from federal income tax, Washington State University may issue its revenue bonds as provided in RCW 28B.10.300 through 28B.10.325 to pay the cost of the facilities authorized by RCW 28B.30.600 as now or hereafter amended, and the lease rental received from the federal government shall be retained by the university instead of being deposited in the state treasury as provided by RCW 28B.30.614 as now or hereafter amended.

In addition to the authority granted to the state treasurer by *RCW 43.84.100, with the consent of the state finance committee the state treasurer may make a loan from funds in the state treasury in the manner generally prescribed by *RCW 43.84.100 to the local construction fund established by Washington State University for the office-laboratory building authorized by RCW 28B.30.600 through 28B.30.619 as now or hereafter amended, should a determination be made for Washington State University to issue revenue bonds.

[1977 c 32 § 4.]

Notes:

***Reviser's note:** RCW 43.84.100 was repealed by 1985 c 57 § 90, effective July 1, 1985.

RCW 28B.30.630 Puget Sound water quality field agents program--Definitions.

As used in RCW 28B.30.630 through 28B.30.638 the following definitions apply:

(1) "Sea grant" means the Washington state sea grant program.

(2) "Cooperative extension" means the cooperative extension service of Washington State University.

[1990 c 289 § 1.]

RCW 28B.30.632 Puget Sound water quality field agents program--Local field agents.

(1) The sea grant and cooperative extension shall jointly administer a program to provide field agents to work with local governments, property owners, and the general public to increase the propagation of shellfish, and to address Puget Sound water quality problems within Kitsap, Mason, and Jefferson counties that may limit shellfish propagation potential. The sea grant and

cooperative extension shall each make available the services of no less than two agents within these counties for the purposes of this section.

(2) The responsibilities of the field agents shall include but not be limited to the following:

(a) Provide technical assistance to property owners, marine industry owners and operators, and others, regarding methods and practices to address nonpoint and point sources of pollution of Puget Sound;

(b) Provide technical assistance to address water quality problems limiting opportunities for enhancing the recreational harvest of shellfish;

(c) Provide technical assistance in the management and increased production of shellfish to facility operators or to those interested in establishing an operation;

(d) Assist local governments to develop and implement education and public involvement activities related to Puget Sound water quality;

(e) Assist in coordinating local water quality programs with region-wide and state-wide programs;

(f) Provide information and assistance to local watershed committees.

(3) The sea grant and cooperative extension shall mutually coordinate their field agent activities to avoid duplicative efforts and to ensure that the full range of responsibilities under RCW 28B.30.632 through *28B.30.636 are carried out. They shall consult with the **Puget Sound water quality authority and ensure consistency with the authority's water quality management plan.

(4) Recognizing the special expertise of both agencies, the sea grant and cooperative extension shall cooperate to divide their activities as follows:

(a) Sea grant shall have primary responsibility to address water quality issues related to activities within Puget Sound, and to provide assistance regarding the management and improvement of shellfish production; and

(b) Cooperative extension shall have primary responsibility to address upland and freshwater activities affecting Puget Sound water quality and associated watersheds.

[1990 c 289 § 2.]

Notes:

Reviser's note: *(1) RCW 28B.30.636 was repealed by 1998 c 245 § 176.

**(2) The Puget Sound water quality authority and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1995, and repealed June 30, 1996. See 1990 c 115 §§ 11 and 12. Powers, duties, and functions of the Puget Sound water quality authority pertaining to cleanup and protection of Puget Sound transferred to the Puget Sound action team by 1996 c 138 § 11. See RCW 90.71.903.

RCW 28B.30.634 Puget Sound water quality field agents program--Matching requirements.

Sea grant and cooperative extension shall require a match from nonstate sources of at least twenty-five percent of the cost of the services provided, and not exceeding fifty percent of the cost. The match may be either monetary compensation or in-kind services, such as the provision for office space or clerical support. Only direct costs of providing the services,

excluding costs of administrative overhead, may be included in the estimate of costs.

[1990 c 289 § 3.]

RCW 28B.30.638 Puget Sound water quality field agents program--Captions not law.

Captions as used in RCW 28B.30.630 through 28B.30.638 constitute no part of the law.

[1990 c 289 § 7.]

FINANCING BUILDINGS AND FACILITIES--1961 ACT

RCW 28B.30.700 Construction, remodeling, improvement, financing through bonds, authorized.

The board of regents of Washington State University is empowered, in accordance with the provisions of RCW 28B.30.700 through 28B.30.780, to provide for the construction, completion, reconstruction, remodeling, rehabilitation and improvement of buildings and facilities authorized by the legislature for the use of the university and to finance the payment thereof by bonds payable out of a special fund from revenues hereafter derived from the payment of building fees, gifts, bequests or grants, and such additional funds as the legislature may provide.

[1985 c 390 § 41; 1969 ex.s. c 223 § 28B.30.700. Prior: 1961 ex.s. c 12 § 1. Formerly RCW 28.80.500.]

Notes:
Chapter not to repeal, override, or limit other statutes or actions: RCW 28B.31.100.

RCW 28B.30.710 Definitions.

The following terms, whenever used or referred to in RCW 28B.30.700 through 28B.30.780, shall have the following meaning, excepting in those instances where the context clearly indicates otherwise:

(1) The word "board" means the board of regents of Washington State University.

(2) The words "building fees" mean the building fees charged students registering at the university, but shall not mean special tuition or other fees charged such students or fees, charges, rentals, and other income derived from any or all revenue-producing lands, buildings, and facilities of the university, heretofore or hereafter acquired, constructed or installed, including but not limited to income from rooms, dormitories, dining rooms, hospitals, infirmaries, housing or student activity buildings, vehicular parking facilities, land or the appurtenances thereon.

(3) The words "bond retirement fund" mean the special fund created by RCW 28B.30.700 through 28B.30.780, to be known as the Washington State University bond retirement fund.

(4) The word "bonds" means the bonds payable out of the bond retirement fund.

(5) The word "projects" means the construction, completion, reconstruction, remodeling,

rehabilitation, or improvement of any building or other facility of the university authorized by the legislature at any time and to be financed by the issuance and sale of bonds.

[1985 c 390 § 42; 1969 ex.s. c 223 § 28B.30.710. Prior: 1961 ex.s. c 12 § 2. Formerly RCW 28.80.510.]

Notes:
Revenue bonds for construction of buildings and acquisition of facilities: RCW 28B.10.300 through 28B.10.330.

RCW 28B.30.720 Contracts, issuance of evidences of indebtedness, bonds, acceptance of grants.

In addition to the powers conferred under existing law, the board is authorized and shall have the power:

(1) To contract for the construction, completion, reconstruction, remodeling, rehabilitation and improvement of such buildings or other facilities of the university as are or may be authorized by the legislature.

(2) To finance the same by the issuance of bonds secured by the pledge of any or all of the revenues and receipts of the bond retirement fund.

(3) Without limitation of the foregoing, to accept grants from the United States government, or any federal or state agency or instrumentality, or any public or private corporation, association, or person to aid in defraying the costs of any such projects.

[1969 ex.s. c 223 § 28B.30.720. Prior: 1963 c 182 § 3; 1961 ex.s. c 12 § 3. Formerly RCW 28.80.520.]

Notes:
Chapter not to repeal, override, or limit other statutes or actions: RCW 28B.31.100.

RCW 28B.30.730 Bonds--Issuance, sale, form, term, interest, etc.--Covenants--Deposit of proceeds.

For the purpose of financing the cost of any projects, the board is hereby authorized to adopt the resolution or resolutions and prepare all other documents necessary for the issuance, sale and delivery of the bonds or any part thereof at such time or times as it shall deem necessary and advisable. Said bonds:

(1) Shall not constitute

(a) An obligation, either general or special, of the state; or

(b) A general obligation of Washington State University or of the board;

(2) Shall be

(a) Either registered or in coupon form; and

(b) Issued in denominations of not less than one hundred dollars; and

(c) Fully negotiable instruments under the laws of this state; and

(d) Signed on behalf of the university by the president of the board, attested by the secretary or the treasurer of the board, have the seal of the university impressed thereon or a facsimile of such seal printed or lithographed in the bottom border thereof, and the coupons attached thereto shall be signed with the facsimile signatures of such president and secretary;

(3) Shall state

(a) The date of issue; and

(b) The series of the issue and be consecutively numbered within the series; and

(c) That the bond is payable both principal and interest solely out of the bond retirement fund;

(4) Each series of bonds shall bear interest, payable either annually or semiannually, as the board may determine;

(5) Shall be payable both principal and interest out of the bond retirement fund;

(6) Shall be payable at such times over a period of not to exceed forty years from date of issuance, at such place or places, and with such reserved rights of prior redemption, as the board may prescribe;

(7) Shall be sold in such manner and at such price as the board may prescribe;

(8) Shall be issued under and subject to such terms, conditions and covenants providing for the payment of the principal thereof and interest thereon and such other terms, conditions, covenants and protective provisions safeguarding such payment, not inconsistent with RCW 28B.30.700 through 28B.30.780, and as found to be necessary by the board for the most advantageous sale thereof, which may include but not be limited to:

(a) A covenant that the building fees shall be established, maintained and collected in such amounts that will provide money sufficient to pay the principal of and interest on all bonds payable out of the bond retirement account, to set aside and maintain the reserves required to secure the payment of such principal and interest, and to maintain any coverage which may be required over such principal and interest;

(b) A covenant that a reserve account shall be created in the bond retirement fund to secure the payment of the principal of and interest on all bonds issued and a provision made that certain amounts be set aside and maintained therein;

(c) A covenant that sufficient moneys may be transferred from the Washington State University building account to the bond retirement account when ordered by the board of regents in the event there is ever an insufficient amount of money in the bond retirement account to pay any installment of interest or principal and interest coming due on the bonds or any of them;

(d) A covenant fixing conditions under which bonds on a parity with any bonds outstanding may be issued.

The proceeds of the sale of all bonds shall be deposited in the state treasury to the credit of the Washington State University building account and shall be used solely for paying the costs of the projects. The Washington State University building account shall be credited with the investment income derived pursuant to RCW 43.84.080 on the investible balances of scientific permanent fund and agricultural permanent fund, less the allocation to the state treasurer's service account [fund] pursuant to RCW 43.08.190.

[1991 sp.s. c 13 § 50; 1985 c 390 § 43; 1972 ex.s. c 25 § 2; 1970 ex.s. c 56 § 28; 1969 ex.s. c 232 § 102; 1969 ex.s. c 223 § 28B.30.730. Prior: 1961 ex.s. c 12 § 4. Formerly RCW 28.80.530.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

Chapter not to repeal, override, or limit other statutes or actions: RCW 28B.31.100.

RCW 28B.30.740 Washington State University bond retirement fund--Composition--Pledge of building fees.

For the purpose of paying and securing the payment of the principal of and interest on the bonds as the same shall become due, there shall be paid into the state treasury and credited to a special trust fund to be known as the Washington State University bond retirement fund, which fund is hereby created in the state treasury, the following:

(1) One-half of such building fees as the board may from time to time determine, or such larger portion as may be necessary to prevent default in the payments required to be made out of the bond retirement fund;

(2) Any grants which may be made, or may become available, for the purpose of furthering the construction of any authorized projects, or for the repayment of the costs thereof;

(3) Such additional funds as the legislature may provide.

Said bond retirement fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or any interest thereon remain unpaid, be available solely for the payment thereof except as provided in subdivision (5) of RCW 28B.30.750. As a part of the contract of sale of such bonds, the board shall undertake to charge and collect building fees and to deposit the portion of such fees in the bond retirement fund in amounts which will be sufficient to pay the principal of, and interest on all such bonds outstanding.

[1985 c 390 § 44; 1969 ex.s. c 223 § 28B.30.740. Prior: 1961 ex.s. c 12 § 5. Formerly RCW 28.80.540.]

Notes:

Chapter not to repeal, override, or limit other statutes or actions: RCW 28B.31.100.

RCW 28B.30.741 Washington State University bond retirement fund--Disposition of certain revenues from scientific school lands.

All moneys received from the lease or rental of lands set apart by the enabling act for a scientific school; all interest or income arising from the proceeds of the sale of such lands or of the timber, fallen timber, stone, gravel or other valuable material thereon, except for investment income derived pursuant to RCW 43.84.080 and, less the allocation to the state investment board expense account pursuant to RCW 43.33A.160; and all moneys received as interest on deferred payments on contracts for the sale of such lands shall be deposited in the "Washington State University bond retirement fund" to be expended for the purposes set forth in RCW 28B.30.740.

[1991 sp.s. c 13 § 76; 1969 ex.s. c 223 § 28B.30.741. Prior: 1965 c 77 § 1. Formerly RCW 28.80.541.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Chapter not to repeal, override, or limit other statutes or actions: RCW 28B.31.100.

RCW 28B.30.742 Washington State University bond retirement fund--Disposition of certain revenues from agricultural college lands.

Whenever federal law shall permit all moneys received from the lease or rental of lands set apart by the enabling act for an agricultural college, all interest or income arising from the proceeds of the sale of such lands or of the timber, fallen timber, stone, gravel or other valuable material thereon, except for investment income derived pursuant to RCW 43.84.080 and, less the allocation to the state investment board expense account pursuant to RCW 43.33A.160; and all moneys received as interest on deferred payments on contracts for the sale of such lands shall be deposited in the Washington State University bond retirement fund to be expended for the purposes set forth in RCW 28B.30.740.

[1991 sp.s. c 13 § 77; 1969 ex.s. c 223 § 28B.30.742. Prior: 1965 c 77 § 2. Formerly RCW 28.80.542.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Chapter not to repeal, override, or limit other statutes or actions: RCW 28B.31.100.

RCW 28B.30.750 Additional powers of board--Issuance of bonds, investments, transfer of funds, etc.

The board is hereby empowered:

(1) To reserve the right to issue bonds later on a parity with any bonds being issued;

(2) To authorize the investing of moneys in the bond retirement fund and any reserve account therein;

(3) To authorize the transfer of money from the Washington State University building account to the bond retirement fund when necessary to prevent a default in the payments required to be made out of such fund;

(4) To create a reserve account or accounts in the bond retirement fund to secure the payment of the principal of and interest on any bonds;

(5) To authorize the transfer to the Washington State University building account of any money on deposit in the bond retirement fund in excess of debt service for a period of three years from the date of such transfer on all outstanding bonds payable out of such fund.

[1969 ex.s. c 223 § 28B.30.750. Prior: 1961 ex.s. c 12 § 6. Formerly RCW 28.80.550.]

Notes:

Chapter not to repeal, override, or limit other statutes or actions: RCW 28B.31.100.

RCW 28B.30.760 Refunding bonds.

The board is hereby empowered to issue refunding bonds to provide funds to refund any or all outstanding bonds payable from the bond retirement fund and to pay any redemption premium payable on such outstanding bonds being refunded. Such refunding bonds may be issued in the manner and on terms and conditions and with the covenants permitted by RCW

28B.30.700 through 28B.30.780 for the issuance of bonds. The refunding bonds shall be payable out of the bond retirement fund and shall not constitute an obligation either general or special, of the state or a general obligation of Washington State University or the board. The board may exchange the refunding bonds at par for the bonds which are being refunded or may sell them in such manner, at such price and at such rate or rates of interest as it deems for the best interest of the university.

[1970 ex.s. c 56 § 29; 1969 ex.s. c 232 § 103; 1969 ex.s. c 223 § 28B.30.760. Prior: 1961 ex.s. c 12 § 7. Formerly RCW 28.80.560.]

Notes:

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

Chapter not to repeal, override, or limit other statutes or actions: RCW 28B.31.100.

RCW 28B.30.770 Bonds not general obligations--Legislature may provide additional means of payment.

The bonds authorized to be issued pursuant to the provisions of RCW 28B.30.700 through 28B.30.780 shall not be general obligations of the state of Washington, but shall be limited obligation bonds payable only from the special fund created for their payment. The legislature may provide additional means for raising money for the payment of interest and principal of said bonds. RCW 28B.30.700 through 28B.30.780 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section to provide additional means for raising money is permissive, and shall not in any way be construed as a pledge of the general credit of the state of Washington.

[1969 ex.s. c 223 § 28B.30.770. Prior: 1961 ex.s. c 12 § 8. Formerly RCW 28.80.570.]

Notes:

Chapter not to repeal, override, or limit other statutes or actions: RCW 28B.31.100.

RCW 28B.30.780 Other laws not repealed or limited.

RCW 28B.30.700 through 28B.30.780 is concurrent with other legislation with reference to providing funds for the construction of buildings at Washington State University, and is not to be construed as repealing or limiting any existing provision of law with reference thereto.

[1969 ex.s. c 223 § 28B.30.780. Prior: 1961 ex.s. c 12 § 9. Formerly RCW 28.80.580.]

Notes:

Chapter not to repeal, override, or limit other statutes or actions: RCW 28B.31.100.

RCW 28B.30.800 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College.

See RCW 28B.10.300 through 28B.10.330.

RCW 28B.30.810 Dairy/forage and agricultural research facility--Rainier school farm--Revolving fund--Lease of herd, lands, authorized.

(1) Washington State University shall establish and operate a dairy/forage and agricultural research facility at the Rainier school farm.

(2) Local funds generated through operation of this facility shall be managed in a revolving fund, established herewith, by the university. This fund shall consist of all moneys received in connection with the operation of the facility and any moneys appropriated to the fund by law. Disbursements from the revolving fund shall be on authorization of the president of the university or the president's designee. In order to maintain an effective expenditure and revenue control, this fund, to be known as the dairy/forage facility revolving fund, shall be subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund.

(3) In the event state funding is not sufficient to operate the dairy cattle herd, the university is authorized to lease the herd, together with the land necessary to maintain the same, for such period and upon such terms as the university board of regents shall deem proper.

[1988 c 57 § 1; 1981 c 238 § 4.]

Notes:

Effective date--Savings--Liabilities, rights, actions, contracts--1981 c 238: See notes following RCW 72.01.140.

RCW 28B.30.820 Dairy/forage and agricultural research facility--Transfer of property and facilities for.

Washington State University shall assume cognizance of all real property, improvements thereon, livestock, equipment, supplies, and other items transferred by the secretary of social and health services pursuant to RCW 72.01.142.

The secretary of social and health services and the university may negotiate for a division of services and expenses related to road maintenance, water, and sewer services and buildings and grounds included in the transfer pursuant to RCW 72.01.142 or on other matters concerning this transfer. Any differences which cannot be agreed upon shall be resolved by the office of financial management and certify the same to the state agencies concerned.

[1981 c 238 § 3.]

Notes:

Effective date--Savings--Liabilities, rights, actions, contracts--1981 c 238: See notes following RCW 72.01.140.

RCW 28B.30.900 Transfer of energy education, applied research, and technology transfer programs from state energy office.

(1) All powers, duties, and functions of the state energy office under RCW 43.21F.045 relating to implementing energy education, applied research, and technology transfer programs shall be transferred to Washington State University.

(2) The specific programs transferred to Washington State University shall include but not be limited to the following: Renewable energy, energy software, industrial energy efficiency, education and information, energy ideas clearinghouse, and telecommunications.

(3)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the state energy office pertaining to the powers, functions, and duties transferred shall be delivered to the custody of Washington State University. All cabinets, furniture, office equipment, software, data base, motor vehicles, and other tangible property employed by the state energy office in carrying out the powers, functions, and duties transferred shall be made available to Washington State University.

(b) Any appropriations made to, any other funds provided to, or any grants made to or contracts with the state energy office for carrying out the powers, functions, and duties transferred shall, on July 1, 1996, be transferred and credited to Washington State University.

(c) Whenever any question arises as to the transfer of any funds, books, documents, records, papers, files, software, data base, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, an arbitrator mutually agreed upon by the parties in dispute shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(d) All rules and all pending business before the state energy office pertaining to the powers, functions, and duties transferred shall be continued and acted upon by Washington State University. All existing contracts, grants, and obligations, excluding personnel contracts and obligations, shall remain in full force and shall be assigned to and performed by Washington State University.

(e) The transfer of the powers, duties, and functions of the state energy office does not affect the validity of any act performed before July 1, 1996.

(f) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of the office of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation.

(4) Washington State University shall enter into an interagency agreement with the department of community, trade, and economic development regarding the relationship between policy development and public outreach. The department of community, trade, and economic development shall provide Washington State University available existing and future oil overcharge restitution and federal energy block funding for a minimum period of five years to carry out energy programs. Nothing in chapter 186, Laws of 1996 prohibits Washington State University from seeking grant funding for energy-related programs directly from other entities.

(5) Washington State University shall select and appoint existing state energy office employees to positions to perform the duties and functions transferred. Employees appointed by Washington State University are exempt from the provisions of chapter 41.06 RCW unless otherwise designated by the institution. Any future vacant or new positions will be filled using Washington State University's standard hiring procedures.

[1996 c 186 § 201.]

Notes:

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

RCW 28B.30.901 Establishment of administrative units to coordinate energy education or energy program delivery programs.

In addition to the powers and duties transferred, Washington State University shall have the authority to establish administrative units as may be necessary to coordinate either energy education or energy program delivery programs, or both, and to revise, restructure, redirect, or eliminate programs transferred to Washington State University based on available funding or to better serve the people and businesses of Washington state.

[1996 c 186 § 202.]

Notes:

Findings--Intent--Part headings not law--Effective date--1996 c 186: See notes following RCW 43.330.904.

RCW 28B.30.902 Lind dryland research unit--Income from leased property.

(1) The Washington state treasury has been named a devisee of certain property pursuant to a will executed by Cleora Neare on July 14, 1982. Under RCW 79.01.612, property that has been devised to the state is to be managed and controlled by the department of natural resources. The legislature hereby finds that it is in the best interest of the state to transfer part of the real property devised to the state under the will to Washington State University for use in conjunction with the Washington State University Lind dryland research unit located in Adams county and sell the remaining property for the benefit of the common schools.

(2) Washington State University is hereby granted ownership, management, and control of the real property legally described as all of Section 6, and the west half of Section 5, Township 17, Range 34 East E.W.M., Adams county, Washington, upon close of probate, or sooner if the property can be transferred without cost, other than costs properly allocated to the state as devisee under probate, to Washington State University.

Upon transfer of this property, the parcel shall become part of the Washington State University Lind dryland research unit. Any and all lease income derived from current leases on the property shall be deposited in a dedicated Washington State University local account for the benefit of the Lind dryland research unit.

(3) The department of natural resources shall sell the real property legally described as lots 28 and 29, block 10, Neilson Brothers plat, City of Lind, Adams county and the proceeds of the sale shall be deposited into the permanent common school fund.

[1997 c 45 § 1.]

Chapter 28B.31 RCW
1977 WASHINGTON STATE UNIVERSITY BUILDINGS AND FACILITIES

FINANCING ACT

Sections

28B.31.010 Purpose--Bonds authorized--Amount--Payment.
28B.31.020 Bond anticipation notes--Authorized--Bond proceeds to apply to payment on.
28B.31.030 Form, terms, conditions, sale and covenants of bonds and notes--Pledge of state's credit.
28B.31.050 Administration of proceeds from bonds and notes.
28B.31.060 Washington State University bond retirement fund of 1977--Created--Purpose--Payment of interest and principal on bonds and notes.
28B.31.070 Transfer of moneys to state general fund from Washington State University building account.
28B.31.080 Bonds as legal investment for public funds.
28B.31.090 Prerequisite to bond issuance.
28B.31.100 Chapter not to repeal, override, or limit other statutes or actions--Transfers under RCW 28B.31.070 as subordinate.

RCW 28B.31.010 Purpose--Bonds authorized--Amount--Payment.

For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for Washington State University, the state finance committee is hereby authorized to issue from time to time general obligation bonds of the state of Washington in the aggregate principal amount of four million four hundred thousand dollars, or so much thereof as shall be required to finance the capital projects relating to Washington State University as determined by the legislature in its capital appropriation act from time to time, to be paid and discharged in not more than thirty years of the date of issuance.

[1977 ex.s. c 344 § 1.]

Notes:

Severability--1977 ex.s. c 344: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 344 § 12.]

RCW 28B.31.020 Bond anticipation notes--Authorized--Bond proceeds to apply to payment on.

When the state finance committee has determined to issue such general obligation bonds or a portion thereof as authorized in RCW 28B.31.010, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal of and redemption premium, if any, and interest on such notes shall be applied thereto when such bonds are issued.

[1977 ex.s. c 344 § 2.]

Notes:

Severability--1977 ex.s. c 344: See note following RCW 28B.31.010.

RCW 28B.31.030 Form, terms, conditions, sale and covenants of bonds and notes--Pledge of state's credit.

The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds and/or the bond anticipation notes authorized by this chapter, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due.

[1977 ex.s. c 344 § 3.]

Notes:

Severability--1977 ex.s. c 344: See note following RCW 28B.31.010.

RCW 28B.31.050 Administration of proceeds from bonds and notes.

Subject to legislative appropriation, all proceeds of the bonds and/or bond anticipation notes authorized in this chapter shall be administered and expended by the board of regents of Washington State University exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes.

[1977 ex.s. c 344 § 5.]

Notes:

Severability--1977 ex.s. c 344: See note following RCW 28B.31.010.

RCW 28B.31.060 Washington State University bond retirement fund of 1977--Created--Purpose--Payment of interest and principal on bonds and notes.

The Washington State University bond retirement fund of 1977 is hereby created in the state treasury for the purpose of payment of the principal of and interest on the bonds authorized by this chapter.

Upon completion of the projects for which appropriations have been made by the legislature, any proceeds of the bonds and/or bond anticipation notes authorized by this chapter remaining in the Washington State University construction account shall be transferred by the board of regents to the Washington State University bond retirement fund of 1977 to reduce the transfer or transfers next required by RCW 28B.31.070.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amounts required in the next succeeding twelve months for the payment of the principal of and the interest coming due on such bonds and the dates on which such payments are

due. The state treasurer, not less than thirty days prior to the date on which any such interest or principal and interest payment is due, shall withdraw from any general state revenues received in the state treasury and deposit in the Washington State University bond retirement fund of 1977 an amount equal to the amount certified by the state finance committee to be due on such payment date.

[1977 ex.s. c 344 § 6.]

Notes:

Severability--1977 ex.s. c 344: See note following RCW 28B.31.010.

RCW 28B.31.070 Transfer of moneys to state general fund from Washington State University building account.

On or before June 30th of each year the board of regents of Washington State University shall cause to be accumulated in the Washington State University building account, from moneys transferred into said account from the Washington State University bond retirement fund pursuant to RCW 28B.30.750(5), an amount at least equal to the amount required in the next succeeding twelve months for the payment of the principal of and interest on the bonds issued pursuant to this chapter. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the board of regents of Washington State University shall cause the amount so computed to be paid out of such building account to the state treasurer, for deposit into the general fund of the state treasury.

[1977 ex.s. c 344 § 7.]

Notes:

Severability--1977 ex.s. c 344: See note following RCW 28B.31.010.

RCW 28B.31.080 Bonds as legal investment for public funds.

The bonds authorized by this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

[1977 ex.s. c 344 § 8.]

Notes:

Severability--1977 ex.s. c 344: See note following RCW 28B.31.010.

RCW 28B.31.090 Prerequisite to bond issuance.

The bonds authorized by this chapter shall be issued only after an officer of Washington State University, designated by the Washington State University board of regents, has certified, based upon his estimates of future tuition income and other factors, that an adequate balance will be maintained in the Washington State University building account to enable the board of regents to meet the requirements of RCW 28B.31.070 during the life of the bonds to be issued.

[1977 ex.s. c 344 § 9.]

Notes:

Severability--1977 ex.s. c 344: See note following RCW 28B.31.010.

RCW 28B.31.100 Chapter not to repeal, override, or limit other statutes or actions--Transfers under RCW 28B.31.070 as subordinate.

No provision of this chapter shall be deemed to repeal, override, or limit any provision of RCW 28B.15.310 or 28B.30.700 through 28B.30.780, nor any provision or covenant of the proceedings of the board of regents of Washington State University heretofore or hereafter taken in the issuance of its revenue bonds secured by a pledge of its building fees and/or other revenues pursuant to such statutes. The obligation of the board of regents of Washington State University to make the transfers provided for in RCW 28B.31.070 shall be subject and subordinate to the lien and charge of such revenue bonds, and any revenue bonds hereafter issued, on such building fees and/or other revenues pledged to secure such bonds, and on the moneys in the Washington State University building account and the Washington State University bond retirement fund.

[1985 c 390 § 45; 1977 ex.s. c 344 § 10.]

Notes:

Severability--1977 ex.s. c 344: See note following RCW 28B.31.010.

Chapter 28B.35 RCW
REGIONAL UNIVERSITIES

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Eastern College fund--Other revenue for support of Eastern Washington University: RCW 43.79.314.

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Idaho--Tuition and fees--Reciprocity with Washington: RCW 28B.15.750 through 28B.15.754.

Normal school grant to former state colleges of education: RCW 43.79.150.

Oregon--Tuition and fees--Reciprocity with Washington: RCW 28B.15.730 through 28B.15.736.

Western Washington fund--Other revenue for support of Western Washington University: RCW 43.79.324.

RCW 28B.35.010 Designation.

The regional universities shall be located and designated as follows: At Bellingham, Western Washington University; at Cheney, Eastern Washington University; at Ellensburg, Central Washington University.

[1977 ex.s. c 169 § 44. Prior: 1969 ex.s. c 223 § 28B.40.010; prior: 1967 c 47 § 6; 1961 c 62 § 2; 1957 c 147 § 2; prior: (i) 1909 c 97 p 251, part; 1897 c 118 § 212; 1893 c 107 § 1; RRS § 4604, part. (ii) 1937 c 23 § 1; RRS § 4604-1. (iii) 1937 c 23 § 2; RRS § 4604-2. (iv) 1937 c 23 § 3; RRS § 4604-3. Formerly RCW 28B.40.010, part; 28.81.010.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.050 Primary purposes--Eligibility requirements for designation as regional university.

The primary purposes of the regional universities shall be to offer undergraduate and graduate education programs through the master's degree, including programs of a practical and applied nature, directed to the educational and professional needs of the residents of the regions they serve; to act as receiving institutions for transferring community college students; and to provide extended occupational and complementary studies programs that continue or are otherwise integrated with the educational services of the region's community colleges.

No college shall be eligible for designation as a regional university until it has been in operation for at least twenty years and has been authorized to offer master's degree programs in more than three fields.

[1977 ex.s. c 169 § 2.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.100 Trustees--Appointment--Terms--Quorum--Vacancies.

(1) The governance of each of the regional universities shall be vested in a board of trustees consisting of eight members, one of whom shall be a student. The governor shall select the student member from a list of candidates, of at least three and not more than five, submitted by the governing body of the associated students. They shall be appointed by the governor with the consent of the senate and, except for the student member, shall hold their offices for a term of six years from the first day of October and until their successors are appointed and qualified. The student member shall hold his or her office for a term of one year from the first day of June and until his or her successor is appointed and qualified. The student member shall be a full-time student in good standing at the respective university at the time of appointment.

(2) Five members of the board constitute a quorum for the transaction of business. In case of a vacancy, or when an appointment is made after the date of expiration of the term, the governor shall fill the vacancy for the remainder of the term of the trustee whose office has become vacant or expired.

(3) Except for the term of the student member, no more than the terms of two members will expire simultaneously on the last day of September in any one year.

(4) A student appointed under this section shall excuse himself or herself from participation or voting on matters relating to the hiring, discipline, or tenure of faculty members and personnel.

[1998 c 95 § 3; 1985 c 137 § 1; 1979 ex.s. c 103 § 4; 1977 ex.s. c 169 § 45. Prior: 1973 c 62 § 11; 1969 ex.s. c 223 § 28B.40.100; prior: 1967 ex.s. c 5 § 2; 1957 c 147 § 3; prior: (i) 1909 c 97 p 251 § 1, part; 1897 c 118 § 212; 1893 c 107 § 1; RRS § 4604, part. (ii) 1909 c 97 p 251 § 2; 1897 c 118 § 213; 1893 c 107 § 2; RRS § 4605. Formerly RCW 28B.40.100, part; 28.81.020.]

Notes:

Present terms not affected--Severability--1979 ex.s. c 103: See notes following RCW 28B.20.100.

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.105 Trustees--Organization and officers of board--Quorum.

Each board of regional university trustees shall elect one of its members chairman, and it shall elect a secretary, who may or may not be a member of the board. Each board shall have power to adopt bylaws for its government and for the government of the school, which bylaws shall not be inconsistent with law, and to prescribe the duties of its officers, committees and employees. A majority of the board shall constitute a quorum for the transaction of all business.

[1977 ex.s. c 169 § 46. Prior: 1969 ex.s. c 223 § 28B.40.105; prior: 1909 p 252 § 3; RRS § 4606; prior: 1897 c 118 § 214; 1893 c 107 § 3. Formerly RCW 28B.40.105, part; 28.81.030 and 28.81.050(1), (2).]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.110 Trustees--Meetings of board.

Each board of regional university trustees shall hold at least two regular meetings each year, at such times as may be provided by the board. Special meetings shall be held as may be deemed necessary, whenever called by the chairman or by a majority of the board. Public notice of all meetings shall be given in accordance with chapter 42.32 RCW.

[1977 ex.s. c 169 § 47. Prior: 1969 ex.s. c 223 § 28B.40.110; prior: 1917 c 128 § 1, part; 1909 c 97 p 253 § 6, part; RRS § 4609, part; prior: 1897 c 118 § 217, part; 1893 c 107 § 6, part. Formerly RCW 28B.40.110, part; 28.81.040, part.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

Open public meetings act: Chapter 42.30 RCW.

RCW 28B.35.120 Trustees--General powers and duties of board.

In addition to any other powers and duties prescribed by law, each board of trustees of the respective regional universities:

(1) Shall have full control of the regional university and its property of various kinds, except as otherwise provided by law.

(2) Shall employ the president of the regional university, his assistants, members of the faculty, and other employees of the institution, who, except as otherwise provided by law, shall hold their positions, until discharged therefrom by the board for good and lawful reason.

(3) With the assistance of the faculty of the regional university, shall prescribe the course of study in the various schools and departments thereof and publish such catalogues thereof as the board deems necessary: PROVIDED, That the state board of education shall determine the requisites for and give program approval of all courses leading to teacher certification by such board.

(4) Establish such divisions, schools or departments necessary to carry out the purposes of the regional university and not otherwise proscribed by law.

(5) Except as otherwise provided by law, may establish and erect such new facilities as determined by the board to be necessary for the regional university.

(6) May acquire real and other property as provided in RCW 28B.10.020, as now or hereafter amended.

(7) Except as otherwise provided by law, may purchase all supplies and purchase or lease equipment and other personal property needed for the operation or maintenance of the regional university.

(8) May establish, lease, operate, equip and maintain self-supporting facilities in the manner provided in RCW 28B.10.300 through 28B.10.330, as now or hereafter amended.

(9) Except as otherwise provided by law, to enter into such contracts as the trustees deem essential to regional university purposes.

(10) May receive such gifts, grants, conveyances, devises and bequests of real or personal property from whatsoever source, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the regional university programs; sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof except as limited by the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof.

(11) Subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.340, offer new degree programs, offer off-campus programs, participate in consortia or centers, contract for off-campus educational programs, and purchase or lease major off-campus facilities.

(12) May promulgate such rules and regulations, and perform all other acts not forbidden by law, as the board of trustees may in its discretion deem necessary or appropriate to the administration of the regional university.

[1985 c 370 § 94; 1977 ex.s. c 169 § 48. Prior: 1969 ex.s. c 223 § 28B.40.120; prior: 1909 c 97 p 252 § 4; RRS § 4607; prior: 1905 c 85 § 1; 1897 c 118 § 215; 1893 c 107 § 4. Formerly RCW 28B.40.120, part; 28.81.050.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.190 Trustees--Fire protection services.

Subject to the provisions of RCW 35.21.779, each board of trustees of the regional universities may:

(1) Contract for such fire protection services as may be necessary for the protection and safety of the students, staff and property of the regional university;

(2) By agreement pursuant to the provisions of chapter 239, Laws of 1967 (chapter 39.34 RCW), as now or hereafter amended, join together with other agencies or political subdivisions of the state or federal government and otherwise share in the accomplishment of any of the purposes of subsection (1) of this section:

PROVIDED, HOWEVER, That neither the failure of the trustees to exercise any of its powers under this section nor anything herein shall detract from the lawful and existing powers and duties of political subdivisions of the state to provide the necessary fire protection equipment and services to persons and property within their jurisdiction.

[1992 c 117 § 1; 1977 ex.s. c 169 § 49. Prior: 1970 ex.s. c 15 § 28. Formerly RCW 28B.40.190, part.]

Notes:

Findings--1992 c 117: See note following RCW 35.21.775.

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.195 Treasurer--Appointment, term, duties, bonds.

See RCW 28B.40.195.

RCW 28B.35.196 Credits--State-wide transfer policy and agreement--Establishment.

See RCW 28B.80.280 and 28B.80.290.

RCW 28B.35.200 Bachelor degrees authorized.

The degree of bachelor of arts or the degree of bachelor of science and/or the degree of bachelor of arts in education may be granted to any student who has completed a four-year course of study or the equivalent thereof in Central Washington University, Eastern Washington University, or Western Washington University.

[1977 ex.s. c 169 § 50. Prior: 1969 ex.s. c 223 § 28B.40.200; prior: 1967 c 231 § 1; 1967 c 47 § 7; 1947 c 109 § 1; 1933 c 13 § 1; Rem. Supp. 1947 § 4618-1. Formerly RCW 28B.40.200, part; 28.81.052; 28.81.050(16).]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.205 Degrees through master's degrees authorized--Limitations--Honorary bachelor's or master's degrees.

In addition to all other powers and duties given to them by law, Central Washington University, Eastern Washington University, and Western Washington University are hereby authorized to grant any degree through the master's degree to any student who has completed a program of study and/or research in those areas which are determined by the faculty and board of trustees of the college to be appropriate for the granting of such degree: PROVIDED, That before any degree is authorized under this section it shall be subject to the review and approval of the higher education coordinating board.

The board of trustees, upon recommendation of the faculty, may also confer honorary bachelor's or master's degrees upon persons other than graduates of the institution, in recognition of their learning or devotion to education, literature, art, or science. No degree may be conferred in consideration of the payment of money or the donation of any kind of property.

[1991 c 58 § 2; 1985 c 370 § 84; 1979 c 14 § 4. Prior: 1977 ex.s. c 169 § 51. Cf: 1975 1st ex.s. c 232 § 1.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.215 Doctorate level degrees in physical therapy authorized--Review by higher education coordinating board.

The board of trustees of Eastern Washington University may offer applied, but not research, doctorate level degrees in physical therapy subject to review and approval by the higher education coordinating board.

[2001 c 252 § 1.]

RCW 28B.35.230 Certificates, diplomas--Signing--Contents.

Every diploma issued by a regional university shall be signed by the chairman of the board of trustees and by the president of the regional university issuing the same, and sealed with the appropriate seal. In addition to the foregoing, teaching certificates shall be countersigned by the state superintendent of public instruction. Every certificate shall specifically state what course of study the holder has completed and for what length of time such certificate is valid in the schools of the state.

[1977 ex.s. c 169 § 53. Prior: 1969 ex.s. c 223 § 28B.40.230; prior: 1917 c 128 § 4; 1909 c 97 p 254 § 9; RRS § 4615; prior: 1897 c 118 § 220; 1895 c 146 § 2; 1893 c 107 § 13. Formerly RCW 28B.40.230, part; 28.81.056; 28.81.050(15).]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.300 Model schools and training departments--Purpose.

A model school or schools or training departments may be provided for each regional university, in which students, before graduation, may have actual practice in teaching or courses

relative thereto under the supervision and observation of critic teachers. All schools or departments involved herewith shall organize and direct their work being cognizant of public school needs.

[1977 ex.s. c 169 § 54. Prior: 1969 ex.s. c 223 § 28B.40.300; prior: 1917 c 128 § 2; 1909 c 97 p 253 § 8; RRS § 4611; prior: 1897 c 118 § 219; 1893 c 107 § 12. Formerly RCW 28B.40.300, part; 28.81.058; 28.81.050(12).]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.305 Model schools and training departments--Trustees to estimate number of pupils required.

The board of trustees of any regional university having a model school or training department as authorized by RCW 28B.35.300, shall, on or before the first Monday of September of each year, file with the board of the school district or districts in which such regional university is situated, a certified statement showing an estimate of the number of public school pupils who will be required to make up such model school and specifying the number required for each grade for which training for students is required.

[1977 ex.s. c 169 § 55. Prior: 1969 ex.s. c 223 § 28B.40.305; prior: 1907 c 97 § 1; RRS § 4612. Formerly RCW 28B.40.305, part; 28.81.059; 28.81.050(13).]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.310 Model schools and training departments--Requisitioning of pupils--President may refuse admission.

It shall thereupon be the duty of the board of the school district or districts with which such statement has been filed, to apportion for attendance to the said model school or training department, a sufficient number of pupils from the public schools under the supervision of said board as will furnish to such regional university the number of pupils required in order to maintain such facility: PROVIDED, That the president of said regional university may refuse to accept any such pupil as in his judgment would tend to reduce the efficiency of said model school or training department.

[1977 ex.s. c 169 § 56. Prior: 1969 ex.s. c 223 § 28B.40.310; prior: 1907 c 97 § 2; RRS § 4613. Formerly RCW 28B.40.310, part; 28.81.060.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.315 Model schools and training departments--Report of attendance.

Annually, on or before the date for reporting the school attendance of the school district in which said model school or training department is situated, for the purpose of taxation for the

support of the common schools, the board of trustees of each such regional university having supervision over the same shall file with the board of the school district or districts, in which such model school or training department is situated, a report showing the number of common school pupils at each such model school or training department during the school year last passed, and the period of their attendance in the same form that reports of public schools are made. Any superintendent of the school district so affected shall, in reporting the attendance in said school district, segregate the attendance at said model school or training department, from the attendance in the other schools of said district: PROVIDED, That attendance shall be credited, if credit be given therefor, to the school district in which the pupil resides.

[1977 ex.s. c 169 § 57. Prior: 1969 ex.s. c 223 § 28B.40.315; prior: 1917 c 128 § 3; 1907 c 97 § 3; RRS § 4614. Formerly RCW 28B.40.315, part; 28.81.061; 28.81.050(14).]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.320 High-technology education and training.

See chapter 28B.65 RCW.

RCW 28B.35.350 Suspension and expulsion.

Any student may be suspended or expelled from any regional university who is found to be guilty of an infraction of the regulations of the institution.

[1977 ex.s. c 169 § 58. Prior: 1969 ex.s. c 223 § 28B.40.350; prior: 1961 ex.s. c 13 § 2, part; prior: (i) 1909 c 97 p 255 § 13; RRS § 4620. (ii) 1921 c 136 § 1, part; 1905 c 85 § 3, part; RRS § 4616, part. Formerly RCW 28B.40.350, part; 28.81.070.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.370 Disposition of building fees and normal school fund revenues--Bond payments--Capital projects accounts for construction, equipment, maintenance of buildings, etc.

Within thirty-five days from the date of collection thereof all building fees of each regional university and The Evergreen State College shall be paid into the state treasury and these together with such normal school fund revenues as provided in RCW 28B.35.751 as are received by the state treasury shall be credited as follows:

(1) On or before June 30th of each year the board of trustees of each regional university and The Evergreen State College, if issuing bonds payable out of its building fees and above described normal school fund revenues, shall certify to the state treasurer the amounts required in the ensuing twelve months to pay and secure the payment of the principal of and interest on such bonds. The amounts so certified by each regional university and The Evergreen State College shall be a prior lien and charge against all building fees and above described normal

school fund revenues of such institution. The state treasurer shall thereupon deposit the amounts so certified in the Eastern Washington University capital projects account, the Central Washington University capital projects account, the Western Washington University capital projects account, or The Evergreen State College capital projects account respectively, which accounts are hereby created in the state treasury. The amounts deposited in the respective capital projects accounts shall be used exclusively to pay and secure the payment of the principal of and interest on the building bonds issued by such regional universities and The Evergreen State College as authorized by law. If in any twelve month period it shall appear that the amount certified by any such board of trustees is insufficient to pay and secure the payment of the principal of and interest on the outstanding building and above described normal school fund revenue bonds of its institution, the state treasurer shall notify the board of trustees and such board shall adjust its certificate so that all requirements of moneys to pay and secure the payment of the principal of and interest on all such bonds then outstanding shall be fully met at all times.

(2) All normal school fund revenue pursuant to RCW 28B.35.751 shall be deposited in the Eastern Washington University capital projects account, the Central Washington University capital projects account, the Western Washington University capital projects account, or The Evergreen State College capital projects account respectively, which accounts are hereby created in the state treasury. The sums deposited in the respective capital projects accounts shall be appropriated and expended exclusively to pay and secure the payment of the principal of and interest on bonds payable out of the building fees and normal school revenue and for the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto except for any sums transferred therefrom as authorized by law.

[1991 sp.s. c 13 § 49. Prior: 1985 c 390 § 47; 1985 c 57 § 15; 1977 ex.s. c 169 § 79; 1969 ex.s. c 223 § 28B.40.370; prior: 1967 c 47 §§ 11, 14; 1965 c 76 § 2; 1961 ex.s. c 14 § 5; 1961 ex.s. c 13 § 4. Formerly RCW 28B.40.370; 28.81.085; 28.81.540.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date--1985 c 57: See note following RCW 18.04.105.

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.390 Duties of president.

The president of each regional university shall have general supervision of the university and see that all laws and rules of the board of trustees are observed.

[1977 ex.s. c 169 § 61. Prior: 1969 ex.s. c 223 § 28B.40.390; prior: 1909 c 97 p 253 § 7; RRS § 4610; prior: 1897 c 118 § 218; 1893 c 107 § 7. Formerly RCW 28B.40.390, part; 28.81.110.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.395 President's housing allowance.

Housing or a housing allowance may only be provided for the president of a public four-year institution of higher education who resides in the location where the institution is designated under RCW 28B.20.010, 28B.30.010, 28B.35.010, and 28B.40.010.

[1998 c 344 § 4.]

Notes:

Intent--Findings--1998 c 344: See note following RCW 28B.38.010.

RCW 28B.35.400 Meetings of presidents.

It shall be the duty of the presidents of the several regional universities to meet at least once annually to consult with each other relative to the management of the regional universities.

[1977 ex.s. c 169 § 62.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

FINANCING BUILDINGS AND FACILITIES--1961 ACT

RCW 28B.35.700 Construction, remodeling, improvement, financing, etc.--Authorized.

The boards of trustees of the regional universities and of The Evergreen State College are empowered in accordance with the provisions of RCW 28B.35.700 through 28B.35.790, to provide for the construction, completion, reconstruction, remodeling, rehabilitation and improvement of buildings and facilities authorized by the legislature for the use of the aforementioned universities and The Evergreen State College and to finance the payment thereof by bonds payable out of special funds from revenues hereafter derived from the payment of building fees, gifts, bequests or grants and such additional funds as the legislature may provide.

[1985 c 390 § 48; 1977 ex.s. c 169 § 82; 1969 ex.s. c 223 § 28B.40.700. Prior: 1967 c 47 § 12; 1961 ex.s. c 14 § 1. Formerly RCW 28B.40.700; 28.81.500.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.710 Definitions.

The following terms, whenever used or referred to in RCW 28B.35.700 through 28B.35.790, shall have the following meaning, excepting in those instances where the context clearly indicates otherwise:

(1) The word "boards" means the boards of trustees of the regional universities and The Evergreen State College.

(2) The words "building fees" mean the building fees charged students registering at each

college, but shall not mean the special tuition or other fees charged such students or fees, charges, rentals, and other income derived from any or all revenue-producing lands, buildings, and facilities of the respective colleges, heretofore or hereafter acquired, constructed or installed, including but not limited to income from rooms, dormitories, dining rooms, hospitals, infirmaries, housing or student activity buildings, vehicular parking facilities, land or the appurtenances thereon.

(3) The words "bond retirement funds" shall mean the special funds created by law and known as the Eastern Washington University bond retirement fund, Central Washington University bond retirement fund, Western Washington University bond retirement fund, and The Evergreen State College bond retirement fund, all as referred to in RCW 28B.35.370.

(4) The word "bonds" means the bonds payable out of the bond retirement funds.

(5) The word "projects" means the construction, completion, reconstruction, remodeling, rehabilitation, or improvement of any building or other facility of any of the aforementioned colleges authorized by the legislature at any time and to be financed by the issuance and sale of bonds.

[1985 c 390 § 49; 1977 ex.s. c 169 § 83; 1969 ex.s. c 223 § 28B.40.710. Prior: 1967 c 47 § 13; 1961 ex.s. c 14 § 2. Formerly RCW 28B.40.710; 28.81.510.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.720 Contracts, issuance of evidences of indebtedness, bonds, acceptance of grants.

In addition to the powers conferred under existing law, each of the boards is authorized and shall have the power:

(1) To contract for the construction, completion, reconstruction, remodeling, rehabilitation and improvement of such buildings or other facilities of the university or college as are authorized by the legislature to be financed by the issuance and sale of bonds.

(2) To finance the same by the issuance of bonds secured by the pledge of any or all of the building fees.

(3) Without limitation of the foregoing, to accept grants from the United States government, or any federal or state agency or instrumentality, or private corporation, association, or person to aid in defraying the costs of any such projects.

[1985 c 390 § 50; 1977 ex.s. c 169 § 84; 1969 ex.s. c 223 § 28B.40.720. Prior: 1961 ex.s. c 14 § 3. Formerly RCW 28B.40.720; 28.81.520.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.730 Bonds--Issuance, sale, form, term, interest, etc.--Covenants--Deposit of proceeds.

For the purpose of financing the cost of any projects, each of the boards is hereby authorized to adopt the resolution or resolutions and prepare all other documents necessary for the issuance, sale and delivery of the bonds or any part thereof at such time or times as it shall deem necessary and advisable. Said bonds:

(1) Shall not constitute

(a) An obligation, either general or special, of the state; or

(b) A general obligation of the university or college or of the board;

(2) Shall be

(a) Either registered or in coupon form; and

(b) Issued in denominations of not less than one hundred dollars; and

(c) Fully negotiable instruments under the laws of this state; and

(d) Signed on behalf of the university or college by the chairman of the board, attested by the secretary of the board, have the seal of the university or college impressed thereon or a facsimile of such seal printed or lithographed in the bottom border thereof, and the coupons attached thereto shall be signed with the facsimile signatures of such chairman and the secretary;

(3) Shall state

(a) The date of issue; and

(b) The series of the issue and be consecutively numbered within the series; and

(c) That the bond is payable both principal and interest solely out of the bond retirement fund;

(4) Each series of bonds shall bear interest, payable either annually or semiannually, as the board may determine;

(5) Shall be payable both principal and interest out of the bond retirement fund;

(6) Shall be payable at such times over a period of not to exceed forty years from date of issuance, at such place or places, and with such reserved rights of prior redemption, as the board may prescribe;

(7) Shall be sold in such manner and at such price as the board may prescribe;

(8) Shall be issued under and subject to such terms, conditions and covenants providing for the payment of the principal thereof and interest thereon and such other terms, conditions, covenants and protective provisions safeguarding such payment, not inconsistent with RCW 28B.35.700 through 28B.35.790, as now or hereafter amended, and as found to be necessary by the board for the most advantageous sale thereof, which may include but not be limited to:

(a) A covenant that the building fees shall be established, maintained and collected in such amounts that will provide money sufficient to pay the principal of and interest on all bonds payable out of the bond retirement fund, to set aside and maintain the reserves required to secure the payment of such principal and interest, and to maintain any coverage which may be required over such principal and interest;

(b) A covenant that a reserve account shall be created in the bond retirement fund to secure the payment of the principal of and interest on all bonds issued and a provision made that certain amounts be set aside and maintained therein;

(c) A covenant that sufficient moneys may be transferred from the capital projects account of the university or college issuing the bonds to the bond retirement fund of such

university or college when ordered by the board of trustees in the event there is ever an insufficient amount of money in the bond retirement fund to pay any installment of interest or principal and interest coming due on the bonds or any of them;

(d) A covenant fixing conditions under which bonds on a parity with any bonds outstanding may be issued.

The proceeds of the sale of all bonds, exclusive of accrued interest which shall be deposited in the bond retirement fund, shall be deposited in the state treasury to the credit of the capital projects account of the university or college issuing the bonds and shall be used solely for paying the costs of the projects.

[1985 c 390 § 51; 1977 ex.s. c 169 § 85; 1970 ex.s. c 56 § 30; 1969 ex.s. c 232 § 104; 1969 ex.s. c 223 § 28B.40.730. Prior: 1961 ex.s. c 14 § 4. Formerly RCW 28B.40.730; 28.81.530.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

Capital projects accounts of regional universities and The Evergreen State College: RCW 28B.35.370.

RCW 28B.35.740 Disposition of building fees and normal school fund revenues--Bond payments, etc.

See RCW 28B.35.370.

RCW 28B.35.750 Funds payable into bond retirement funds--Pledge of building fees.

For the purpose of paying and securing the payment of the principal of and interest on the bonds as the same shall become due, there shall be paid into the state treasury and credited to the respective bond retirement fund of each university or college issuing bonds, the following:

(1) Amounts derived from building fees as the board shall certify as necessary to prevent default in the payments required to be paid into such bond retirement fund;

(2) Any grants which may be made, or may become available, for the purpose of furthering the construction of any authorized projects, or for the repayment of the costs thereof;

(3) Such additional funds as the legislature may provide.

Said bond retirement fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or any interest thereon remains unpaid, be available solely for the payment thereof. As a part of the contract of sale of such bonds, the board shall undertake to charge and collect building fees and to deposit the portion of such fees in the bond retirement fund in amounts which will be sufficient to pay and secure the payment of the principal of, and interest on all such bonds outstanding.

[1985 c 390 § 52; 1977 ex.s. c 169 § 86; 1969 ex.s. c 223 § 28B.40.750. Prior: 1961 ex.s. c 14 § 6. Formerly RCW 28B.40.750; 28.81.550.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.751 Disposition of certain normal school fund revenues.

All moneys received from the lease or rental of lands set apart by the enabling act for state normal schools purposes; all interest or income arising from the proceeds of the sale of such lands or of the timber, fallen timber, stone, gravel, or other valuable material thereon, less the allocation to the state treasurer's service fund pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160; and all moneys received as interest on deferred payments on contracts for the sale of such lands, shall from time to time be paid into the state treasury and credited to the Eastern Washington University, Central Washington University, Western Washington University and The Evergreen State College capital projects accounts as herein provided to be expended for capital projects, and bond retirement purposes as set forth in RCW 28B.35.750, as now or hereafter amended. Eastern Washington University, Central Washington University, Western Washington University, and The Evergreen State College shall be credited with one-fourth of the total amount beginning July 1, 2003. Beginning July 1, 1995, The Evergreen State College shall receive five percent of the total amount not obligated to repayment of bonds; Eastern Washington University, Central Washington University, and Western Washington University shall receive equal amounts of the remaining amount. Beginning July 1, 1997, The Evergreen State College shall receive ten percent of the total amount not obligated to repayment of bonds; Eastern Washington University, Central Washington University, and Western Washington University shall receive equal amounts of the remaining amount. Beginning July 1, 1999, The Evergreen State College shall receive fifteen percent of the total amount not dedicated to repayment of bonds; Eastern Washington University, Central Washington University, and Western Washington University shall each receive equal amounts of the remaining amount. Beginning July 1, 2001, The Evergreen State College shall receive twenty percent of the total amount not obligated to repayment of bonds; Eastern Washington University, Central Washington University, and Western Washington University shall each receive equal amounts of the remaining amount.

[1993 c 411 § 2; 1991 sp.s. c 13 § 95; 1977 ex.s. c 169 § 87; 1969 ex.s. c 223 § 28B.40.751. Prior: 1967 c 47 § 15; 1965 c 76 § 1. Formerly RCW 28B.40.751; 28.81.551.]

Notes:

Finding--1993 c 411: "The legislature finds that Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College are the state's comprehensive undergraduate institutions and each should share equally in the benefits derived from lands set apart in the enabling act for state normal school purposes." [1993 c 411 § 1.]

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.760 Additional powers of board--Issuance of bonds, investments, transfer of funds, etc.

The board of any such university or college is hereby empowered:

(1) To reserve the right to issue bonds later on a parity with any bonds being issued;

(2) To authorize the investing of moneys in the bond retirement fund and any reserve account therein;

(3) To authorize the transfer of money from the college's or universities' capital projects account to the college's or universities' bond retirement fund when necessary to prevent a default in the payments required to be made out of such fund;

(4) To create a reserve account or accounts in the bond retirement fund to secure the payment of the principal of and interest on any bonds.

[1977 ex.s. c 169 § 88; 1969 ex.s. c 223 § 28B.40.760. Prior: 1961 ex.s. c 14 § 7. Formerly RCW 28B.40.760; 28.81.560.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.770 Refunding bonds.

Each board of trustees is hereby empowered to issue refunding bonds to provide funds to refund any or all outstanding bonds payable from the bond retirement fund and to pay any redemption premium payable on such outstanding bonds being refunded. Such refunding bonds may be issued in the manner and on terms and conditions and with the covenants permitted by RCW 28B.35.700 through 28B.35.790 as now or hereafter amended for the issuance of bonds. The refunding bonds shall be payable out of the bond retirement fund and shall not constitute an obligation either general or special, of the state or a general obligation of the college or university of Washington issuing the bonds or the board thereof. The board may exchange the refunding bonds at par for the bonds which are being refunded or may sell them in such manner, at such price and at such rate or rates of interest as it deems for the best interest of the college or university.

[1977 ex.s. c 169 § 89; 1970 ex.s. c 56 § 31; 1969 ex.s. c 232 § 105; 1969 ex.s. c 223 § 28B.40.770. Prior: 1961 ex.s. c 14 § 8. Formerly RCW 28B.40.770; 28.81.570.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 28B.35.780 Bonds not general obligation--Legislature may provide additional means of payment.

The bonds authorized to be issued pursuant to the provisions of RCW 28B.35.700 through 28B.35.790 as now or hereafter amended shall not be general obligations of the state of Washington, but shall be limited obligation bonds payable only from the special funds created for their payment. The legislature may provide additional means for raising money for the payment of interest and principal of said bonds. RCW 28B.35.700 through 28B.35.790 as now or hereafter amended shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section to provide for additional means for raising money

is permissive, and shall not in any way be construed as a pledge of the general credit of the state of Washington.

[1977 ex.s. c 169 § 90; 1969 ex.s. c 223 § 28B.40.780. Prior: 1961 ex.s. c 14 § 9. Formerly RCW 28B.40.780; 28.81.580.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.35.790 Other laws not repealed or limited.

RCW 28B.35.700 through 28B.35.790 as now or hereafter amended is concurrent with other legislation with reference to providing funds for the construction of buildings at the regional universities or The Evergreen State College and is not to be construed as repealing or limiting any existing provision of law with reference thereto.

[1977 ex.s. c 169 § 91; 1969 ex.s. c 223 § 28B.40.790. Prior: 1961 ex.s. c 14 § 10. Formerly RCW 28B.40.790; 28.81.590.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

Chapter 28B.38 RCW
SPOKANE INTERCOLLEGIATE RESEARCH AND TECHNOLOGY INSTITUTE

Sections

28B.38.010 Spokane intercollegiate research and technology institute.
28B.38.020 Administration--Board of directors--Powers and duties.
28B.38.030 Support from participating institutions.
28B.38.040 Operating staff--Cooperative agreements for programs and research.
28B.38.050 Role of department of community, trade, and economic development.
28B.38.060 Availability of facilities to other institutions.
28B.38.070 Authority to receive and expend funds.
28B.38.900 Captions not law.

RCW 28B.38.010 Spokane intercollegiate research and technology institute.

(1) The Spokane intercollegiate research and technology institute is created.

(2) The institute shall be operated and administered as a multi-institutional education and research center, housing appropriate programs conducted in Spokane under the authority of institutions of higher education as defined in RCW 28B.10.016. Washington independent and private institutions of higher education may participate as full partners in any academic and research activities of the institute.

(3) The institute shall house education and research programs specifically designed to meet the needs of eastern Washington.

(4) The establishment of any education program at the institute and the lease, purchase, or construction of any site or facility for the institute is subject to the approval of the higher education coordinating board under RCW 28B.80.340.

(5) The institute shall be headquartered in Spokane.

(6) The mission of the institute is to perform and commercialize research that benefits the intermediate and long-term economic vitality of eastern Washington and to develop and strengthen university-industry relationships through the conduct of research that is primarily of interest to eastern Washington-based companies or state economic development programs. The institute shall:

(a) Perform and facilitate research supportive of state science and technology objectives, particularly as they relate to eastern Washington industries;

(b) Provide leading edge collaborative research and technology transfer opportunities primarily to eastern Washington industries;

(c) Provide substantial opportunities for training undergraduate and graduate students through direct involvement in research and industry interactions;

(d) Emphasize and develop nonstate support of the institute's research activities; and

(e) Provide a forum for effective interaction between the state's technology-based industries and its academic institutions through promotion of faculty collaboration with industry, particularly within eastern Washington.

[1998 c 344 § 9.]

Notes:

Intent--Findings--1998 c 344: "It is the intent of the legislature to provide the necessary access to quality upper division and graduate higher education opportunities for the citizens of Spokane. The legislature intends that the Spokane branch campus of Washington State University, offering upper-division and graduate programs, be located at the Riverpoint Higher Education Park and that Washington State University be the administrative and fiscal agent for the Riverpoint Higher Education Park. In addition, those programs offered by Eastern Washington University that meet the rules and guidelines established by the higher education coordinating board's program approval process may serve students at the Riverpoint Higher Education Park. The legislature intends to streamline the program planning and approval process in Spokane by eliminating the joint center for higher education; thereby treating the Spokane higher education community like other public higher education communities in Washington that receive program approval from the higher education coordinating board. However, the legislature encourages partnerships, collaboration, and avoidance of program duplication through regular communication among the presidents of Spokane's public and private institutions of higher education. The legislature further intends that the residential mission of Eastern Washington University in Cheney be strengthened and that Eastern Washington University focus on the excellence of its primary campus in Cheney.

In addition, the legislature finds that the Spokane intercollegiate research and technology institute is a vital and necessary element in the academic and economic future of eastern Washington. The legislature also finds that it is in the interest of the state of Washington to support and promote applied research and technology in areas of the state that, because of geographic or historic circumstances, have not developed fully balanced economies. It is the intent of the legislature that institutions of higher education and the department of community, trade, and economic development work cooperatively with the private sector in the development and implementation of a technology transfer and integration program to promote the economic development and enhance the quality of life in eastern Washington." [1998 c 344 § 1.]

RCW 28B.38.020 Administration--Board of directors--Powers and duties.

(1) The institute shall be administered by the board of directors.

(2) The board shall consist of the following members:

(a) Nine members of the general public. Of the general public membership, at least six shall be individuals who are associated with or employed by technology-based or manufacturing-based industries and have broad business experience and an understanding of high technology;

(b) The executive director of the Washington technology center or the director's designee;

(c) The provost of Washington State University or the provost's designee;

(d) The provost of Eastern Washington University or the provost's designee;

(e) The provost of Central Washington University or the provost's designee;

(f) The provost of the University of Washington or the provost's designee;

(g) An academic representative from the Spokane community colleges;

(h) One member from Gonzaga University; and

(i) One member from Whitworth College.

(3) The term of office for each board member, excluding the executive director of the Washington technology center, the provosts of Washington State University, Eastern Washington University, Central Washington University, and the University of Washington, shall be three years. The executive director of the institute shall be an ex officio, nonvoting member of the board. Board members shall be appointed by the governor. Initial appointments shall be for staggered terms to ensure the long-term continuity of the board. The board shall meet at least quarterly.

(4) The duties of the board include:

(a) Developing the general operating policies for the institute;

(b) Appointing the executive director of the institute;

(c) Approving the annual operating budget of the institute;

(d) Establishing priorities for the selection and funding of research projects that guarantee the greatest potential return on the state's investment;

(e) Approving and allocating funding for research projects conducted by the institute;

(f) In cooperation with the department of community, trade, and economic development, developing a biennial work plan and five-year strategic plan for the institute that are consistent with the state-wide technology development and commercialization goals;

(g) Coordinating with public, independent, and private institutions of higher education, and other participating institutions of higher education in the development of training, research, and development programs to be conducted at the institute that are targeted to meet industrial needs;

(h) Assisting the department of community, trade, and economic development in the department's efforts to develop state science and technology public policies and coordinate publicly funded programs;

(i) Reviewing annual progress reports on funded research projects;

(j) Providing an annual report to the governor and the legislature detailing the activities

and performance of the institute; and

(k) Submitting annually to the department of community, trade, and economic development an updated strategic plan and a statement of performance measured against the mission, roles, and contractual obligations of the institute.

(5) The board may enter into contracts to fulfill its responsibilities and purposes under this chapter.

[1998 c 344 § 10.]

Notes:

Intent--Findings--1998 c 344: See note following RCW 28B.38.010.

RCW 28B.38.030 Support from participating institutions.

Staff support for programs will be provided from among the cooperating institutions through cooperative agreements. Cooperating institutions are Washington State University as the senior research partner, Eastern Washington University, Central Washington University, the University of Washington, Gonzaga University, Whitworth College, and other participating institutions of higher education.

[1998 c 344 § 11.]

Notes:

Intent--Findings--1998 c 344: See note following RCW 28B.38.010.

RCW 28B.38.040 Operating staff--Cooperative agreements for programs and research.

The director of the Spokane intercollegiate research and technology institute may hire staff as necessary to operate the institution. The director may enter into cooperative agreements for programs and research with public and private organizations including state and nonstate funding agencies consistent with policies of the Spokane intercollegiate research and technology institute.

[1998 c 344 § 12.]

Notes:

Intent--Findings--1998 c 344: See note following RCW 28B.38.010.

RCW 28B.38.050 Role of department of community, trade, and economic development.

The department of community, trade, and economic development shall contract with the institute for the expenditure of state-appropriated funds for the operation of the institute. The department of community, trade, and economic development shall provide guidance to the institute regarding expenditure of state-appropriated funds and the development of the institute's strategic plan. The director of the department of community, trade, and economic development shall not withhold funds appropriated for the institute if the institute complies with the

provisions of its contract with the department of community, trade, and economic development. The department is responsible to the legislature for the contractual performance of the institute.

[1998 c 344 § 13.]

Notes:

Intent--Findings--1998 c 344: See note following RCW 28B.38.010.

RCW 28B.38.060 Availability of facilities to other institutions.

The facilities of the institute shall be made available to other institutions of higher education within the state when this would benefit specific program needs.

[1998 c 344 § 14.]

Notes:

Intent--Findings--1998 c 344: See note following RCW 28B.38.010.

RCW 28B.38.070 Authority to receive and expend funds.

The board may receive and expend federal funds and any private gifts or grants to further the purpose of the institute. The funds are to be expended in accordance with federal and state law and any conditions contingent in the grant of those funds.

[1998 c 344 § 15.]

Notes:

Intent--Findings--1998 c 344: See note following RCW 28B.38.010.

RCW 28B.38.900 Captions not law.

Captions used in this chapter are not any part of the law.

[1998 c 344 § 16.]

Chapter 28B.40 RCW
THE EVERGREEN STATE COLLEGE

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28B.40.195 Treasurer--Appointment, term, duties, bonds.
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FINANCING BUILDINGS AND FACILITIES--1961 ACT

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Notes:

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Western College fund, abolished and moneys transferred to general fund: RCW 43.79.320, 43.79.322.
Western College fund, appropriations, warrants, to be paid from general fund: RCW 43.79.321, 43.79.323.
Governing body of recognized student association at college or university, open public meetings act applicable to: RCW 42.30.200.
Idaho--Tuition and fees--Reciprocity with Washington: RCW 28B.15.750 through 28B.15.754.
Insurance for officers, employees and students: RCW 28B.10.660.
Oregon--Tuition and fees--Reciprocity with Washington: RCW 28B.15.730 through 28B.15.736.
Real property, acquisition of authorized: RCW 28B.10.020.
Students
insurance: RCW 28B.10.660.
loan fund under national defense education act: RCW 28B.10.280.
Tuition exemptions, children of deceased or disabled veterans and children of certain citizens missing in action or prisoners of war: RCW 28B.10.265.

RCW 28B.40.010 Designation.

The only state college in Washington shall be in Thurston county, The Evergreen State College.

[1977 ex.s. c 169 § 64; 1969 ex.s. c 223 § 28B.40.010. Prior: 1967 c 47 § 6; 1961 c 62 § 2; 1957 c 147 § 2; prior: (i) 1909 c 97 p 251 § 1, part; 1897 c 118 § 212; 1893 c 107 § 1; RRS § 4604, part. (ii) 1937 c 23 § 1; RRS § 4604-1. (iii) 1937 c 23 § 2; RRS § 4604-2. (iv) 1937 c 23 § 3; RRS § 4604-3. Formerly RCW 28.81.010.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.40.100 Trustees--Appointment--Terms--Quorum--Vacancies.

(1) The governance of The Evergreen State College shall be vested in a board of trustees consisting of eight members, one of whom shall be a student. The governor shall select the student member from a list of candidates, of at least three and not more than five, submitted by the student body. They shall be appointed by the governor with the consent of the senate and, except for the student member, shall hold their offices for a term of six years from the first day of October and until their successors are appointed and qualified. The student member shall hold his or her office for a term of one year from the first day of June and until his or her successor is appointed and qualified. The student member shall be a full-time student in good standing at the college at the time of appointment.

(2) Five members of the board constitute a quorum for the transaction of business. In case of a vacancy, or when an appointment is made after the date of expiration of the term, the governor shall fill the vacancy for the remainder of the term of the trustee whose office has become vacant or expired.

(3) Except for the term of the student member, no more than the terms of two members will expire simultaneously on the last day of September in any one year.

(4) A student appointed under this section shall excuse himself or herself from participation or voting on matters relating to the hiring, discipline, or tenure of faculty members and personnel.

[1998 c 95 § 4; 1985 c 137 § 2; 1979 ex.s. c 103 § 5; 1977 ex.s. c 169 § 65; 1973 c 62 § 11; 1969 ex.s. c 223 § 28B.40.100. Prior: 1967 ex.s. c 5 § 2; 1957 c 147 § 3; prior: (i) 1909 c 97 p 251 § 1, part; 1897 c 118 § 212; 1893 c 107 § 1; RRS § 4604, part. (ii) 1909 c 97 p 251 § 2; 1897 c 118 § 213; 1893 c 107 § 2; RRS § 4605. Formerly RCW 28.81.020.]

Notes:

Present terms not affected--Severability--1979 ex.s. c 103: See notes following RCW 28B.20.100.
Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.
Savings--Severability--1973 c 62: See notes following RCW 28B.10.510.

RCW 28B.40.105 Trustees--Organization and officers of board--Quorum.

The board of The Evergreen State College trustees shall elect one of its members chairman, and it shall elect a secretary, who may or may not be a member of the board. The board shall have power to adopt bylaws for its government and for the government of the school, which bylaws shall not be inconsistent with law, and to prescribe the duties of its officers, committees and employees. A majority of the board shall constitute a quorum for the transaction of all business.

[1977 ex.s. c 169 § 66; 1969 ex.s. c 223 § 28B.40.105. Prior: 1909 p 252 § 3; RRS § 4606; prior: 1897 c 118 § 214; 1893 c 107 § 3. Formerly RCW 28.81.030 and 28.81.050(1), (2).]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.40.110 Trustees--Meetings of board.

The board of The Evergreen State College trustees shall hold at least two regular meetings each year, at such times as may be provided by the board. Special meetings shall be held as may be deemed necessary, whenever called by the chairman or by a majority of the board. Public notice of all meetings shall be given in accordance with chapter 42.32 RCW.

[1977 ex.s. c 169 § 67; 1969 ex.s. c 223 § 28B.40.110. Prior: 1917 c 128 § 1, part; 1909 c 97 p 253 § 6, part; RRS § 4609, part; prior: 1897 c 118 § 217, part; 1893 c 107 § 6, part. Formerly RCW 28.81.040, part.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

Open public meetings act: Chapter 42.30 RCW.

RCW 28B.40.120 Trustees--General powers and duties of board.

In addition to any other powers and duties prescribed by law, the board of trustees of The Evergreen State College:

(1) Shall have full control of the state college and its property of various kinds, except as otherwise provided by law.

(2) Shall employ the president of the state college, his assistants, members of the faculty, and other employees of the institution, who, except as otherwise provided by law, shall hold their positions, until discharged therefrom by the board for good and lawful reason.

(3) With the assistance of the faculty of the state college, shall prescribe the course of study in the various schools and departments thereof and publish such catalogues thereof as the board deems necessary: PROVIDED, That the state board of education shall determine the requisites for and give program approval of all courses leading to teacher certification by such board.

(4) Establish such divisions, schools or departments necessary to carry out the purposes of the college and not otherwise proscribed by law.

(5) Except as otherwise provided by law, may establish and erect such new facilities as determined by the board to be necessary for the college.

(6) May acquire real and other property as provided in RCW 28B.10.020, as now or hereafter amended.

(7) Except as otherwise provided by law, may purchase all supplies and purchase or lease equipment and other personal property needed for the operation or maintenance of the college.

(8) May establish, lease, operate, equip and maintain self-supporting facilities in the manner provided in RCW 28B.10.300 through 28B.10.330, as now or hereafter amended.

(9) Except as otherwise provided by law, to enter into such contracts as the trustees deem essential to college purposes.

(10) May receive such gifts, grants, conveyances, devises and bequests of real or personal property from whatsoever source, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the college programs; sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof except as limited by the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof.

(11) Subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.340, offer new degree programs, offer off-campus programs, participate in consortia or centers, contract for off-campus educational programs, and purchase or lease major off-campus facilities.

(12) May promulgate such rules and regulations, and perform all other acts not forbidden by law, as the board of trustees may in its discretion deem necessary or appropriate to the administration of the college.

[1985 c 370 § 95; 1977 ex.s. c 169 § 68; 1969 ex.s. c 223 § 28B.40.120. Prior: 1909 c 97 p 252 § 4; RRS § 4607; prior: 1905 c 85 § 1; 1897 c 118 § 215; 1893 c 107 § 4. Formerly RCW 28.81.050.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.40.190 Trustees--Fire protection services.

Subject to the provisions of RCW 35.21.779, the board of trustees of The Evergreen State College may:

(1) Contract for such fire protection services as may be necessary for the protection and safety of the students, staff and property of the college;

(2) By agreement pursuant to the provisions of chapter 239, Laws of 1967 (chapter 39.34 RCW), as now or hereafter amended, join together with other agencies or political subdivisions of the state or federal government and otherwise share in the accomplishment of any of the purposes of subsection (1) of this section:

PROVIDED, HOWEVER, That neither the failure of the trustees to exercise any of its powers under this section nor anything herein shall detract from the lawful and existing powers and duties of political subdivisions of the state to provide the necessary fire protection equipment and services to persons and property within their jurisdiction.

[1992 c 117 § 2; 1977 ex.s. c 169 § 69; 1970 ex.s. c 15 § 28.]

Notes:

Findings--1992 c 117: See note following RCW 35.21.775.

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

Severability--1970 ex.s. c 15: See note following RCW 28A.230.160.

RCW 28B.40.195 Treasurer--Appointment, term, duties, bonds.

Each board of state college trustees shall appoint a treasurer who shall be the financial officer of the board and who shall hold office during the pleasure of the board. Each treasurer shall render a true and faithful account of all moneys received and paid out by him, and shall give bond for the faithful performance of the duties of his office in such amount as the trustees require: PROVIDED, That the respective colleges shall pay the fees for any such bonds.

[1977 c 52 § 1.]

Notes:
Regional universities--Designation: RCW 28B.35.010.

RCW 28B.40.196 Credits--State-wide transfer policy and agreement--Establishment.

See RCW 28B.80.280 and 28B.80.290.

RCW 28B.40.200 Bachelor degrees authorized.

The degree of bachelor of arts or the degree of bachelor of science and/or the degree of bachelor of arts in education may be granted to any student who has completed a four-year course of study or the equivalent thereof in The Evergreen State College.

[1977 ex.s. c 169 § 70; 1969 ex.s. c 223 § 28B.40.200. Prior: 1967 c 231 § 1; 1967 c 47 § 7; 1947 c 109 § 1; 1933 c 13 § 1; Rem. Supp. 1947 § 4618-1. Formerly RCW 28.81.052; 28.81.050(16).]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.40.206 Degrees through master's degrees authorized--Limitations--Honorary bachelor's or master's degrees.

In addition to all other powers and duties given to them by law, the board of trustees of The Evergreen State College is hereby authorized to grant any degree through the master's degree to any student who has completed a program of study and/or research in those areas which are determined by the faculty and board of trustees of the college to be appropriate for the granting of such degree: PROVIDED, That any degree authorized under this section shall be subject to the review and approval of the higher education coordinating board.

The board of trustees, upon recommendation of the faculty, may also confer honorary bachelor's or master's degrees upon persons other than graduates of the institution, in recognition of their learning or devotion to education, literature, art, or science. No degree may be conferred in consideration of the payment of money or the donation of any kind of property.

[1991 c 58 § 3; 1985 c 370 § 85; 1979 ex.s. c 78 § 1.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

Severability--1979 ex.s. c 78: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 78 § 4.]

RCW 28B.40.230 Certificates, diplomas--Signing--Contents.

Every diploma issued by The Evergreen State College shall be signed by the chairman of the board of trustees and by the president of the state college, and sealed with the appropriate seal. In addition to the foregoing, teaching certificates shall be countersigned by the state superintendent of public instruction. Every certificate shall specifically state what course of study the holder has completed and for what length of time such certificate is valid in the schools of the state.

[1977 ex.s. c 169 § 72; 1969 ex.s. c 223 § 28B.40.230. Prior: 1917 c 128 § 4; 1909 c 97 p 254 § 9; RRS § 4615; prior: 1897 c 118 § 220; 1895 c 146 § 2; 1893 c 107 § 13. Formerly RCW 28.81.056; 28.81.050(15).]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.40.300 Model schools and training departments--Purpose.

A model school or schools or training departments may be provided for The Evergreen State College, in which students, before graduation, may have actual practice in teaching or courses relative thereto under the supervision and observation of critic teachers. All schools or departments involved herewith shall organize and direct their work being cognizant of public school needs.

[1977 ex.s. c 169 § 73; 1969 ex.s. c 223 § 28B.40.300. Prior: 1917 c 128 § 2; 1909 c 97 p 253 § 8; RRS § 4611; prior: 1897 c 118 § 219; 1893 c 107 § 12. Formerly RCW 28.81.058; 28.81.050(12).]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.40.305 Model schools and training departments--Trustees to estimate number of pupils required.

The board of trustees of The Evergreen State College, if having a model school or training department as authorized by RCW 28B.40.300, shall, on or before the first Monday of September of each year, file with the board of the school district or districts in which such state college is situated, a certified statement showing an estimate of the number of public school pupils who will be required to make up such model school and specifying the number required for each grade for which training for students is required.

[1977 ex.s. c 169 § 74; 1969 ex.s. c 223 § 28B.40.305. Prior: 1907 c 97 § 1; RRS § 4612. Formerly RCW 28.81.059; 28.81.050(13).]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.40.310 Model schools and training departments--Requisitioning of pupils--President may refuse admission.

It shall thereupon be the duty of the board of the school district or districts with which such statement has been filed, to apportion for attendance to the said model school or training department, a sufficient number of pupils from the public schools under the supervision of said board as will furnish to The Evergreen State College the number of pupils required in order to maintain such facility: PROVIDED, That the president of said state college may refuse to accept any such pupil as in his judgment would tend to reduce the efficiency of said model school or training department.

[1977 ex.s. c 169 § 75; 1969 ex.s. c 223 § 28B.40.310. Prior: 1907 c 97 § 2; RRS § 4613. Formerly RCW 28.81.060.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.40.315 Model schools and training departments--Report of attendance.

Annually, on or before the date for reporting the school attendance of the school district in which said model school or training department is situated, for the purpose of taxation for the support of the common schools, the board of trustees of The Evergreen State College, since having supervision over the same, shall file with the board of the school district or districts, in which such model school or training department is situated, a report showing the number of common school pupils at each such model school or training department during the school year last passed, and the period of their attendance in the same form that reports of public schools are made. Any superintendent of the school district so affected shall, in reporting the attendance in said school district, segregate the attendance at said model school or training department, from the attendance in the other schools of said district: PROVIDED, That attendance shall be credited, if credit be given therefor, to the school district in which the pupil resides.

[1977 ex.s. c 169 § 76; 1969 ex.s. c 223 § 28B.40.315. Prior: 1917 c 128 § 3; 1907 c 97 § 3; RRS § 4614. Formerly RCW 28.81.061; 28.81.050(14).]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.40.320 High-technology education and training.

See chapter 28B.65 RCW.

RCW 28B.40.350 Suspension and expulsion.

Any student may be suspended or expelled from The Evergreen State College who is

found to be guilty of an infraction of the regulations of the institution.

[1977 ex.s. c 169 § 77; 1969 ex.s. c 223 § 28B.40.350. Prior: 1961 ex.s. c 13 § 2, part; prior: (i) 1909 c 97 p 255 § 13; RRS § 4620. (ii) 1921 c 136 § 1, part; 1905 c 85 § 3, part; RRS § 4616, part. Formerly RCW 28.81.070.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.40.360 State college fees.

See chapter 28B.15 RCW.

RCW 28B.40.370 Disposition of building fees and normal school fund revenues--Bond payments--Capital projects accounts for construction, equipment, maintenance of buildings, etc.

See RCW 28B.35.370.

RCW 28B.40.390 Duties of president.

The president of The Evergreen State College shall have general supervision of the college and see that all laws and rules of the board of trustees are observed.

[1977 ex.s. c 169 § 81; 1969 ex.s. c 223 § 28B.40.390. Prior: 1909 c 97 p 253 § 7; RRS § 4610; prior: 1897 c 118 § 218; 1893 c 107 § 7. Formerly RCW 28.81.110.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 28B.40.500 Annuities and retirement income plans for faculty members.

See RCW 28B.10.400 through 28B.10.423.

RCW 28B.40.505 Tax deferred annuities for employees.

See RCW 28B.10.480.

FINANCING BUILDINGS AND FACILITIES--1961 ACT

RCW 28B.40.700 Construction, remodeling, improvement, financing, etc.--Authorized.

See RCW 28B.35.700.

RCW 28B.40.710 Definitions.

See RCW 28B.35.710.

RCW 28B.40.720 Contracts, issuance of evidences of indebtedness, bonds, acceptance of grants.

See RCW 28B.35.720.

RCW 28B.40.730 Bonds--Issuance, sale, form, term, interest, etc.--Covenants--Deposit of proceeds.

See RCW 28B.35.730.

RCW 28B.40.740 Disposition of building fees and normal school fund revenues--Bond payments, etc.

See RCW 28B.35.370.

RCW 28B.40.750 Funds payable into bond retirement funds--Pledge of building fees.

See RCW 28B.35.750.

RCW 28B.40.751 Disposition of certain normal school fund revenues.

See RCW 28B.35.751.

RCW 28B.40.760 Additional powers of board--Issuance of bonds, investments, transfer of funds, etc.

See RCW 28B.35.760.

RCW 28B.40.770 Refunding bonds.

See RCW 28B.35.770.

RCW 28B.40.780 Bonds not general obligation--Legislature may provide additional means of payment.

See RCW 28B.35.780.

RCW 28B.40.790 Other laws not repealed or limited.

See RCW 28B.35.790.

RCW 28B.40.795 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and The Evergreen State College.

See RCW 28B.10.300 through 28B.10.330.

RCW 28B.40.810 The Evergreen State College--Established.

There is hereby established in Thurston county a state college, The Evergreen State College.

[1969 ex.s. c 223 § 28B.40.810. Prior: 1967 c 47 § 2. Formerly RCW 28.81.610.]

Notes:

Legislative declaration of purpose: See 1967 c 47 § 1.

Site selection and initial procedure to prepare college for reception of students: See 1967 c 47 § 4.

RCW 28B.40.820 The Evergreen State College--Trustees--Appointment--Terms.

The terms of office and date of commencement thereof of the five member board of trustees of The Evergreen State College appointed by the governor prior to August 1, 1967, shall be the same as prescribed by law for trustees of state colleges under RCW 28B.40.100, as now or hereafter amended, except that initial appointments shall be for terms as follows: One for two years, one for three years, one for four years, one for five years, and one for six years.

[1969 ex.s. c 223 § 28B.40.820. Prior: 1967 c 47 § 3. Formerly RCW 28.81.620.]

RCW 28B.40.830 The Evergreen State College--Trustees, powers and duties--Existing statutes as applicable to college--Federal benefits and donations.

The board of trustees of The Evergreen State College shall have all the powers and duties as are presently or may hereafter be granted to existing state colleges by law. All statutes pertaining to the existing state colleges shall have full force and application to The Evergreen State College.

The Evergreen State College is hereby deemed entitled to receive and share in all the benefits and donations made and given to similar institutions by the enabling act or other federal law to the same extent as other state colleges are entitled to receive and share in such benefits and donations.

[1969 ex.s. c 223 § 28B.40.830. Prior: 1967 c 47 § 5. Formerly RCW 28.81.630.]

Chapter 28B.45 RCW
BRANCH CAMPUSES

Sections

28B.45.010 Legislative findings.
28B.45.020 University of Washington--Central Puget Sound area.
28B.45.0201 Findings.
28B.45.030 Washington State University--Tri-Cities area.
28B.45.040 Washington State University--Southwest Washington area.
28B.45.050 Washington State University and Eastern Washington University--Spokane area.
28B.45.060 Central Washington University--Yakima area.

28B.45.070 Authorization subject to legislative appropriation.

Notes:
Branch campuses--Higher education coordinating board responsibilities: RCW 28B.80.500 through 28B.80.520.

RCW 28B.45.010 Legislative findings.

The legislature finds that the benefits of higher education should be more widely available to the citizens of the state of Washington. The legislature also finds that a citizen's place of residence can restrict that citizen's access to educational opportunity at the upper division and graduate level.

Because most of the state-supported baccalaureate universities are located in areas removed from major metropolitan areas, the legislature finds that many of the state's citizens, especially those citizens residing in the central Puget Sound area, the Tri-Cities, Spokane, Vancouver, and Yakima, have insufficient and inequitable access to upper-division baccalaureate and graduate education.

This lack of sufficient educational opportunities in urban areas makes it difficult or impossible for place-bound individuals, who are unable to relocate, to complete a baccalaureate or graduate degree. It also exacerbates the difficulty financially needy students have in attending school, since many of those students need to work, and work is not always readily available in some communities where the baccalaureate institutions of higher education are located.

The lack of sufficient educational opportunities in metropolitan areas also affects the economy of the underserved communities. Businesses benefit from access to the research and teaching capabilities of institutions of higher education. The absence of these institutions from some of the state's major urban centers prevents beneficial interaction between businesses in these communities and the state's universities.

The Washington state master plan for higher education, adopted by the higher education coordinating board, recognizes the need to expand upper-division and graduate educational opportunities in the state's large urban centers. The board has also attempted to provide a means for helping to meet future educational demand through a system of branch campuses in the state's major urban areas.

The legislature endorses the assignment of responsibility to serve these urban centers that the board has made to various institutions of higher education. The legislature also endorses the creation of branch campuses for the University of Washington and Washington State University.

The legislature recognizes that, among their other responsibilities, the state's comprehensive community colleges share with the four-year universities and colleges the responsibility of providing the first two years of a baccalaureate education. It is the intent of the legislature that the four-year institutions and the community colleges work as cooperative partners to ensure the successful and efficient operation of the state's system of higher education. The legislature further intends that the four-year institutions work cooperatively with the community colleges to ensure that branch campuses are operated as models of a two plus two educational system.

[1989 1st ex.s. c 7 § 1.]

RCW 28B.45.020 University of Washington--Central Puget Sound area.

The University of Washington is responsible for ensuring the expansion of upper-division and graduate educational programs in the central Puget Sound area under rules or guidelines adopted by the higher education coordinating board. The University of Washington shall meet that responsibility through the operation of at least two branch campuses. One branch campus shall be located in the Tacoma area. Another branch campus shall be collocated with Cascadia Community College in the Bothell-Woodinville area.

[1994 c 217 § 3; 1989 1st ex.s. c 7 § 3.]

Notes:

Effective date--1994 c 217: See note following RCW 28B.45.0201.

RCW 28B.45.0201 Findings.

The legislature finds that population growth in north King and south Snohomish counties has created a need to expand higher education and work force training programs for the people living and working in those areas. In keeping with the recommendations of the higher education coordinating board, the legislature intends to help address those education and training needs through the creation of Cascadia Community College, expansion of educational opportunities at Lake Washington Technical College, and support of the University of Washington's branch campus at Bothell-Woodinville. It is further the intention of the legislature, in keeping with the higher education coordinating board recommendations, that the Cascadia Community College and the University of Washington branch campus be collocated, and that the new community college and the University of Washington's branch campus work in partnership to ensure that properly prepared students from community colleges and other institutions are able to transfer smoothly to the branch campus.

The legislature further finds that a governing board for Cascadia Community College needs to be appointed and confirmed as expeditiously as possible. The legislature intends to work cooperatively with the governor to facilitate the appointment and confirmation of trustees for the college.

[1994 c 217 § 1.]

Notes:

Effective date--1994 c 217: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 1, 1994]." [1994 c 217 § 5.]

RCW 28B.45.030 Washington State University--Tri-Cities area.

Washington State University is responsible for providing upper-division and graduate level higher education programs to the citizens of the Tri-Cities area, under rules or guidelines adopted by the higher education coordinating board. Washington State University shall meet that

responsibility through the operation of a branch campus in the Tri-Cities area. The branch campus shall replace and supersede the Tri-Cities university center. All land, facilities, equipment, and personnel of the Tri-Cities university center shall be transferred from the University of Washington to Washington State University.

[1989 1st ex.s. c 7 § 4.]

RCW 28B.45.040 Washington State University--Southwest Washington area.

Washington State University is responsible for providing upper-division and graduate level higher education programs to the citizens of the southwest Washington area, under rules or guidelines adopted by the higher education coordinating board. Washington State University shall meet that responsibility through the operation of a branch campus in the southwest Washington area.

[1989 1st ex.s. c 7 § 5.]

RCW 28B.45.050 Washington State University and Eastern Washington University--Spokane area.

Washington State University and Eastern Washington University are responsible for providing upper-division and graduate level programs to the citizens of the Spokane area, under rules or guidelines adopted by the joint center for higher education. However, before any degree is authorized under this section it shall be subject to the review and approval of the higher education coordinating board. Washington State University shall meet its responsibility through the operation of a branch campus in the Spokane area. Eastern Washington University shall meet its responsibility through the operation of programs and facilities in Spokane.

[1991 c 205 § 11; 1989 1st ex.s. c 7 § 6.]

RCW 28B.45.060 Central Washington University--Yakima area.

Central Washington University is responsible for providing upper-division and graduate level higher education programs to the citizens of the Yakima area, under rules or guidelines adopted by the higher education coordinating board.

[1989 1st ex.s. c 7 § 7.]

RCW 28B.45.070 Authorization subject to legislative appropriation.

Authorization for the programs, increases, and facilities described in chapter 7, Laws of 1989 1st ex. sess. is subject to legislative appropriation.

[1989 1st ex.s. c 7 § 14.]

Chapter 28B.50 RCW
COMMUNITY AND TECHNICAL COLLEGES

(Formerly: Community colleges)

Sections

28B.50.010 Short title.
28B.50.020 Purpose.
28B.50.030 Definitions.
28B.50.040 College districts enumerated.
28B.50.050 State board for community and technical colleges.
28B.50.060 Director of the state system of community and technical colleges--Appointment--Term--Qualifications--Salary and travel expenses--Duties.
28B.50.070 College board--Organization--Meetings--Quorum--Biennial report--Fiscal year.
28B.50.080 College board--Offices and office equipment, including necessary expenses.
28B.50.085 College board--Treasurer--Appointment, duties, bond--Depository.
28B.50.090 College board--Powers and duties.
28B.50.091 College board--Board to waive fees for students finishing their high school education.
28B.50.092 College board--Program for military personnel--Restrictions as to high school completion program.
28B.50.093 College board--Program for military personnel--Limitation.
28B.50.094 College board--Program for military personnel--Costs of funding.
28B.50.095 College board--Registration at more than one community and technical college.
28B.50.096 College board--Cooperation with work force training and education coordinating board.
28B.50.097 Electronic job bank.
28B.50.098 Appointment of trustees for new college district.
28B.50.100 Boards of trustees--Generally.
28B.50.130 Boards of trustees--Bylaws, rules, and regulations--Chair and vice-chair--Terms--Quorum.
28B.50.140 Boards of trustees--Powers and duties.
28B.50.1401 Lake Washington Technical College board of trustees.
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NOTES:

Actions against educational boards--Defense--Costs--Payment of obligations from liability account: RCW 28B.10.840, 28B.10.842.

AIDS information: Chapter 70.24 RCW.

British Columbia--Tuition and fees--Reciprocity with Washington: RCW 28B.15.756 and 28B.15.758.

Commercial activities by institutions of higher education--Development of policies governing: Chapter 28B.63 RCW.

Community education programs: RCW 28A.620.020.

Department of social and health services (including division of vocational rehabilitation): Chapter 43.20A RCW.

Development of definitions, criteria, and procedures for the operating cost of instruction--Educational cost study: RCW 28B.15.070.
Educational boards, insurance to protect and hold personally harmless: RCW 28B.10.840, 28B.10.844.
Eye protection, public educational institutions: See RCW 70.100.010 through 70.100.040.
Governing body of recognized student association at college or university, open public meetings act applicable to: RCW 42.30.200.
Idaho--Tuition and fees--Reciprocity with Washington: RCW 28B.15.750 through 28B.15.754.
1972 community college facilities aid--Bond issue: Chapter 28B.56 RCW.
1975 community college general capital projects bond, act: Chapter 28B.58 RCW.
1975 community college special capital projects bond act: Chapter 28B.57 RCW.
Oregon--Tuition and fees--Reciprocity with Washington: RCW 28B.15.730 through 28B.15.736.
Report on postsecondary educational system to higher education coordinating board: RCW 28B.80.616.

RCW 28B.50.010 Short title.

This chapter shall be known as and may be cited as the community and technical college act of 1991.

[1991 c 238 § 20; 1969 ex.s. c 223 § 28B.50.010. Prior: 1967 ex.s. c 8 § 1. Formerly RCW 28.85.010.]

RCW 28B.50.020 Purpose.

The purpose of this chapter is to provide for the dramatically increasing number of students requiring high standards of education either as a part of the continuing higher education program or for occupational education and training, or for adult basic skills and literacy education, by creating a new, independent system of community and technical colleges which will:

(1) Offer an open door to every citizen, regardless of his or her academic background or experience, at a cost normally within his or her economic means;

(2) Ensure that each college district shall offer thoroughly comprehensive educational, training and service programs to meet the needs of both the communities and students served by combining high standards of excellence in academic transfer courses; realistic and practical courses in occupational education, both graded and ungraded; community services of an educational, cultural, and recreational nature; and adult education, including basic skills and general, family, and work force literacy programs and services. However, college districts containing only technical colleges shall maintain programs solely for occupational education, basic skills, and literacy purposes, and, for as long as a need exists, may continue those programs, activities, and services offered by the technical colleges during the twelve-month period preceding September 1, 1991;

(3) Provide for basic skills and literacy education, and occupational education and technical training at technical colleges in order to prepare students for careers in a competitive work force;

(4) Provide or coordinate related and supplemental instruction for apprentices at community and technical colleges;

(5) Provide administration by state and local boards which will avoid unnecessary duplication of facilities or programs; and which will encourage efficiency in operation and

creativity and imagination in education, training and service to meet the needs of the community and students;

(6) Allow for the growth, improvement, flexibility and modification of the community colleges and their education, training and service programs as future needs occur; and

(7) Establish firmly that community colleges are, for purposes of academic training, two year institutions, and are an independent, unique, and vital section of our state's higher education system, separate from both the common school system and other institutions of higher learning, and never to be considered for conversion into four-year liberal arts colleges.

[1991 c 238 § 21; 1969 ex.s. c 261 § 17; 1969 ex.s. c 223 § 28B.50.020. Prior: 1967 ex.s. c 8 § 2.]

Notes:

Severability--1969 ex.s. c 261: "If any provision of this 1969 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 261 § 37. Formerly RCW 28.85.911.]

RCW 28B.50.030 Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

Renton Vocational-Technical Institute, Bates Vocational-Technical Institute, Clover Park Vocational Institute, and Bellingham Vocational-Technical Institute.

(12) "Adult education" shall mean all education or instruction, including academic, vocational education or training, basic skills and literacy training, and "occupational education" provided by public educational institutions, including common school districts for persons who are eighteen years of age and over or who hold a high school diploma or certificate. However, "adult education" shall not include academic education or instruction for persons under twenty-one years of age who do not hold a high school degree or diploma and who are attending a public high school for the sole purpose of obtaining a high school diploma or certificate, nor shall "adult education" include education or instruction provided by any four year public institution of higher education.

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

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

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

(16) "Salmon fishing worker" means a worker in the finfish industry affected by 1994 or future salmon disasters. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries involved in the commercial and recreational harvesting of finfish including buying and processing finfish. The commissioner may adopt rules further interpreting these definitions.

(17) "Rural natural resources impact area" means:

(a) A nonmetropolitan county, as defined by the 1990 decennial census, that meets three

of the five criteria set forth in subsection (18) of this section;

(b) A nonmetropolitan county with a population of less than forty thousand in the 1990 decennial census, that meets two of the five criteria as set forth in subsection (18) of this section; or

(c) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets three of the five criteria set forth in subsection (18) of this section.

(18) For the purposes of designating rural natural resources impact areas, the following criteria shall be considered:

(a) A lumber and wood products employment location quotient at or above the state average;

(b) A commercial salmon fishing employment location quotient at or above the state average;

(c) Projected or actual direct lumber and wood products job losses of one hundred positions or more;

(d) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and

(e) An unemployment rate twenty percent or more above the state average. The counties that meet these criteria shall be determined by the employment security department for the most recent year for which data is available. For the purposes of administration of programs under this chapter, the United States post office five-digit zip code delivery areas will be used to determine residence status for eligibility purposes. For the purpose of this definition, a zip code delivery area of which any part is ten miles or more from an urbanized area is considered nonurbanized. A zip code totally surrounded by zip codes qualifying as nonurbanized under this definition is also considered nonurbanized. The office of financial management shall make available a zip code listing of the areas to all agencies and organizations providing services under this chapter.

[1997 c 367 § 13; 1995 c 226 § 17; 1992 c 21 § 5. Prior: 1991 c 315 § 15; 1991 c 238 § 22; 1985 c 461 § 14; 1982 1st ex.s. c 53 § 24; 1973 c 62 § 12; 1969 ex.s. c 261 § 18; 1969 ex.s. c 223 § 28B.50.030; prior: 1967 ex.s. c 8 § 3.]

NOTES:

***Reviser's note:** RCW 50.29.025 was amended by 2000 c 2 § 4, changing subsection (6)(c) to subsection (6)(b).

Severability--Conflict with federal requirements--Effective date--1997 c 367: See notes following RCW 43.160.020.

Severability--Conflict with federal requirements--Effective date--1995 c 226: See notes following RCW 43.160.020.

Intent--1991 c 315: "The legislature finds that:

(1) The economic health and well-being of timber-dependent communities is of substantial public concern. The significant reduction in annual timber harvest levels likely will result in reduced economic activity and persistent unemployment and underemployment over time, which would be a serious threat to the safety, health, and welfare of residents of the timber impact areas, decreasing the value of private investments and jeopardizing the sources of public revenue.

(2) Timber impact areas are most often located in areas that are experiencing little or no economic growth,

creating an even greater risk to the health, safety, and welfare of these communities. The ability to remedy problems caused by the substantial reduction in harvest activity is beyond the power and control of the regulatory process and influence of the state, and the ordinary operations of private enterprise without additional governmental assistance are insufficient to adequately remedy the resulting problems of poverty and unemployment.

(3) To address these concerns, it is the intent of the legislature to increase training and retraining services accessible to timber impact areas, and provide for coordination of noneconomic development services in timber impact areas as economic development efforts will not succeed unless social, housing, health, and other needs are addressed." [1991 c 315 § 1.]

Severability--Conflict with federal requirements--Effective date--1991 c 315: See RCW 50.70.900 through 50.70.902.

Severability--1985 c 461: See note following RCW 41.06.020.

Severability--1982 1st ex.s. c 53: See note following RCW 41.06.020.

Savings--Severability--1973 c 62: See notes following RCW 28B.10.510.

Severability--1969 ex.s. c 261: See note following RCW 28B.50.020.

RCW 28B.50.040 College districts enumerated.

The state of Washington is hereby divided into thirty college districts as follows:

(1) The first district shall encompass the counties of Clallam and Jefferson;

(2) The second district shall encompass the counties of Grays Harbor and Pacific;

(3) The third district shall encompass the counties of Kitsap and Mason;

(4) The fourth district shall encompass the counties of San Juan, Skagit and Island;

(5) The fifth district shall encompass Snohomish county except for the Northshore common school district and that portion encompassed by the twenty-third district created in subsection (23) of this section: PROVIDED, That the fifth district shall encompass the Everett Community College;

(6) The sixth district shall encompass the present boundaries of the common school districts of Seattle and Vashon Island, King county;

(7) The seventh district shall encompass the present boundary of the common school district of Shoreline in King county;

(8) The eighth district shall encompass the present boundaries of the common school districts of Bellevue, Issaquah, Mercer Island, Skykomish and Snoqualmie, King county;

(9) The ninth district shall encompass the present boundaries of the common school districts of Federal Way, Highline and South Central, King county;

(10) The tenth district shall encompass the present boundaries of the common school districts of Auburn, Black Diamond, Renton, Enumclaw, Kent, Lester and Tahoma, King county, and the King county portion of Puyallup common school district No. 3;

(11) The eleventh district shall encompass all of Pierce county, except for the present boundaries of the common school districts of Tacoma and Peninsula;

(12) The twelfth district shall encompass Lewis county, the Rochester common school district No. 401, the Tenino common school district No. 402 of Thurston county, and the Thurston county portion of the Centralia common school district No. 401;

(13) The thirteenth district shall encompass the counties of Cowlitz, and Wahkiakum;

(14) The fourteenth district shall encompass the counties of Clark, Skamania and that portion of Klickitat county not included in the sixteenth district;

(15) The fifteenth district shall encompass the counties of Chelan, Douglas and Okanogan;

(16) The sixteenth district shall encompass the counties of Kittitas, Yakima, and that portion of Klickitat county included in United States census divisions 1 through 4;

(17) The seventeenth district shall encompass the counties of Ferry, Lincoln (except consolidated school district 105-157-166J and the Lincoln county portion of common school district 167-202), Pend Oreille, Spokane, Stevens and Whitman;

(18) The eighteenth district shall encompass the counties of Adams and Grant, and that portion of Lincoln county comprising consolidated school district 105-157-166J and common school district 167-202;

(19) The nineteenth district shall encompass the counties of Benton and Franklin;

(20) The twentieth district shall encompass the counties of Asotin, Columbia, Garfield and Walla Walla;

(21) The twenty-first district shall encompass Whatcom county;

(22) The twenty-second district shall encompass the present boundaries of the common school districts of Tacoma and Peninsula, Pierce county;

(23) The twenty-third district shall encompass that portion of Snohomish county within such boundaries as the state board for community and technical colleges shall determine: PROVIDED, That the twenty-third district shall encompass the Edmonds Community College;

(24) The twenty-fourth district shall encompass all of Thurston county except the Rochester common school district No. 401, the Tenino common school district No. 402, and the Thurston county portion of the Centralia common school district No. 401;

(25) The twenty-fifth district shall encompass all of Whatcom county;

(26) The twenty-sixth district shall encompass the Northshore, Lake Washington, Bellevue, Mercer Island, Issaquah, Riverview, Snoqualmie Valley and Skykomish school districts;

(27) The twenty-seventh district shall encompass the Renton, Kent, Auburn, Tahoma, and Enumclaw school districts and a portion of the Seattle school district described as follows: Commencing at a point established by the intersection of the Duwamish river and the south boundary of the Seattle Community College District (number six) and thence north along the centerline of the Duwamish river to the west waterway; thence north along the centerline of the west waterway to Elliot Bay; thence along Elliot Bay to a line established by the intersection of the extension of Denny Way to Elliot Bay; thence east along the line established by the centerline of Denny Way to Lake Washington; thence south along the shoreline of Lake Washington to the south line of the Seattle Community College District; and thence west along the south line of the Seattle Community College District to the point of beginning;

(28) The twenty-eighth district shall encompass all of Pierce county;

(29) The twenty-ninth district shall encompass all of Pierce county; and

(30) The thirtieth district shall encompass the present boundaries of the common school districts of Lake Washington and Riverview in King county and Northshore in King and Snohomish counties.

[1994 c 217 § 2; 1991 c 238 § 23; 1988 c 77 § 1; 1981 c 72 § 1; 1973 1st ex.s. c 46 § 7; 1969 ex.s. c 223 § 28B.50.040. Prior: 1967 ex.s. c 8 § 4. Formerly RCW 28.85.040.]

Notes:

Effective date--1994 c 217: See note following RCW 28B.45.0201.

Findings--1994 c 217: See RCW 28B.45.0201.

Effective date--1988 c 77: "Section 2 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately. The remainder of this act shall take effect July 1, 1988." [1988 c 77 § 12.]

Severability--1988 c 77: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 77 § 11.]

District No. 23 Interlocal cooperation agreements by school districts in Snohomish county authorized--1981 c 72: "Any school district within Snohomish county may enter into interlocal cooperation agreements with any community college located within Snohomish county pursuant to the provisions of chapter 39.34 RCW." [1981 c 72 § 8.]

Savings--Provisions of existing collective bargaining agreement--1981 c 72: "Nothing contained in this amendatory act shall be construed to alter any provision of any existing collective bargaining agreement until any such agreement has expired or been modified pursuant to chapter 28B.52 RCW." [1981 c 72 § 9.]

Savings--Generally--1981 c 72: "Nothing in this amendatory act shall be construed to affect any existing rights, nor as affecting any actions, activities, or proceedings validated prior to the effective date of this amendatory act, nor as affecting any civil or criminal proceedings, nor any rule, regulation, or order promulgated, nor any administrative action taken prior to the effective date of this amendatory act, and the validity of any act performed with respect to Edmonds Community College, or any officer or employee thereof prior to the effective date of this amendatory act, is hereby validated." [1981 c 72 § 10.]

Effective date of this amendatory act defined--1981 c 72: "The phrase "the effective date of this amendatory act" as used in sections 3, 4, 6 and 10 of this amendatory act shall mean July 1, 1981: PROVIDED, That nothing in this amendatory act shall prohibit any transfers mandated in section 4 hereof nor the action contemplated in section 11 hereof prior to such July 1, 1981." [1981 c 72 § 12.]

Severability--1981 c 72: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 72 § 13.]

Severability--1973 1st ex.s. c 46: See note following RCW 28B.10.704.

RCW 28B.50.050 State board for community and technical colleges.

There is hereby created the "state board for community and technical colleges", to consist of nine members who represent the geographic diversity of the state, and who shall be appointed by the governor, with the consent of the senate. At least two members shall reside east of the Cascade mountains. In making these appointments, the governor shall attempt to provide geographic balance and give consideration to representing labor, business, women, and racial and ethnic minorities, among the membership of the board. At least one member of the board shall be from business and at least one member of the board shall be from labor. The current members of the state board for community college education on September 1, 1991, shall serve on the state board for community and technical colleges until their terms expire. Successors to these members shall be appointed according to the terms of this section. A ninth member shall be appointed by September 1, 1991, for a complete term.

The successors of the members initially appointed shall be appointed for terms of four years except that a person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed only for the remainder of such term. Each member shall serve until the appointment and qualification of his or her successor. All members shall be citizens and bona fide residents of the state.

Members of the college board shall be compensated in accordance with RCW 43.03.240 and shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060 for each day actually spent in attending to the duties as a member of the college board.

The members of the college board may be removed by the governor for inefficiency, neglect of duty, or malfeasance in office, in the manner provided by RCW 28B.10.500.

[1991 c 238 § 30; 1988 c 76 § 1; 1984 c 287 § 64; 1982 1st ex.s. c 30 § 9; 1975-'76 2nd ex.s. c 34 § 74; 1973 c 62 § 13; 1969 ex.s. c 261 § 19; 1969 ex.s. c 223 § 28B.50.050. Prior: 1967 ex.s. c 8 § 5.]

Notes:

Legislative findings--Severability--Effective date--1984 c 287: See notes following RCW 43.03.220.

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Savings--Severability--1973 c 62: See notes following RCW 28B.10.510.

Severability--1969 ex.s. c 261: See note following RCW 28B.50.020.

Appointment of director of state system of community and technical colleges, by: RCW 28B.50.060.

Bond issue for capital projects for community colleges, 1981, board duties: RCW 28B.59D.010 through 28B.59D.070.

Displaced homemaker act, board participation: RCW 28B.04.080.

Employees of, appointment and employment of: RCW 28B.50.060.

Occupational forecast--Agency consultation: RCW 50.38.030.

Powers and duties: RCW 28B.50.090.

RCW 28B.50.060 Director of the state system of community and technical colleges--Appointment--Term--Qualifications--Salary and travel expenses--Duties.

A director of the state system of community and technical colleges shall be appointed by the college board and shall serve at the pleasure of the college board. The director shall be appointed with due regard to the applicant's fitness and background in education, and knowledge of and recent practical experience in the field of educational administration particularly in institutions beyond the high school level. The college board may also take into consideration an applicant's proven management background even though not particularly in the field of education.

The director shall devote his or her time to the duties of his or her office and shall not have any direct pecuniary interest in or any stock or bonds of any business connected with or selling supplies to the field of education within this state, in keeping with chapter 42.52 RCW.

The director shall receive a salary to be fixed by the college board and shall be reimbursed for travel expenses incurred in the discharge of his or her official duties in accordance with RCW 43.03.050 and 43.03.060.

The director shall be the executive officer of the college board and serve as its secretary and under its supervision shall administer the provisions of this chapter and the rules and orders

established thereunder and all other laws of the state. The director shall attend, but not vote at, all meetings of the college board. The director shall be in charge of offices of the college board and responsible to the college board for the preparation of reports and the collection and dissemination of data and other public information relating to the state system of community and technical colleges. At the direction of the college board, the director shall, together with the chairman of the college board, execute all contracts entered into by the college board.

The director shall, with the approval of the college board: (1) Employ necessary assistant directors of major staff divisions who shall serve at the director's pleasure on such terms and conditions as the director determines, and (2) subject to the provisions of chapter 41.06 RCW the director shall, with the approval of the college board, appoint and employ such field and office assistants, clerks and other employees as may be required and authorized for the proper discharge of the functions of the college board and for whose services funds have been appropriated.

The board may, by written order filed in its office, delegate to the director any of the powers and duties vested in or imposed upon it by this chapter. Such delegated powers and duties may be exercised by the director in the name of the college board.

[1994 c 154 § 306; 1991 c 238 § 31; 1975-'76 2nd ex.s. c 34 § 75; 1973 1st ex.s. c 46 § 8; 1973 c 62 § 14; 1969 ex.s. c 261 § 20; 1969 ex.s. c 223 § 28B.50.060. Prior: 1967 ex.s. c 8 § 6.]

Notes:

Parts and captions not law--Effective date--Severability--1994 c 154: See RCW 42.52.902, 42.52.904, and 42.52.905.

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Severability--1973 1st ex.s. c 46: See note following RCW 28B.10.704.

Savings--Severability--1973 c 62: See notes following RCW 28B.10.510.

Severability--1969 ex.s. c 261: See note following RCW 28B.50.020.

High-technology coordinating board, director or designee member of: RCW 28B.65.040.

RCW 28B.50.070 College board--Organization--Meetings--Quorum--Biennial report--Fiscal year.

The governor shall make the appointments to the college board.

The college board shall organize, adopt a seal, and adopt bylaws for its administration, not inconsistent herewith, as it may deem expedient and may from time to time amend such bylaws. Annually the board shall elect a chairperson and vice chairperson; all to serve until their successors are appointed and qualified. The college board shall at its initial meeting fix a date and place for its regular meeting. Five members shall constitute a quorum, and no meeting shall be held with less than a quorum present, and no action shall be taken by less than a majority of the college board.

Special meetings may be called as provided by its rules and regulations. Regular meetings shall be held at the college board's established offices in Olympia, but whenever the convenience of the public or of the parties may be promoted, or delay or expenses may be prevented, it may hold its meetings, hearings or proceedings at any other place designated by it.

Subject to RCW 40.07.040, the college board shall transmit a report in writing to the governor biennially which report shall contain such information as may be requested by the governor. The fiscal year of the college board shall conform to the fiscal year of the state.

[1987 c 505 § 15; 1986 c 130 § 1; 1977 c 75 § 26; 1973 c 62 § 15; 1969 ex.s. c 223 § 28B.50.070. Prior: 1967 ex.s. c 8 § 7. Formerly RCW 28.85.070.]

Notes:

Savings--Severability--1973 c 62: See notes following RCW 28B.10.510.

Fiscal year defined: RCW 43.88.020.

RCW 28B.50.080 College board--Offices and office equipment, including necessary expenses.

Suitable offices and office equipment shall be provided by the state for the college board in the city of Olympia, and the college board may incur the necessary expense for office furniture, stationery, printing, incidental expenses, and other expenses necessary for the administration of this chapter.

[1969 ex.s. c 223 § 28B.50.080. Prior: 1967 ex.s. c 8 § 8. Formerly RCW 28.85.080.]

RCW 28B.50.085 College board--Treasurer--Appointment, duties, bond--Depository.

The state board for community and technical colleges shall appoint a treasurer who shall be the financial officer of the board, who shall make such vendor payments and salary payments for the entire community and technical college system as authorized by the state board, and who shall hold office during the pleasure of the board. All moneys received by the state board and not required to be deposited elsewhere, shall be deposited in a depository selected by the board, which moneys shall be subject to the budgetary and audit provisions of law applicable to state agencies. The depository selected by the state board shall conform to the collateral requirements required for the deposit of other state funds. Disbursement shall be made by check signed by the treasurer. The treasurer shall render a true and faithful account of all moneys received and paid out by him or her and shall give bond for the faithful performance of the duties of his or her office in such amount as the board requires: PROVIDED, That the board shall pay the fee for any such bonds.

[1991 c 238 § 32; 1981 c 246 § 4.]

Notes:

Severability--1981 c 246: See note following RCW 28B.50.090.

RCW 28B.50.090 College board--Powers and duties.

The college board shall have general supervision and control over the state system of community and technical colleges. In addition to the other powers and duties imposed upon the college board by this chapter, the college board shall be charged with the following powers,

duties and responsibilities:

(1) Review the budgets prepared by the boards of trustees, prepare a single budget for the support of the state system of community and technical colleges and adult education, and submit this budget to the governor as provided in RCW 43.88.090;

(2) Establish guidelines for the disbursement of funds; and receive and disburse such funds for adult education and maintenance and operation and capital support of the college districts in conformance with the state and district budgets, and in conformance with chapter 43.88 RCW;

(3) Ensure, through the full use of its authority:

(a) That each college district shall offer thoroughly comprehensive educational, training and service programs to meet the needs of both the communities and students served by combining high standards of excellence in academic transfer courses; realistic and practical courses in occupational education, both graded and ungraded; and community services of an educational, cultural, and recreational nature; and adult education, including basic skills and general, family, and work force literacy programs and services. However, technical colleges, and college districts containing only technical colleges, shall maintain programs solely for occupational education, basic skills, and literacy purposes. For as long as a need exists, technical colleges may continue those programs, activities, and services they offered during the twelve-month period preceding May 17, 1991;

(b) That each college district shall maintain an open-door policy, to the end that no student will be denied admission because of the location of the student's residence or because of the student's educational background or ability; that, insofar as is practical in the judgment of the college board, curriculum offerings will be provided to meet the educational and training needs of the community generally and the students thereof; and that all students, regardless of their differing courses of study, will be considered, known and recognized equally as members of the student body: PROVIDED, That the administrative officers of a community or technical college may deny admission to a prospective student or attendance to an enrolled student if, in their judgment, the student would not be competent to profit from the curriculum offerings of the college, or would, by his or her presence or conduct, create a disruptive atmosphere within the college not consistent with the purposes of the institution. This subsection (b) shall not apply to competency, conduct, or presence associated with a disability in a person twenty-one years of age or younger attending a technical college;

(4) Prepare a comprehensive master plan for the development of community and technical college education and training in the state; and assist the office of financial management in the preparation of enrollment projections to support plans for providing adequate college facilities in all areas of the state;

(5) Define and administer criteria and guidelines for the establishment of new community and technical colleges or campuses within the existing districts;

(6) Establish criteria and procedures for modifying district boundary lines consistent with the purposes set forth in RCW 28B.50.020 as now or hereafter amended and in accordance therewith make such changes as it deems advisable;

(7) Establish minimum standards to govern the operation of the community and technical

colleges with respect to:

(a) Qualifications and credentials of instructional and key administrative personnel, except as otherwise provided in the state plan for vocational education,

(b) Internal budgeting, accounting, auditing, and financial procedures as necessary to supplement the general requirements prescribed pursuant to chapter 43.88 RCW,

(c) The content of the curriculums and other educational and training programs, and the requirement for degrees and certificates awarded by the colleges,

(d) Standard admission policies,

(e) Eligibility of courses to receive state fund support;

(8) Establish and administer criteria and procedures for all capital construction including the establishment, installation, and expansion of facilities within the various college districts;

(9) Encourage innovation in the development of new educational and training programs and instructional methods; coordinate research efforts to this end; and disseminate the findings thereof;

(10) Exercise any other powers, duties and responsibilities necessary to carry out the purposes of this chapter;

(11) Authorize the various community and technical colleges to offer programs and courses in other districts when it determines that such action is consistent with the purposes set forth in RCW 28B.50.020 as now or hereafter amended;

(12) Notwithstanding any other law or statute regarding the sale of state property, sell or exchange and convey any or all interest in any community and technical college real and personal property, except such property as is received by a college district in accordance with RCW 28B.50.140(8), when it determines that such property is surplus or that such a sale or exchange is in the best interests of the community and technical college system;

(13) In order that the treasurer for the state board for community and technical colleges appointed in accordance with RCW 28B.50.085 may make vendor payments, the state treasurer will honor warrants drawn by the state board providing for an initial advance on July 1, 1982, of the current biennium and on July 1 of each succeeding biennium from the state general fund in an amount equal to twenty-four percent of the average monthly allotment for such budgeted biennium expenditures for the state board for community and technical colleges as certified by the office of financial management; and at the conclusion of such initial month and for each succeeding month of any biennium, the state treasurer will reimburse expenditures incurred and reported monthly by the state board treasurer in accordance with chapter 43.88 RCW: PROVIDED, That the reimbursement to the state board for actual expenditures incurred in the final month of each biennium shall be less the initial advance made in such biennium;

(14) Notwithstanding the provisions of subsection (12) of this section, may receive such gifts, grants, conveyances, devises, and bequests of real or personal property from private sources as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the community and technical college programs and may sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof;

(15) The college board shall have the power of eminent domain;

(16) Provide general supervision over the state's technical colleges. The president of each technical college shall report directly to the director of the state board for community and technical colleges, or the director's designee, until local control is assumed by a new or existing board of trustees as appropriate, except that a college president shall have authority over program decisions of his or her college until the establishment of a board of trustees for that college. The directors of the vocational-technical institutes on March 1, 1991, shall be designated as the presidents of the new technical colleges.

[1991 c 238 § 33; 1982 c 50 § 1; 1981 c 246 § 2; 1979 c 151 § 20; 1977 ex.s. c 282 § 4; 1973 c 62 § 16; 1969 ex.s. c 261 § 21; 1969 ex.s. c 223 § 28B.50.090. Prior: 1967 ex.s. c 8 § 9.]

Notes:

Severability--1981 c 246: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 246 § 6.]

Severability--1977 ex.s. c 282: See note following RCW 28B.50.870.

Savings--Severability--1973 c 62: See notes following RCW 28B.10.510.

Severability--1969 ex.s. c 261: See note following RCW 28B.50.020.

Construction, reconstruction, equipping facilities--Financing: RCW 28B.50.340.
Development of budget: RCW 43.88.090.
Eminent domain: Title 8 RCW.
State budgeting, accounting, and reporting system: Chapter 43.88 RCW.

RCW 28B.50.091 College board--Board to waive fees for students finishing their high school education.

See RCW 28B.15.520.

RCW 28B.50.092 College board--Program for military personnel--Restrictions as to high school completion program.

The state board for community and technical colleges may authorize any board of trustees to do all things necessary to conduct an education, training, and service program authorized by chapter 28B.50 RCW, as now or hereafter amended, for United States military personnel and their dependents, and department of defense civilians and their dependents, at any geographical location: PROVIDED, That such programs shall be limited to those colleges which conducted programs for United States military personnel prior to January 1, 1977: PROVIDED FURTHER, That any high school completion program conducted pursuant to this section shall comply with standards set forth in rules and regulations promulgated by the superintendent of public instruction and the state board of education: AND PROVIDED FURTHER, That the superintendent of public instruction shall issue the certificate or diploma in recognition of high school completion education provided pursuant to this section.

[1991 c 238 § 34; 1977 ex.s. c 131 § 1; 1973 c 105 § 1.]

RCW 28B.50.093 College board--Program for military personnel--Limitation.

Prior to the state board granting authorization for any programs authorized under RCW 28B.50.092, the state board shall determine that such authorization will not deter from the primary functions of the community and technical college system within the state of Washington as prescribed by chapter 28B.50 RCW.

[1991 c 238 § 35; 1973 c 105 § 2.]

RCW 28B.50.094 College board--Program for military personnel--Costs of funding.

The costs of funding programs authorized by RCW 28B.50.092 through 28B.50.094 shall ultimately be borne by grants or fees derived from nonstate treasury sources.

[1973 c 105 § 3.]

RCW 28B.50.095 College board--Registration at more than one community and technical college.

In addition to other powers and duties, the college board may issue rules and regulations permitting a student to register at more than one community and technical college, provided that such student shall pay tuition and fees as if the student were registered at a single college, but not to exceed tuition and fees charged a full-time student as established under chapter 28B.15 RCW.

[1995 1st sp.s. c 9 § 11; 1991 c 238 § 36; 1983 c 3 § 40; 1973 c 129 § 1.]

Notes:

Intent--Purpose--Effective date--1995 1st sp.s. c 9: See notes following RCW 28B.15.031.

RCW 28B.50.096 College board--Cooperation with work force training and education coordinating board.

The college board shall cooperate with the work force training and education coordinating board in the conduct of the board's responsibilities under RCW 28C.18.060 and shall provide information and data in a format that is accessible to the board.

[1991 c 238 § 79.]

RCW 28B.50.097 Electronic job bank.

(1) The college board shall create an electronic job bank on its web site to act as a clearinghouse for people seeking academic teaching positions at the state's community and technical colleges. The job bank must be accessible on the internet. Use of the electronic job bank is not mandatory.

(2) The college board shall include a separate section on its electronic job bank reserved for the exclusive listing of part-time academic employment opportunities at state community and

technical colleges.

(3) The separate section of the electronic job bank under subsection (2) of this section must, at a minimum, include an internet link to each of the following components, if available from the community or technical college offering the employment opportunity:

(a) A description of the open position;

(b) A listing of required skills and experience necessary for the position; and

(c) The district where the employment opening exists.

(4) The college board shall develop a strategy to promote its electronic job bank to prospective candidates.

[2001 c 110 § 1.]

RCW 28B.50.098 Appointment of trustees for new college district.

In the event a new college district is created, the governor shall appoint new trustees to the district's board of trustees in accordance with RCW 28B.50.100.

[1991 c 238 § 134.]

RCW 28B.50.100 Boards of trustees--Generally.

There is hereby created a board of trustees for each college district as set forth in this chapter. Each board of trustees shall be composed of five trustees, who shall be appointed by the governor for terms commencing October 1st of the year in which appointed. In making such appointments the governor shall give consideration to geographical diversity, and representing labor, business, women, and racial and ethnic minorities, in the membership of the boards of trustees. The boards of trustees for districts containing technical colleges shall include at least one member from business and one member from labor.

The successors of the trustees initially appointed shall be appointed by the governor to serve for a term of five years except that any person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed only for the remainder of the term. Each member shall serve until a successor is appointed and qualified.

Every trustee shall be a resident and qualified elector of the college district. No trustee may be an employee of the community and technical college system, a member of the board of directors of any school district, or a member of the governing board of any public or private educational institution.

Each board of trustees shall organize itself by electing a chairman from its members. The board shall adopt a seal and may adopt such bylaws, rules and regulations as it deems necessary for its own government. Three members of the board shall constitute a quorum, but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner as prescribed in its bylaws, rules, or regulations. The district president, or if there be none, the president of the college, shall serve as, or may designate another person to serve as, the secretary of the board, who shall not be deemed to be a member of the board.

Members of the boards of trustees may be removed for misconduct or malfeasance in

office in the manner provided by RCW 28B.10.500.

[1991 c 238 § 37; 1987 c 330 § 1001; 1983 c 224 § 1; 1979 ex.s. c 103 § 1; 1977 ex.s. c 282 § 2; 1973 c 62 § 17; 1969 ex.s. c 261 § 22; 1969 ex.s. c 223 § 28B.50.100. Prior: 1967 ex.s. c 8 § 10.]

Notes:

Construction--Application of rules--Severability--1987 c 330: See notes following RCW 28B.12.050.

Severability--1979 ex.s. c 103: See note following RCW 28B.20.100.

Severability--1977 ex.s. c 282: See note following RCW 28B.50.870.

Effective date--1977 ex.s. c 282 §§ 2, 3: "Sections 2 and 3 of this 1977 amendatory act shall not take effect until January 1, 1978." [1977 ex.s. c 282 § 9.]

Savings--Severability--1973 c 62: See notes following RCW 28B.10.510.

Severability--1969 ex.s. c 261: See note following RCW 28B.50.020.

Chief executive officer as secretary of board: RCW 28B.50.130.

RCW 28B.50.130 Boards of trustees--Bylaws, rules, and regulations--Chair and vice-chair--Terms--Quorum.

Within thirty days of their appointment the various district boards of trustees shall organize, adopt bylaws for its own government, and make such rules and regulations not inconsistent with this chapter as they deem necessary. At such organizational meeting it shall elect from among its members a chair and vice-chair, each to serve for one year, and annually thereafter shall elect such officers to serve until their successors are appointed or qualified. The chief executive officer of the college district, or designee, shall serve as secretary of the board. Three trustees shall constitute a quorum, and no action shall be taken by less than a majority of the trustees of the board. The district boards shall transmit such reports to the college board as may be requested by the college board. The fiscal year of the district boards shall conform to the fiscal year of the state.

[1991 c 238 § 38; 1977 c 75 § 27; 1973 c 62 § 18; 1969 ex.s. c 223 § 28B.50.130. Prior: 1967 ex.s. c 8 § 13. Formerly RCW 28.85.130.]

Notes:

Savings--Severability--1973 c 62: See notes following RCW 28B.10.510.

District president or president of college as secretary of board: RCW 28B.50.100.

Fiscal year defined: RCW 43.88.020.

RCW 28B.50.140 Boards of trustees--Powers and duties.

Each board of trustees:

(1) Shall operate all existing community and technical colleges in its district;

(2) Shall create comprehensive programs of community and technical college education and training and maintain an open-door policy in accordance with the provisions of RCW 28B.50.090(3). However, technical colleges, and college districts containing only technical colleges, shall maintain programs solely for occupational education, basic skills, and literacy purposes. For as long as a need exists, technical colleges may continue those programs, activities, and services they offered during the twelve-month period preceding September 1,

1991;

(3) Shall employ for a period to be fixed by the board a college president for each community and technical college and, may appoint a president for the district, and fix their duties and compensation, which may include elements other than salary. Compensation under this subsection shall not affect but may supplement retirement, health care, and other benefits that are otherwise applicable to the presidents as state employees. The board shall also employ for a period to be fixed by the board members of the faculty and such other administrative officers and other employees as may be necessary or appropriate and fix their salaries and duties. Compensation and salary increases under this subsection shall not exceed the amount or percentage established for those purposes in the state appropriations act by the legislature as allocated to the board of trustees by the state board for community and technical colleges. The state board for community and technical colleges shall adopt rules defining the permissible elements of compensation under this subsection;

(4) May establish, under the approval and direction of the college board, new facilities as community needs and interests demand. However, the authority of boards of trustees to purchase or lease major off-campus facilities shall be subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.340(5);

(5) May establish or lease, operate, equip and maintain dormitories, food service facilities, bookstores and other self-supporting facilities connected with the operation of the community and technical college;

(6) May, with the approval of the college board, borrow money and issue and sell revenue bonds or other evidences of indebtedness for the construction, reconstruction, erection, equipping with permanent fixtures, demolition and major alteration of buildings or other capital assets, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances, for dormitories, food service facilities, and other self-supporting facilities connected with the operation of the community and technical college in accordance with the provisions of RCW 28B.10.300 through 28B.10.330 where applicable;

(7) May establish fees and charges for the facilities authorized hereunder, including reasonable rules and regulations for the government thereof, not inconsistent with the rules and regulations of the college board; each board of trustees operating a community and technical college may enter into agreements, subject to rules and regulations of the college board, with owners of facilities to be used for housing regarding the management, operation, and government of such facilities, and any board entering into such an agreement may:

(a) Make rules and regulations for the government, management and operation of such housing facilities deemed necessary or advisable; and

(b) Employ necessary employees to govern, manage and operate the same;

(8) May receive such gifts, grants, conveyances, devises and bequests of real or personal property from private sources, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the community and technical college programs as specified by law and the regulations of the state college board; sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure

of the proceeds, rents, profits and income thereof;

(9) May establish and maintain night schools whenever in the discretion of the board of trustees it is deemed advisable, and authorize classrooms and other facilities to be used for summer or night schools, or for public meetings and for any other uses consistent with the use of such classrooms or facilities for community and technical college purposes;

(10) May make rules and regulations for pedestrian and vehicular traffic on property owned, operated, or maintained by the district;

(11) Shall prescribe, with the assistance of the faculty, the course of study in the various departments of the community and technical college or colleges under its control, and publish such catalogues and bulletins as may become necessary;

(12) May grant to every student, upon graduation or completion of a course of study, a suitable diploma, nonbaccalaureate degree or certificate. Technical colleges shall offer only nonbaccalaureate technical degrees under the rules of the state board for community and technical colleges that are appropriate to their work force education and training mission. The primary purpose of this degree is to lead the individual directly to employment in a specific occupation. Technical colleges may not offer transfer degrees. The board, upon recommendation of the faculty, may also confer honorary associate of arts degrees upon persons other than graduates of the community college, in recognition of their learning or devotion to education, literature, art, or science. No degree may be conferred in consideration of the payment of money or the donation of any kind of property;

(13) Shall enforce the rules and regulations prescribed by the state board for community and technical colleges for the government of community and technical colleges, students and teachers, and promulgate such rules and regulations and perform all other acts not inconsistent with law or rules and regulations of the state board for community and technical colleges as the board of trustees may in its discretion deem necessary or appropriate to the administration of college districts: PROVIDED, That such rules and regulations shall include, but not be limited to, rules and regulations relating to housing, scholarships, conduct at the various community and technical college facilities, and discipline: PROVIDED, FURTHER, That the board of trustees may suspend or expel from community and technical colleges students who refuse to obey any of the duly promulgated rules and regulations;

(14) May, by written order filed in its office, delegate to the president or district president any of the powers and duties vested in or imposed upon it by this chapter. Such delegated powers and duties may be exercised in the name of the district board;

(15) May perform such other activities consistent with this chapter and not in conflict with the directives of the college board;

(16) Notwithstanding any other provision of law, may offer educational services on a contractual basis other than the tuition and fee basis set forth in chapter 28B.15 RCW for a special fee to private or governmental entities, consistent with rules and regulations adopted by the state board for community and technical colleges: PROVIDED, That the whole of such special fee shall go to the college district and be not less than the full instructional costs of such services including any salary increases authorized by the legislature for community and technical college employees during the term of the agreement: PROVIDED FURTHER, That enrollments

generated hereunder shall not be counted toward the official enrollment level of the college district for state funding purposes;

(17) Notwithstanding any other provision of law, may offer educational services on a contractual basis, charging tuition and fees as set forth in chapter 28B.15 RCW, counting such enrollments for state funding purposes, and may additionally charge a special supplemental fee when necessary to cover the full instructional costs of such services: PROVIDED, That such contracts shall be subject to review by the state board for community and technical colleges and to such rules as the state board may adopt for that purpose in order to assure that the sum of the supplemental fee and the normal state funding shall not exceed the projected total cost of offering the educational service: PROVIDED FURTHER, That enrollments generated by courses offered on the basis of contracts requiring payment of a share of the normal costs of the course will be discounted to the percentage provided by the college;

(18) Shall be authorized to pay dues to any association of trustees that may be formed by the various boards of trustees; such association may expend any or all of such funds to submit biennially, or more often if necessary, to the governor and to the legislature, the recommendations of the association regarding changes which would affect the efficiency of such association;

(19) Subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.340(4), may participate in higher education centers and consortia that involve any four-year public or independent college or university; and

(20) Shall perform any other duties and responsibilities imposed by law or rule and regulation of the state board.

[1997 c 281 § 1. Prior: 1991 c 238 § 39; 1991 c 58 § 1; 1990 c 135 § 1; prior: 1987 c 407 § 1; 1987 c 314 § 14; 1985 c 370 § 96; 1981 c 246 § 3; 1979 ex.s. c 226 § 11; 1979 c 14 § 6; prior: 1977 ex.s. c 282 § 5; 1977 c 75 § 28; 1973 c 62 § 19; 1970 ex.s. c 15 § 17; prior: 1969 ex.s. c 283 § 30; 1969 ex.s. c 261 § 23; 1969 ex.s. c 223 § 28B.50.140; prior: 1967 ex.s. c 8 § 14.]

Notes:

Severability--1987 c 314: See RCW 28B.52.900.
Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.
Severability--1981 c 246: See note following RCW 28B.50.090.
Effective date--Severability--1979 ex.s. c 226: See notes following RCW 28B.59C.010.
Severability--1977 ex.s. c 282: See note following RCW 28B.50.870.
Savings--Severability--1973 c 62: See notes following RCW 28B.10.510.
Severability--1970 ex.s. c 15: See note following RCW 28A.230.160.
Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.
Severability--1969 ex.s. c 261: See note following RCW 28B.50.020.

RCW 28B.50.1401 Lake Washington Technical College board of trustees.

There is hereby created a board of trustees for district twenty-six and Lake Washington Vocational-Technical Institute, hereafter known as Lake Washington Technical College. The members of the board shall be appointed pursuant to the provisions of RCW 28B.50.100.

[1991 c 238 § 24.]

RCW 28B.50.1402 Renton Technical College board of trustees.

There is hereby created a board of trustees for district twenty-seven and Renton Vocational-Technical Institute, hereafter known as Renton Technical College. The members of the board shall be appointed pursuant to the provisions of RCW 28B.50.100.

[1991 c 238 § 25.]

RCW 28B.50.1403 Bellingham Technical College board of trustees.

There is hereby created a board of trustees for district twenty-five and Bellingham Vocational-Technical Institute, hereafter known as Bellingham Technical College. The members of the board shall be appointed pursuant to the provisions of RCW 28B.50.100.

[1991 c 238 § 26.]

RCW 28B.50.1404 Bates Technical College board of trustees.

There is hereby created a new board of trustees for district twenty-eight and Bates Vocational-Technical Institute, hereafter known as Bates Technical College. The members of the board shall be appointed pursuant to the provisions of RCW 28B.50.100.

[1991 c 238 § 27.]

RCW 28B.50.1405 Clover Park Technical College board of trustees.

There is hereby created a new board of trustees for district twenty-nine and Clover Park Vocational-Technical Institute, hereafter known as Clover Park Technical College. The members of the board shall be appointed pursuant to the provisions of RCW 28B.50.100.

[1991 c 238 § 28.]

RCW 28B.50.1406 Cascadia Community College board of trustees.

There is hereby created a board of trustees for district thirty and Cascadia Community College. The members of the board shall be appointed pursuant to the provisions of RCW 28B.50.100.

[1994 c 217 § 4.]

Notes:

Effective date--1994 c 217: See note following RCW 28B.45.0201.
Findings--1994 c 217: See RCW 28B.45.0201.

RCW 28B.50.141 Credits--State-wide transfer policy and agreement--Establishment.

See RCW 28B.80.280 and 28B.80.290.

RCW 28B.50.142 Treasurer of board--Duties--Bond.

Each board of trustees shall appoint a treasurer who shall be the financial officer of the board and who shall hold office during the pleasure of the board. Each treasurer shall render a true and faithful account of all moneys received and paid out by him or her, comply with the provisions of RCW 28B.50.143, and shall give bond for the faithful performance of the duties of his or her office in such amount as the trustees require: PROVIDED, That the respective community and technical colleges shall pay the fees for any such bonds.

[1991 c 238 § 40; 1977 ex.s. c 331 § 1.]

Notes:

Effective date--Severability--1977 ex.s. c 331: See notes following RCW 28B.15.031.

RCW 28B.50.143 Vendor payments, advances or reimbursements for.

In order that each college treasurer appointed in accordance with RCW 28B.50.142 may make vendor payments, the state treasurer will honor warrants drawn by each community and technical college providing for one initial advance on July 1 of each succeeding biennium from the state general fund in an amount equal to seventeen percent of each institution's average monthly allotment for such budgeted biennium expenditures as certified by the office of financial management, and at the conclusion of each such initial month, and for each succeeding month of any biennium, the state treasurer will reimburse each institution for each expenditure incurred and reported monthly by each college treasurer in accordance with chapter 43.83 RCW: PROVIDED, That the reimbursement to each institution for actual expenditures incurred in the final month of each biennium shall be less the initial advance.

[1991 c 238 § 41; 1985 c 180 § 1; 1979 c 151 § 21; 1977 ex.s. c 331 § 2.]

Notes:

Effective date--Severability--1977 ex.s. c 331: See notes following RCW 28B.15.031.

RCW 28B.50.145 Community or technical college faculty senate.

The boards of trustees of the various college districts may create at each community or technical college under their control a faculty senate or similar organization to be selected by periodic vote of the respective faculties thereof.

[1991 c 238 § 42; 1969 ex.s. c 283 § 51. Formerly RCW 28.85.145.]

Notes:

Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28B.50.150 Out-of-district residence not to affect enrollment for state resident.

Any resident of the state may enroll in any program or course maintained or conducted by a college district upon the same terms and conditions regardless of the district of his or her

residence.

[1991 c 238 § 43; 1969 ex.s. c 223 § 28B.50.150. Prior: 1967 ex.s. c 8 § 15. Formerly RCW 28.85.150.]

RCW 28B.50.195 Intercollegiate coaches--Minimum standards encouraged.

The state board for community and technical colleges in consultation with the Northwest athletic association of community colleges and other interested parties shall encourage community colleges to ensure that intercollegiate coaches meet the following minimum standards:

(1) Verification of up-to-date certification in first aid and cardiopulmonary resuscitation;

(2) Maintaining knowledge of Northwest athletic association of community colleges codes, rules, and institutional policy; and

(3) Encouragement of coaches to participate in appropriate in-service training and activities.

[1993 c 94 § 2.]

Notes:

Policy--1993 c 94: "The legislature supports the establishment of minimum standards for intercollegiate coaches and a process to ensure the safety and appropriate skill development of student athletes." [1993 c 94 § 1.]

RCW 28B.50.196 Intercollegiate coaches--Training to promote coaching competence and techniques.

The community and technical colleges are encouraged to provide training to promote development of coaching competence and to enhance the coaching techniques of intercollegiate coaches. The community and technical colleges may offer this educational service to coaches in the community and technical colleges, common schools, amateur teams, youth groups, and community sports groups. The community and technical colleges may provide this educational service through curriculum courses, workshops, or in-service training.

[1993 c 94 § 3.]

Notes:

Policy--1993 c 94: See note following RCW 28B.50.195.

RCW 28B.50.205 AIDS information--Community and technical colleges.

The state board for community and technical colleges shall make information available to all newly matriculated students on methods of transmission of the human immunodeficiency virus and prevention of acquired immunodeficiency syndrome. The curricula and materials shall be reviewed for medical accuracy by the office on AIDS in coordination with the appropriate regional AIDS service network.

[1991 c 238 § 44; 1988 c 206 § 502.]

Notes:

Severability--1988 c 206: See RCW 70.24.900.

RCW 28B.50.215 Overlapping service areas--Regional planning agreements.

The colleges in each overlapping service area shall jointly submit for approval to the state board for community and technical colleges a regional planning agreement. The agreement shall provide for the ongoing interinstitutional coordination of community and technical college programs and services operated in the overlapping service area. The agreement shall include the means for the adjudication of issues arising from overlapping service areas. The agreement shall include a definitive statement of mission, scope, and purpose for each college including the nature of courses, programs, and services to be offered by each college.

Technical colleges may, under the rules of the state board for community and technical colleges, offer all specific academic support courses that may be at a transfer level that are required of all students to earn a particular certificate or degree. This shall not be interpreted to mean that their mission may be expanded to include transfer preparation, nor does it preclude technical colleges from voluntarily and cooperatively using available community college courses as components of technical college programs.

Any part of the agreement that is not approved by all the colleges in the service area, shall be determined by the state board for community and technical colleges. Approved regional planning agreements shall be enforced by the full authority of the state board for community and technical colleges. Changes to the agreement are subject to state board approval.

For the purpose of creating and adopting a regional planning agreement, the trustees of the colleges in Pierce county shall form a county coordinating committee. The county coordinating committee shall consist of eight members. Each college board of trustees in Pierce county shall select two of its members to serve on the county coordinating committee. The county coordinating committee shall not employ its own staff, but shall instead utilize staff of the colleges in the county. The regional planning agreement adopted by the county coordinating committee shall include, but shall not be limited to: The items listed in this section, the transfer of credits between technical and community colleges, program articulation, and the avoidance of unnecessary duplication in programs, activities, and services.

[1997 c 281 § 2; 1991 c 238 § 144.]

RCW 28B.50.239 High-technology education and training.

See chapter 28B.65 RCW.

RCW 28B.50.242 Video telecommunications programming.

The state board for community and technical colleges shall provide state-wide coordination of video telecommunications programming for the community and technical college system.

[1991 c 238 § 45; 1990 c 208 § 10.]

RCW 28B.50.250 Adult education programs in common school districts, limitations--Certain federal programs, administration.

The state board for community and technical colleges and the state board of education are hereby authorized to permit, on an ad hoc basis, the common school districts to conduct pursuant to RCW 28B.50.530 a program in adult education in behalf of a college district when such program will not conflict with existing programs of the same nature and in the same geographical area conducted by the college districts: PROVIDED, That federal programs for adult education shall be administered by the state board for community and technical colleges, which agency is hereby declared to be the state educational agency primarily responsible for supervision of adult education in the public schools as defined by *RCW 28B.50.020.

[1991 c 238 § 46; 1969 ex.s. c 261 § 25; 1969 ex.s. c 223 § 28B.50.250. Prior: 1967 ex.s. c 8 § 25.]

Notes:

***Reviser's note:** The reference to RCW 28B.50.020 appears to be erroneous. "Adult education" is defined in RCW 28B.50.030.

Severability--1969 ex.s. c 261: See note following RCW 28B.50.020.

Community education programs: RCW 28A.620.020.

RCW 28B.50.252 Districts offering vocational educational programs--Local advisory committees--Advice on current job needs.

(1) Each local education agency or college district offering vocational educational programs shall establish local advisory committees to provide that agency or district with advice on current job needs and on the courses necessary to meet these needs.

(2) The local program committees shall:

(a) Participate in the determination of program goals;

(b) Review and evaluate program curricula, equipment, and effectiveness;

(c) Include representatives of business and labor who reflect the local industry, and the community; and

(d) Actively consult with other representatives of business, industry, labor, and agriculture.

[1991 c 238 § 77.]

RCW 28B.50.254 Advisory council on adult education--Work force training and education coordinating board to monitor.

(1) There is hereby created the Washington advisory council on adult education. The advisory council shall advise the state board for community and technical colleges and the work force training and education coordinating board concerning adult basic education and literacy programs. The advisory council shall perform all duties of state advisory councils on adult education as specified in P.L. 100-297, as amended. The advisory council's actions shall be consistent with the state comprehensive plan for work force training and education prepared by

the work force training and education coordinating board as provided for in RCW 28C.18.060.

(2) The advisory council on adult education shall consist of nine members as required by federal law, appointed by the governor. In making these appointments, to the maximum extent feasible, the governor shall give consideration to providing overlapping membership with the membership of the state job training coordinating council, and the governor shall give consideration to individuals with expertise and experience in adult basic education.

(3) The work force training and education coordinating board shall monitor the need for the council as described in subsection (1) of this section, and, if that need no longer exists, propose legislation to terminate the council.

[1991 c 238 § 19.]

RCW 28B.50.256 Facilities shared by vocational-technical institute programs and K-12 programs.

If, before September 1, 1991, the use of a single building facility is being shared between an existing vocational-technical institute program and a K-12 program, the respective boards shall continue to share the use of the facility until such time as it is convenient to remove one of the two programs to another facility. The determination of convenience shall be based solely upon the best interests of the students involved.

If a vocational-technical institute district board and a common school district board are sharing the use of a single facility, the program occupying the majority of the space of such facility, exclusive of space utilized equally by both, shall determine which board will be charged with the administration and control of such facility. The determination of occupancy shall be based upon the space occupied as of January 1, 1990.

The board charged with the administration and control of such facility may share expenses with the other board for the use of the facility.

In the event that the two boards are unable to agree upon which board is to administer and control the facility or upon a fair share of expenses for the use of the facility, the governor shall appoint an arbitrator to settle the matter. The decisions of the arbitrator shall be final and binding upon both boards. The expenses of the arbitration shall be divided equally by each board.

[1991 c 238 § 132.]

RCW 28B.50.259 Program for dislocated forest products workers--Waiver from tuition and fees.

(1) The state board for community and technical colleges shall administer a program designed to provide higher education opportunities to dislocated forest products workers and their unemployed spouses who are enrolled in a community or technical college for ten or more credit hours per quarter. In administering the program, the college board shall have the following powers and duties:

(a) With the assistance of an advisory committee, design a procedure for selecting

dislocated forest products workers to participate in the program;

(b) Allocate funding to community and technical colleges attended by participants; and

(c) Monitor the program and report on participants' progress and outcomes.

(2) Unemployed spouses of eligible dislocated forest products workers may participate in the program, but tuition and fees may be waived under the program only for the worker or the spouse and not both.

(3) Subject to the limitations of RCW 28B.15.910, the governing boards of the community and technical colleges may waive all or a portion of tuition and fees for program participants, for a maximum of six quarters within a two-year period.

(4) During any biennium, the number of full-time equivalent students to be served in this program shall be determined by the applicable omnibus appropriations act, and shall be in addition to the community college enrollment level funded by the applicable omnibus appropriations act.

[1998 c 245 § 21; 1993 sp.s. c 18 § 32; 1992 c 231 § 29; 1991 c 315 § 17.]

Notes:

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Effective date--1992 c 231: See note following RCW 28B.10.016.

Intent--1991 c 315: See note following RCW 50.12.270.

Severability--Conflict with federal requirements--Effective date--1991 c 315: See RCW 50.70.900 through 50.70.902.

RCW 28B.50.301 Title to or all interest in real estate, choses in action and assets obtained for vocational-technical institute purposes by school districts--Vest in or assigned to district board--Exceptions.

Title to or all interest in real estate, choses in action and all other assets, and liabilities including court claims, including but not limited to assignable contracts, cash, deposits in county funds (including any interest or premiums thereon), equipment, buildings, facilities, and appurtenances thereto held as of September 1, 1991, by or for a school district and obtained identifiably with federal, state, or local funds appropriated for vocational-technical institutes [institute] purposes or postsecondary vocational educational purposes, or used or obtained with funds budgeted for postsecondary vocational educational purposes, or used or obtained primarily for vocational-technical institute educational purposes, shall, on the date on which the first board of trustees of each district takes office, vest in or be assigned to the district board. Cash, funds, accounts, or other deposits obtained or raised by a school district to pay for indebtedness, bonded or otherwise, contracted on or before September 1, 1991, for vocational-technical institute purposes shall remain with and continue to be, after February 2, 1992, an asset of the school district. Any option acquired by the school district to purchase real property which in the judgment of the school district will be used in the common school program may remain with the school district notwithstanding that such option was obtained in consideration of the purchase by such school district of other property for vocational-technical institute purposes. Unexpended funds of a common school district derived from the sale, before September 1, 1991, of bonds

authorized for any purpose which includes vocational-technical institute purposes and not committed for any existing construction contract, shall remain with and continue to be an asset of such common school district, unless within thirty days after said date such common school district determines to transfer such funds to the board of trustees.

[1991 c 238 § 115.]

RCW 28B.50.302 Title to or all interest in real estate, choses in action and assets obtained for vocational-technical institute purposes by school districts--Vest in or assigned to state board for community and technical colleges--Exceptions.

Title to or all interest in real estate, choses in action, and all other assets and liabilities, including court claims, including but not limited to assignable contracts, cash, deposits in county funds (including any interest or premiums thereon), equipment, buildings, facilities, and appurtenances thereto held as of September 1, 1991, by or for a school district and obtained identifiably with federal, state, or local funds appropriated for vocational-technical institute purposes or postsecondary vocational educational purposes, or used or obtained with funds budgeted for vocational-technical institute purposes or postsecondary vocational education purposes, or used or obtained primarily for vocational education purposes, and all liabilities including, but not limited to court claims incurred on behalf of a vocational-technical institute by a school district, shall, on the date on which the first board of trustees of each college district takes office, vest in or be assigned to the state board for community and technical colleges. Grounds that have been used primarily as a playground for children shall continue to be made available for such use.

Cash, funds, accounts, or other deposits obtained or raised by a school district to pay for indebtedness, bonded or otherwise, contracted on or before September 1, 1991, for vocational-technical institute purposes shall remain with and continue to be, after September 1, 1991, an asset of the school district.

Any option acquired by the school district to purchase real property which in the judgment of the school district will be used in the common school program may remain with the school district notwithstanding that such option was obtained in consideration of the purchase by such school district of other property for vocational-technical institute purposes.

Unexpended funds of a common school district derived from the sale of bonds issued for vocational-technical institute capital purposes and not committed for any existing construction contract, shall be transferred to the college district of which the institute is a part for application to such projects.

For the purposes of this section and to facilitate the process of allocating the assets, the board of directors of each school district in which a vocational-technical institute is located, and the director of each vocational-technical institute, shall each submit to the state board of education, and the state board for community and technical colleges within ninety days of September 1, 1991, an inventory listing all real estate, personal property, choses in action, and other assets, held by a school district which, under the criteria of this section, will become the assets of the state board for community and technical colleges.

However, assets used primarily for vocational-technical institute purposes shall include, but not be limited to, all assets currently held by school districts which have been used on an average of at least seventy-five percent of the time during the 1989-90 school year, or if acquired subsequent to July 1, 1990, since its time of acquisition, for vocational-technical institute purposes, except that facilities used during school construction and remodeling periods to house vocational-technical institute programs temporarily and facilities that were vacated by the vocational-technical institute and returned to the school district during 1990-91 are not subject to this requirement.

The ultimate decision and approval with respect to the allocation and dispositions of the assets and liabilities including court claims under this section shall be made by a task force appointed by the governor in consultation with the superintendent of public instruction and the state board for community and technical colleges. Any issues remaining in dispute shall be settled by the governor or the governor's designee. The decision of the governor, the governor's designee, or the task force may be appealed within sixty days after such decision is issued by appealing to the district court of Thurston county. The decision of the superior court may be appealed to the supreme court of the state in accordance with the provision[s] of the administrative procedure act, chapter 34.05 RCW.

[1991 c 238 § 131.]

RCW 28B.50.305 Seattle Vocational Institute--Findings.

The legislature finds that a vocational institute in the central area of the city of Seattle provides civic, social, and economic benefits to the people of the state of Washington. Economic development is enhanced by increasing the number of skilled individuals who enter the labor market and social welfare costs are reduced by the training of individuals lacking marketable skills. The students at the institute are historically economically disadvantaged, and include racial and ethnic minorities, recent immigrants, single-parent heads of households, and persons who are dislocated workers or without specific occupational skills. The institute presents a unique opportunity for business, labor, and community-based organizations, and educators to work together to provide effective vocational-technical training to the economically disadvantaged of urban Seattle, and to serve as a national model of such cooperation. Moreover, a trained work force is a major factor in attracting new employers, and with greater minority participation in the work force, the institute is uniquely located to deliver training and education to the individuals employers must increasingly turn to for their future workers.

[1991 c 238 § 93.]

RCW 28B.50.306 Seattle Vocational Institute--Mission--Advisory committee to advise.

The mission of the institute shall be to provide occupational, basic skills, and literacy education opportunities to economically disadvantaged populations in urban areas of the college district it serves. The mission shall be achieved primarily through open-entry, open-exit, short-term, competency-based basic skill, and job training programs targeted primarily to adults.

The board of trustees of the sixth college district shall appoint a nine-member advisory committee consisting of equal representation from business, labor, and community representatives to provide advice and counsel to the administration of the institute and the district administration.

[1991 c 238 § 100.]

RCW 28B.50.307 Seattle Vocational Institute--Funding.

Funding for the institute shall be included in a separate allocation to the sixth college district, and funds allocated for the institute shall be used only for purposes of the institute.

[1991 c 238 § 101.]

RCW 28B.50.310 Community college fees.

See chapter 28B.15 RCW.

RCW 28B.50.311 Community college fees--Waiver of tuition and fees for long-term unemployed or underemployed persons--Conditions--Rules.

See RCW 28B.15.522.

RCW 28B.50.312 Resident tuition for participants in community college international student exchange program.

See RCW 28B.15.526.

RCW 28B.50.313 Waiver of the nonresident portion of tuition and fees for students of foreign nations.

See RCW 28B.15.527.

RCW 28B.50.320 Fees and other income--Deposit--Disbursement.

All operating fees, services and activities fees, and all other income which the trustees are authorized to impose shall be deposited as the trustees may direct unless otherwise provided by law. Such sums of money shall be subject to the budgetary and audit provisions of law applicable to state agencies. The depository selected by the trustees shall conform to the collateral requirements required for deposit of other state funds.

Disbursement shall be made by check signed by the president of the college or the president's designee appointed in writing, and such other person as may be designated by the board of trustees of the college district. Each person authorized to sign as provided above, shall execute a surety bond as provided in RCW 43.17.100. Said bond or bonds shall be filed in the office of the secretary of state.

[1991 c 238 § 47; 1971 ex.s. c 279 § 17; 1970 ex.s. c 59 § 4; 1969 ex.s. c 238 § 5; 1969 ex.s. c 223 § 28B.50.320. Prior: 1967 ex.s. c 8 § 32.]

Notes:

Severability--1971 ex.s. c 279: See note following RCW 28B.15.005.

Severability--1970 ex.s. c 59: See note following RCW 28B.15.520.

RCW 28B.50.327 Collection of student tuition and fees--Seattle Vocational Institute.

Notwithstanding the provisions of chapter 28B.15 RCW, technical colleges and the Seattle Vocational Institute may continue to collect student tuition and fees per their standard operating procedures in effect on September 1, 1991. The applicability of existing community college rules and statutes pursuant to chapter 28B.15 RCW regarding tuition and fees shall be determined by the state board for community and technical colleges within two years of September 1, 1991.

[1991 c 238 § 84.]

RCW 28B.50.328 Waivers of tuition and fees--Scholarships--Employment of instructional staff and faculty--Seattle Vocational Institute.

The district may provide for waivers of tuition and fees and provide scholarships for students at the institute. The district may negotiate with applicable public or private service providers to conduct the instructional activities of the institute. The district may employ instructional staff or faculty. The district may also contract with private individuals for instructional services. Until at least July 1, 1993, all faculty and staff serve at the pleasure of the district. In order to allow the district flexibility in its personnel policies with the institute, the district and the institute, with reference to employees of the institute employed during an initial two-year period until July 1, 1993, are exempt from chapters *28B.16, 28B.52 (relating to collective bargaining), 41.04, 41.05, 41.06, and 41.40 RCW; from RCW 43.01.040 through 43.01.044; and from RCW 28B.50.551 and 28B.50.850 through 28B.50.875 (relating to faculty tenure).

[1991 c 238 § 103.]

Notes:

***Reviser's note:** Chapter 28B.16 RCW was repealed by 1993 c 281, with the exception of RCW 28B.16.015 and 28B.16.240, which was recodified as RCW 41.06.382. The powers, duties, and functions of the state higher education personnel board were transferred to the Washington personnel resources board.

RCW 28B.50.330 Construction, reconstruction, equipping, and demolition of community and technical college facilities and acquisition of property--Financing by revenue bonds--Bid procedure.

The boards of trustees of college districts are empowered in accordance with the provisions of this chapter to provide for the construction, reconstruction, erection, equipping,

demolition, and major alterations of buildings and other capital assets, and the acquisition of sites, rights-of-way, easements, improvements, or appurtenances for the use of the aforementioned colleges as authorized by the college board in accordance with RCW 28B.50.140; to be financed by bonds payable out of special funds from revenues hereafter derived from income received from such facilities, gifts, bequests, or grants, and such additional funds as the legislature may provide, and payable out of a bond retirement fund to be established by the respective district boards in accordance with rules and regulations of the state board. With respect to building, improvements, or repairs, or other work, where the estimated cost exceeds twenty-five thousand dollars, complete plans and specifications for such work shall be prepared and such work shall be put out for public bids and the contract shall be awarded to the lowest responsible bidder if in accordance with the bid specifications: PROVIDED, That when such building, construction, renovation, remodeling, or demolition involves one trade or craft area and the estimated cost exceeds ten thousand dollars, complete plans and specifications for such work shall be prepared and such work shall be put out for public bids, and the contract shall be awarded to the lowest responsible bidder if in accordance with the bid specifications. This subsection shall not apply when a contract is awarded by the small works procedure authorized in *RCW 39.04.150: PROVIDED FURTHER, That any project regardless of dollar amount may be put to public bid.

Where the estimated cost to any college of any building, improvements, or repairs, or other work, is less than twenty-five thousand dollars, the publication requirements of RCW 39.04.020 shall be inapplicable.

[1993 c 379 § 108; 1991 c 238 § 48; 1979 ex.s. c 12 § 2; 1969 ex.s. c 223 § 28B.50.330. Prior: 1967 ex.s. c 8 § 33. Formerly RCW 28.85.330.]

Notes:

***Reviser's note:** RCW 39.04.150 was repealed by 2000 c 138 § 301.

Intent--Severability--Effective date--1993 c 379: See notes following RCW 28B.10.029.

Severability--1979 ex.s. c 12: See note following RCW 28B.10.350.

RCW 28B.50.340 Construction, reconstruction, equipping and demolition of community and technical college facilities and acquisition of property--Financing by bonds secured by pledge of building fees, grants.

In addition to the powers conferred under RCW 28B.50.090, the college board is authorized and shall have the power:

(1) To permit the district boards of trustees to contract for the construction, reconstruction, erection, equipping, maintenance, demolition and major alterations of buildings and other capital assets, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances of the college as approved by the state board.

(2) To finance the same by the issuance of bonds secured by the pledge of up to one hundred percent of the building fees.

(3) Without limitation of the foregoing, to accept grants from the United States government, or any federal or state agency or instrumentality, or private corporation, association,

or person to aid in defraying the costs of any such projects.

(4) To retain bond counsel and professional bond consultants to aid it in issuing bonds pursuant to RCW 28B.50.340 through 28B.50.400.

[1991 c 238 § 49; 1985 c 390 § 54; 1971 ex.s. c 279 § 18; 1970 ex.s. c 15 § 18. Prior: 1969 ex.s. c 261 § 26; 1969 ex.s. c 238 § 6; 1969 ex.s. c 223 § 28B.50.340; prior: 1967 ex.s. c 8 § 34.]

Notes:

Severability--1971 ex.s. c 279: See note following RCW 28B.15.005.

Severability--1970 ex.s. c 15: See note following RCW 28A.230.160.

RCW 28B.50.350 Construction, reconstruction, equipping and demolition of community and technical college facilities and acquisition of property--Bonds--Requirements.

For the purpose of financing the cost of any projects, the college board is hereby authorized to adopt the resolution or resolutions and prepare all other documents necessary for the issuance, sale and delivery of the bonds or any part thereof at such time or times as it shall deem necessary and advisable. Said bonds:

(1) Shall not constitute:

(a) An obligation, either general or special, of the state; or

(b) A general obligation of the college or of the college board;

(2) Shall be:

(a) Either registered or in coupon form; and

(b) Issued in denominations of not less than one hundred dollars; and

(c) Fully negotiable instruments under the laws of this state; and

(d) Signed on behalf of the college board with the manual or facsimile signature of the chairman of the board, attested by the secretary of the board, have the seal of the college board impressed thereon or a facsimile of such seal printed or lithographed in the bottom border thereof, and the coupons attached thereto shall be signed with the facsimile signatures of such chairman and the secretary;

(3) Shall state:

(a) The date of issue; and

(b) The series of the issue and be consecutively numbered within the series; and

(c) That the bond is payable both principal and interest solely out of the bond retirement fund created for retirement thereof;

(4) Each series of bonds shall bear interest, payable either annually or semiannually, as the board may determine;

(5) Shall be payable both principal and interest out of the bond retirement fund;

(6) Shall be payable at such times over a period of not to exceed forty years from date of issuance, at such place or places, and with such reserved rights of prior redemption, as the board may prescribe;

(7) Shall be sold in such manner and at such price as the board may prescribe;

(8) Shall be issued under and subject to such terms, conditions and covenants providing for the payment of the principal thereof and interest thereon and such other terms, conditions,

covenants and protective provisions safeguarding such payment, not inconsistent with RCW 28B.50.330 through 28B.50.400, and as found to be necessary by the board for the most advantageous sale thereof, which may include but not be limited to:

(a) A covenant that a reserve account shall be created in the bond retirement fund to secure the payment of the principal of and interest on all bonds issued and a provision made that certain amounts be set aside and maintained therein;

(b) A covenant that sufficient moneys may be transferred from the capital projects account of the college board issuing the bonds to the bond retirement fund of the college board when ordered by the board in the event there is ever an insufficient amount of money in the bond retirement fund to pay any installment of interest or principal and interest coming due on the bonds or any of them;

(c) A covenant fixing conditions under which bonds on a parity with any bonds outstanding may be issued.

The proceeds of the sale of all bonds, exclusive of accrued interest which shall be deposited in the bond retirement fund, shall be deposited in the state treasury to the credit of the capital projects account of the college board and shall be used solely for paying the costs of the projects, the costs of bond counsel and professional bond consultants incurred in issuing the bonds, and for the purposes set forth in subsection (8)(b) of this section;

(9) Shall constitute a prior lien and charge against the building fees of the community and technical colleges.

[1991 c 238 § 50; 1985 c 390 § 55; 1971 ex.s. c 279 § 19; 1971 c 8 § 2; 1970 ex.s. c 59 § 2; 1970 ex.s. c 56 § 32; 1970 ex.s. c 15 § 19; 1969 ex.s. c 261 § 27; 1969 ex.s. c 232 § 106; 1969 ex.s. c 223 § 28B.50.350. Prior: 1967 ex.s. c 8 § 35.]

Notes:

Severability--1971 ex.s. c 279: See note following RCW 28B.15.005.

Severability--1970 ex.s. c 59: See note following RCW 28B.15.520.

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Severability--1970 ex.s. c 15: See note following RCW 28A.230.160.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 28B.50.360 Construction, reconstruction, equipping and demolition of community and technical college facilities and acquisition of property--Community and technical college capital projects account--Disposition of building fees.

Within thirty-five days from the date of start of each quarter all collected building fees of each such community and technical college shall be paid into the state treasury, and shall be credited as follows:

(1) On or before June 30th of each year the college board if issuing bonds payable out of building fees shall certify to the state treasurer the amounts required in the ensuing twelve-month period to pay and secure the payment of the principal of and interest on such bonds. The state treasurer shall thereupon deposit the amounts so certified in the community and technical college capital projects account. Such amounts of the funds deposited in the community and technical college capital projects account as are necessary to pay and secure the payment of the principal

of and interest on the building bonds issued by the college board as authorized by this chapter shall be exclusively devoted to that purpose. If in any twelve-month period it shall appear that the amount certified by the college board is insufficient to pay and secure the payment of the principal of and interest on the outstanding building bonds, the state treasurer shall notify the college board and such board shall adjust its certificate so that all requirements of moneys to pay and secure the payment of the principal and interest on all such bonds then outstanding shall be fully met at all times.

(2) The community and technical college capital projects account is hereby created in the state treasury. The sums deposited in the capital projects account shall be appropriated and expended exclusively to pay and secure the payment of the principal of and interest on bonds payable out of the building fees and for the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets owned by the state board for community and technical colleges in the name of the state of Washington, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto, and for the payment of principal of and interest on any bonds issued for such purposes.

[2000 c 65 § 1; 1997 c 42 § 1; 1991 sp.s. c 13 §§ 47, 48; 1991 c 238 § 51. Prior: 1985 c 390 § 56; 1985 c 57 § 16; 1974 ex.s. c 112 § 4; 1971 ex.s. c 279 § 20; 1970 ex.s. c 15 § 20; prior: 1969 ex.s. c 261 § 28; 1969 ex.s. c 238 § 7; 1969 ex.s. c 223 § 28B.50.360; prior: 1967 ex.s. c 8 § 36.]

Notes:

Effective date--2000 c 65: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 22, 2000]." [2000 c 65 § 3.]

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date--1985 c 57: See note following RCW 18.04.105.

Severability--1974 ex.s. c 112: See note following RCW 28B.50.403.

Severability--1971 ex.s. c 279: See note following RCW 28B.15.005.

Severability--1970 ex.s. c 15: See note following RCW 28A.230.160.

Transfer of moneys in community and technical college bond retirement fund to state general fund: RCW 28B.50.401 and 28B.50.402.

RCW 28B.50.370 Construction, reconstruction, equipping and demolition of community and technical college facilities and acquisition of property--Bonds--Sources for payment of principal and interest on--Funds credited to bond retirement fund--Pledge to collect building fees.

For the purpose of paying and securing the payment of the principal of and interest on the bonds as the same shall become due, there shall be paid into the state treasury and credited to the bond retirement fund of the college board, the following:

(1) Amounts derived from building fees as are necessary to pay the principal of and interest on the bonds and to secure the same;

(2) Any grants which may be made, or may become available for the purpose of furthering the construction of any authorized projects, or for the repayment of the costs thereof;

(3) Such additional funds as the legislature may provide.

Said bond retirement fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or any interest thereon remains unpaid, be available solely for the payment thereof. As a part of the contract of sale of such bonds, the college board shall charge and collect building fees as established by this chapter and deposit such fees in the bond retirement fund in amounts which will be sufficient to pay and secure the payment of the principal of, and interest on all such bonds outstanding.

[1991 c 238 § 52; 1985 c 390 § 57; 1971 ex.s. c 279 § 21; 1969 ex.s. c 238 § 8; 1969 ex.s. c 223 § 28B.50.370. Prior: 1967 ex.s. c 8 § 37.]

Notes:

Severability--1971 ex.s. c 279: See note following RCW 28B.15.005.

Transfer of moneys in community and technical college bond retirement fund to state general fund: RCW 28B.50.401 and 28B.50.402.

RCW 28B.50.380 Construction, reconstruction, equipping and demolition of community college facilities and acquisition of property--Bonds--Additional powers incident to bond authorization.

In accordance with the provisions of RCW 28B.50.340 the college board is hereby empowered:

(1) To reserve the right to issue bonds later on a parity with any bonds being issued;

(2) To authorize the investing of moneys in the bond retirement fund and any reserve account therein;

(3) To authorize the transfer of money from the college board's capital projects account to the bond retirement fund when necessary to prevent a default in the payments required to be made; and

(4) To create a reserve account or accounts in the bond retirement fund to secure the payment of the principal of and interest on any bonds.

[1969 ex.s. c 223 § 28B.50.380. Prior: 1967 ex.s. c 8 § 38. Formerly RCW 28.85.380.]

RCW 28B.50.390 Construction, reconstruction, equipping and demolition of community college facilities and acquisition of property--Refunding bonds--Authorized--Form, term, issuance, etc.--Exchange or sale.

The college board is hereby empowered to issue refunding bonds to provide funds to refund any or all outstanding bonds payable from the bond retirement fund and to pay any redemption premium payable on such outstanding bonds being refunded. Such refunding bonds may be issued in the manner and on terms and conditions and with the covenants permitted by RCW 28B.50.330 through 28B.50.400 for the issuance of bonds. The refunding bonds shall be payable out of the bond retirement fund and shall not constitute an obligation either general or special, of the state or a general obligation of the college board. The board may exchange the refunding bonds at par for the bonds which are being refunded or may sell them in such manner, at such price and at such rate or rates of interest as it deems for the best interest of the college.

[1970 ex.s. c 56 § 33; 1969 ex.s. c 232 § 107; 1969 ex.s. c 223 § 28B.50.390. Prior: 1967 ex.s. c 8 § 39.]

Notes:

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 28B.50.400 Construction, reconstruction, equipping and demolition of community college facilities and acquisition of property--Bonds as limited obligation bonds--Additional means to pay principal and interest on.

The bonds authorized to be issued pursuant to the provisions of RCW 28B.50.330 through 28B.50.400 shall not be general obligations of the state of Washington, but shall be limited obligation bonds payable only from the special funds created for their payment. The legislature may specify additional means for providing funds for the payment of principal and interest of said bonds. RCW 28B.50.330 through 28B.50.400 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section to provide for additional means for raising money is permissive, and shall not in any way be construed as a pledge of the general credit of the state of Washington.

[1969 ex.s. c 223 § 28B.50.400. Prior: 1967 ex.s. c 8 § 40. Formerly RCW 28.85.400.]

RCW 28B.50.401 Transfer of moneys in community college bond retirement fund to state general fund--Purpose.

The state finance committee has heretofore refunded, pursuant to RCW 28B.50.403 through 28B.50.407, all of the outstanding building bonds of the community college board payable from the community college bond retirement fund. By reason of such refunding said bonds are no longer deemed to be outstanding and moneys presently on deposit in said bond retirement fund are no longer needed to pay and secure the payment of such refunded bonds.

[1985 c 390 § 58; 1977 ex.s. c 223 § 1.]

Notes:

Severability--1977 ex.s. c 223: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 223 § 4.]

RCW 28B.50.402 Transfer of moneys in community and technical college bond retirement fund to state general fund--Exception.

Notwithstanding anything to the contrary contained in RCW 28B.50.360 (1) and (2) and in RCW 28B.50.370, all moneys on deposit on or before June 30, 1977, in the community and technical college bond retirement fund, shall be transferred by the state treasurer to the state general fund, except for those moneys appropriated by section 17, chapter 1, Laws of 1977.

[1991 c 238 § 53; 1977 ex.s. c 223 § 2.]

Notes:

Severability--1977 ex.s. c 223: See note following RCW 28B.50.401.

RCW 28B.50.403 Refunding bonds--Authorized--Limitations.

The state of Washington is hereby authorized to issue state general obligation bonds for the purpose of refunding any outstanding building, limited obligation bonds of the college board issued pursuant to this chapter in an amount not exceeding 1.05 times the amount which, taking into account amounts to be earned from the investment of the proceeds of the issue, is required to pay the principal thereof, interest thereon, any premium payable with respect thereto, and the costs incurred in accomplishing such refunding: PROVIDED, That any proceeds of the refunding bonds in excess of those required to accomplish such refunding, or any obligations acquired with such excess proceeds, shall be applied exclusively for the payment of principal, interest, or call premiums with respect to such refunding obligations. In no event shall the amount of such refunding bonds authorized in this section exceed seventy-five million dollars.

[1985 c 390 § 59; 1974 ex.s. c 112 § 1.]

Notes:

Severability--1974 ex.s. c 112: "If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 112 § 9.]

RCW 28B.50.404 Refunding bonds--Issuance--Security.

Subject to the specific provisions of RCW 28B.50.360 and 28B.50.403 through 28B.50.407, such general obligation refunding bonds shall be issued and the refunding of said community and technical college building bonds shall be carried out pursuant to chapters 39.42 and 39.53 RCW as now or hereafter amended. The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise of the state to pay the principal thereof and interest thereon when due.

[1991 c 238 § 54; 1985 c 390 § 60; 1974 ex.s. c 112 § 2.]

Notes:

Severability--1974 ex.s. c 112: See note following RCW 28B.50.403.

RCW 28B.50.405 Refunding bonds--Community and technical college refunding bond retirement fund of 1974.

There is hereby created in the state treasury the community and technical college refunding bond retirement fund of 1974, which fund shall be exclusively devoted to the payment of the principal of and interest on the refunding bonds authorized by RCW 28B.50.360 and 28B.50.403 through 28B.50.407.

The state finance committee shall, on or before June 30th of each year, certify to the state

treasurer the amount needed in the ensuing twelve months to pay the principal of and interest on such bonds. On July 1st of each year the state treasurer shall deposit such amount in the refunding bond retirement fund of 1974 from any general state revenues received in the state treasury.

[1991 c 238 § 55; 1974 ex.s. c 112 § 3.]

Notes:

Severability--1974 ex.s. c 112: See note following RCW 28B.50.403.

RCW 28B.50.406 Refunding bonds--Legislature may provide additional means of payments.

The legislature may provide additional means for raising moneys for the payment of the interest and principal of the bonds authorized in RCW 28B.50.360 and 28B.50.403 through 28B.50.407 and 28B.50.360 and 28B.50.403 through 28B.50.407 shall not be deemed to provide an exclusive method for such payment.

[1974 ex.s. c 112 § 5.]

Notes:

Severability--1974 ex.s. c 112: See note following RCW 28B.50.403.

RCW 28B.50.407 Refunding bonds--Bonds legal investment for public funds.

The bonds authorized in RCW 28B.50.360 and 28B.50.403 through 28B.50.407 shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

[1974 ex.s. c 112 § 6.]

Notes:

Severability--1974 ex.s. c 112: See note following RCW 28B.50.403.

RCW 28B.50.409 Bonds--Committee advice and consent prerequisite to issuance.

All bonds issued after February 16, 1974 by the college board or any board of trustees for any college district under provisions of chapter 28B.50 RCW, as now or hereafter amended, shall be issued by such boards only upon the prior advice and consent of the state finance committee.

[1991 c 238 § 56; 1974 ex.s. c 112 § 7.]

Notes:

Severability--1974 ex.s. c 112: See note following RCW 28B.50.403.

RCW 28B.50.410 Rehabilitation services for individuals with disabilities--Definitions.

See RCW 74.29.010.

RCW 28B.50.420 Rehabilitation services for individuals with disabilities--Powers and duties of state agency.

See RCW 74.29.020.

RCW 28B.50.430 Rehabilitation services for individuals with disabilities--Acceptance of federal aid.

See RCW 74.29.050 and 74.29.055.

RCW 28B.50.440 Construction of chapter when part thereof in conflict with federal requirements which are condition precedent to allocation of federal funds.

If any part of this chapter shall be found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the state, such conflicting part of this chapter is hereby declared to be inoperative solely to the extent of such conflict, and such findings or determination shall not affect the operation of the remainder of this chapter.

[1969 ex.s. c 223 § 28B.50.440. Prior: 1967 ex.s. c 8 § 44. Formerly RCW 28.85.440.]

Notes:

Federal funds, receipt of authorized: RCW 28B.50.520.

RCW 28B.50.450 Cooperative agreements with state and local agencies.

See RCW 74.29.037.

RCW 28B.50.455 Vocational education of individuals with disabilities--Procedures.

Each technical college shall have written procedures which include provisions for the vocational education of individuals with disabilities. These written procedures shall include a plan to provide services to individuals with disabilities, a written plan of how the technical college will comply with relevant state and federal requirements for providing vocational education to individuals with disabilities, a written plan of how the technical college will provide on-site appropriate instructional support staff in compliance with P.L. 94-142, and as since amended, and section 504 of the rehabilitation act of 1973, and as thereafter amended.

[1991 c 238 § 158.]

RCW 28B.50.460 Rehabilitation and job support services--Procedure--Register of eligible individuals and organizations.

See RCW 74.29.080.

RCW 28B.50.465 Cost-of-living increases--Academic employees.

(1) Academic employees of community and technical college districts shall be provided an annual salary cost-of-living increase in accordance with this section. For purposes of this section, "academic employee" has the same meaning as defined in RCW 28B.52.020.

(a) Beginning with the 2001-2002 fiscal year, and for each subsequent fiscal year, each college district shall receive a cost-of-living allocation sufficient to increase academic employee salaries, including mandatory salary-related benefits, by the rate of the yearly increase in the cost-of-living index.

(b) A college district shall distribute its cost-of-living allocation for salaries and salary-related benefits in accordance with the district's salary schedules, collective bargaining agreements, and other compensation policies. No later than the end of the fiscal year, each college district shall certify to the college board that it has spent funds provided for cost-of-living increases on salaries and salary-related benefits.

(c) The college board shall include any funded cost-of-living increase in the salary base used to determine cost-of-living increases for academic employees in subsequent years.

(d) Beginning with the 2001-2002 fiscal year, the state shall fully fund the cost-of-living increase set forth in this section.

(2) For the purposes of this section, "cost-of-living index" means, for any fiscal year, the previous calendar year's annual average consumer price index, using the official current base, compiled by the bureau of labor statistics, United States department of labor for the state of Washington. If the bureau of labor statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the cost-of-living index in this section.

[2001 c 4 § 3 (Initiative Measure No. 732, approved November 7, 2000).]

NOTES:

Severability--2001 c 4 (Initiative Measure No. 732): See note following RCW 28A.400.206.

RCW 28B.50.468 Cost-of-living increases--Classified employees.

(1) Classified employees of technical colleges shall be provided an annual salary cost-of-living increase in accordance with this section. For purposes of this section, "technical college" has the same meaning as defined in RCW 28B.50.030. This section applies to only those classified employees under the jurisdiction of chapter 41.56 RCW.

(a) Beginning with the 2001-2002 fiscal year, and for each subsequent fiscal year, each technical college board of trustees shall receive a cost-of-living allocation sufficient to increase classified employee salaries, including mandatory salary-related benefits, by the rate of the yearly increase in the cost-of-living index.

(b) A technical college board of trustees shall distribute its cost-of-living allocation for salaries and salary-related benefits in accordance with the technical college's salary schedules, collective bargaining agreements, and other compensation policies. No later than the end of the fiscal year, each technical college shall certify to the college board that it has spent funds

provided for cost-of-living increases on salaries and salary-related benefits.

(c) The college board shall include any funded cost-of-living increase in the salary base used to determine cost-of-living increases for technical college classified employees in subsequent years.

(d) Beginning with the 2001-2002 fiscal year, the state shall fully fund the cost-of-living increase set forth in this section.

(2) For the purposes of this section, "cost-of-living index" means, for any fiscal year, the previous calendar year's annual average consumer price index, using the official current base, compiled by the bureau of labor statistics, United States department of labor for the state of Washington. If the bureau of labor statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the cost-of-living index in this section.

[2001 c 4 § 4 (Initiative Measure No. 732, approved November 7, 2000).]

NOTES:

Severability--2001 c 4 (Initiative Measure No. 732): See note following RCW 28A.400.206.

RCW 28B.50.470 State civil service law--Definitions.

See RCW 41.06.020.

RCW 28B.50.480 State civil service law--Exemptions.

See RCW 41.06.070.

RCW 28B.50.482 Accumulated sick leave--Transferred employees of vocational-technical institutes.

Sick leave accumulated by employees of vocational-technical institutes shall be transferred to the college districts without loss of time subject to the provisions of RCW 28B.50.551 and the further provisions of any negotiated agreements then in force.

[1991 c 238 § 136.]

RCW 28B.50.484 Health care service contracts--Transferred employees of vocational-technical institutes.

The state employees' benefit board shall adopt rules to preclude any preexisting conditions or limitations in existing health care service contracts for school district employees at vocational-technical institutes transferred to the state board for community and technical colleges. The board shall also provide for the disposition of any dividends or refundable reserves in the school district's health care service contracts applicable to vocational-technical institute employees.

[1991 c 238 § 137.]

RCW 28B.50.489 Part-time academic employees--State-mandated benefits--Definitions.

For the purposes of determining eligibility of state-mandated insurance, retirement benefits under RCW 28B.10.400, and sick leave for part-time academic employees in community and technical colleges, the following definitions shall be used:

(1) "Full-time academic workload" means the number of in-class teaching hours that a full-time instructor must teach to fulfill his or her employment obligations in a given discipline in a given college. If full-time academic workload is defined in a contract adopted through the collective bargaining process, that definition shall prevail. If the full-time workload bargained in a contract includes more than in-class teaching hours, only that portion that is in-class teaching hours may be considered academic workload.

(2) "In-class teaching hours" means contact classroom and lab hours in which full or part-time academic employees are performing contractually assigned teaching duties. The in-class teaching hours shall not include any duties performed in support of, or in addition to, those contractually assigned in-class teaching hours.

(3) "Academic employee" in a community or technical college means any teacher, counselor, librarian, or department head who is employed by a college district, whether full or part-time, with the exception of the chief administrative officer of, and any administrator in, each college district.

(4) "Part-time academic workload" means any percentage of a full-time academic workload for which the part-time academic employee is not paid on the full-time academic salary schedule.

[2000 c 128 § 2; 1996 c 120 § 1.]

Notes:

Construction--2000 c 128: See note following RCW 28B.52.220.

RCW 28B.50.4891 Part-time academic employees--State-mandated benefits--Reporting eligible employees.

For the purposes of determining eligibility for receipt of state-mandated benefits for part-time academic employees at community and technical colleges, each institution shall report to the appropriate agencies the names of eligible part-time academic employees who qualify for benefits based on calculating the hours worked by part-time academic employees as a percentage of the part-time academic workload to the full-time academic workload in a given discipline in a given institution.

[1996 c 120 § 2.]

RCW 28B.50.4892 Part-time academic employees--Best practices compensation and employment--Task force--Report.

(1) The legislature finds that community colleges and technical colleges have an

obligation to carry out their roles and missions in an equitable fashion. The legislature also finds that governing boards for community colleges and technical colleges have a responsibility to provide leadership and guidance to their colleges in the equitable treatment of part-time faculty teaching in the community and technical colleges.

(2) The state board for community and technical colleges shall convene a task force to conduct a best practices audit of compensation packages and conditions of employment for part-time faculty in the community and technical college system. The task force shall include but need not be limited to part-time faculty, full-time faculty, members of the state board, and members of community college and technical college governing boards. In performing the audit, the task force shall focus on the employment of part-time faculty, and shall include the following issues in its deliberations: Salary issues, provision of health and retirement benefits, the implications of increased reliance on part-time rather than full-time faculty, the implications of workload definitions, and tangible and intangible ways to recognize the professional stature of part-time faculty.

(3) The task force shall report its findings to the state board, local governing boards, and other interested parties by August 30, 1996. The report shall include recommendations on a set of best practices principles for the colleges to follow in their employment of part-time faculty. By September 30, 1996, the state board for community and technical colleges shall adopt and periodically update a set of best practices principles for colleges in the community and technical college system to follow in their employment of part-time faculty. The board shall use the best practices principles in the development of its 1997-99 biennial operating budget request. The board shall encourage and, to the extent possible, require each local governing board to adopt and implement the principles.

[1996 c 120 § 3.]

RCW 28B.50.4893 Part-time academic employees--Sick leave.

(1) Part-time academic employees of community and technical colleges shall receive sick leave to be used for the same illnesses, injuries, bereavement, and emergencies as full-time academic employees at the college in proportion to the individual's teaching commitment at the college.

(2) The provisions of RCW 41.04.665 shall apply to leave sharing for part-time academic employees who accrue sick leave under subsection (1) of this section.

(3) The provisions of RCW 28B.50.553 shall apply to remuneration for unused sick leave for part-time academic employees who accrue sick leave under subsection (1) of this section.

[2000 c 128 § 1.]

Notes:

Construction--2000 c 128: See note following RCW 28B.52.220.

RCW 28B.50.490 Fiscal management--Powers and duties of officers and agencies.

See RCW 43.88.160.

RCW 28B.50.500 General provisions for institutions of higher education.

See chapter 28B.10 RCW.

RCW 28B.50.510 State purchasing and material control, community college purchases.

See RCW 43.19.190.

RCW 28B.50.520 Federal funds, receipt of authorized.

The college board or any board of trustees is authorized to receive federal funds made available for the assistance of community and technical colleges, and providing physical facilities, maintenance or operation of schools, or for any educational purposes, according to the provisions of the acts of congress making such funds available.

[1991 c 238 § 57; 1969 ex.s. c 223 § 28B.50.520. Prior: 1967 ex.s. c 8 § 52. Formerly RCW 28.85.520.]

Notes:

Construction of chapter when part thereof in conflict with federal requirements which are condition precedent to allocation of federal funds: RCW 28B.50.440.

RCW 28B.50.522 Office for adult literacy.

The college board personnel administering state and federally funded programs for adult basic skills and literacy education shall be known as the state office for adult literacy.

[1991 c 238 § 92.]

RCW 28B.50.528 Contracts with adjacent college district for administrative services.

If a technical college is created after September 1, 1991, that college may contract with an adjacent college district for administrative services until such time that an existing or new college district may assume jurisdiction over the college.

[1991 c 238 § 139.]

RCW 28B.50.530 Agreements for use of services or facilities between district boards of trustees and school boards.

The district boards of trustees and the common school boards are hereby authorized to enter into agreements for the use by either of the other's services, facilities or equipment and for the presentation of courses of either for students of the other where such agreements are deemed to be in the best interests of the education of the students involved.

[1969 ex.s. c 223 § 28B.50.530. Prior: 1967 ex.s. c 8 § 53. Formerly RCW 28.85.530.]

Notes:
Community education programs: RCW 28A.620.020.

RCW 28B.50.533 Contracts with common school districts for occupational and academic programs for high school students--Enrollment opportunities--Interlocal agreements.

Community and technical colleges may contract with local common school districts to provide occupational and academic programs for high school students. Common school districts whose students currently attend vocational-technical institutes shall not suffer loss of opportunity to continue to enroll their students at technical colleges.

For the purposes of this section, "opportunity to enroll" includes, but is not limited to, the opportunity of common school districts to enroll the same number of high school students enrolled at each vocational-technical institute during the period July 1, 1989, through June 30, 1990, and the opportunity for common school districts to increase enrollments of high school students at each technical college in proportion to annual increases in enrollment within the school districts participating on September 1, 1991. Technical colleges shall offer programs which are accessible to high school students to at least the extent that existed during the period July 1, 1989, through June 30, 1990, and to the extent necessary to accommodate proportional annual growth in enrollments of high school students within school districts participating on September 1, 1991. Accommodating such annual increases in enrollment or program offerings shall be the first priority within technical colleges subject to any enrollment or budgetary restrictions. Technical colleges shall not charge tuition or student services and activities fees to high school students enrolled in the college.

Technical colleges may enter into interlocal agreements with local school districts to provide instruction in courses required for high school graduation, basic skills, and literacy training for students enrolled in technical college programs.

[1991 c 238 § 82.]

RCW 28B.50.535 Community or technical college may issue high school diploma or certificate, limitation.

A community or technical college may issue a high school diploma or certificate, subject to rules and regulations promulgated by the superintendent of public instruction and the state board of education.

[1991 c 238 § 58; 1969 ex.s. c 261 § 30.]

Notes:

Severability--1969 ex.s. c 261: See note following RCW 28B.50.020.

RCW 28B.50.536 General educational development test--Rules--Issuance of certificate

of educational competence.

Subject to rules adopted by the state board of education under RCW 28A.305.190, the state board for community and technical colleges shall adopt rules governing the eligibility of persons sixteen years of age and older to take the general educational development test, rules governing the administration of the test, and rules governing the issuance of a certificate of educational competence to persons who successfully complete the test. Certificates of educational competence issued under this section shall be issued in such form and substance as agreed upon by the state board for community and technical colleges and superintendent of public instruction.

[1993 c 218 § 3.]

RCW 28B.50.551 Leave provisions generally.

The board of trustees of each college district shall adopt for each community and technical college under its jurisdiction written policies on granting leaves to employees of the district and those colleges, including but not limited to leaves for attendance at official or private institutions and conferences; professional leaves for personnel consistent with the provisions of RCW 28B.10.650; leaves for illness, injury, bereavement, and emergencies, consistent with RCW 28B.50.4893, and except as otherwise in this section provided, all with such compensation as the board of trustees may prescribe, except that the board shall grant to all such persons leave with full compensation for illness, injury, bereavement and emergencies as follows:

(1) For persons under contract to be employed, or otherwise employed, for at least three quarters, not more than twelve days per year, commencing with the first day on which work is to be performed; provisions of any contract in force on June 12, 1980, which conflict with requirements of this subsection shall continue in effect until contract expiration; after expiration, any new contract executed between the parties shall be consistent with this subsection;

(2)(a) Such leave entitlement may be accumulated after the first three-quarter period of employment for full-time employees, and may be taken at any time;

(b) For part-time academic employees, such leave entitlement may be accumulated after the first quarter of employment by a college district or the first quarter after June 8, 2000, whichever is later, and may be taken at any time;

(3) Leave for illness, injury, bereavement and emergencies heretofore accumulated pursuant to law, rule, regulation or policy by persons presently employed by college districts and community and technical colleges shall be added to such leave accumulated under this section;

(4) Except as otherwise provided in this section or other law, accumulated leave under this section not taken at the time such person retires or ceases to be employed by college districts or community and technical colleges shall not be compensable;

(5) Accumulated leave for illness, injury, bereavement and emergencies shall be transferred from one college district to another or between a college district and the following: Any state agency, any educational service district, any school district, or any other institution of higher education as defined in RCW 28B.10.016;

(6) Leave accumulated by a person in a college district or community and technical

college prior to leaving that district or college may, under the policy of the board of trustees, be granted to such person when he or she returns to the employment of that district or college; and

(7) Employees of the Seattle Vocational Institute are exempt from this section until July 1, 1993.

[2000 c 128 § 3; 1995 c 119 § 1; 1991 c 238 § 59; 1980 c 182 § 3; 1977 ex.s. c 173 § 2; 1975 1st ex.s. c 275 § 148; 1973 c 62 § 22; 1969 ex.s. c 283 § 7. Formerly RCW 28.85.551.]

Notes:

Construction--2000 c 128: See note following RCW 28B.52.220.
Severability--1980 c 182: See note following RCW 41.04.340.
Effective date--Severability--1977 ex.s. c 173: See notes following RCW 28B.10.650.
Savings--Severability--1973 c 62: See notes following RCW 28B.10.510.
Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28B.50.553 Attendance incentive program.

(1) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this section.

(a) "Employer" means the board of trustees for each college district or the state board for community and technical colleges.

(b) "Eligible employee" means an employee of a college district or the state board for community and technical colleges who belongs to one of the following classifications:

(i) Academic employees as defined in RCW 28B.52.020;

(ii) Classified employees of technical colleges whose employment is governed under chapter 41.56 RCW;

(iii) Professional, paraprofessional, and administrative employees exempt from chapter 41.06 RCW; and

(iv) Employees of the state board for community and technical colleges who are exempt from chapter 41.06 RCW.

(2) An attendance incentive program is established for all eligible employees of a college district or the state board for community and technical colleges entitled to accumulate sick leave and for whom accurate sick leave records have been maintained. An eligible employee may not receive compensation under this section for a portion of sick leave accumulated at a rate in excess of one day per month.

(3) In January of the year following a year in which a minimum of sixty days of sick leave is accrued, and each following January, an eligible employee may exercise an option to receive remuneration for unused sick leave accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued sick leave in excess of sixty days. Sick leave for which compensation has been received shall be deducted from accrued sick leave at the rate of four days for every one day's monetary compensation.

(4) At the time of separation from employment with a college district or the state board for community and technical colleges due to retirement or death, an eligible employee or the employee's estate may receive remuneration at a rate equal to one day's current monetary

compensation of the employee for each four full days' accrued sick leave.

(5) In lieu of remuneration for unused sick leave at retirement as provided in subsection (4) of this section, an employer may, with equivalent funds, provide eligible employees with a benefit plan that provides reimbursement for medical expenses. For employees whose conditions of employment are governed by chapter 28B.52 or 41.56 RCW, such benefit plans shall be instituted only by agreement applicable to the members of a bargaining unit. A benefit plan adopted must require, as a condition of participation under the plan, that the employee sign an agreement with the employer. The agreement must include a provision to hold the employer harmless should the United States government find that the employer or the employee is in debt to the United States as a result of the employee not paying income taxes due on the equivalent funds placed into the plan, or as a result of the employer not withholding or deducting a tax, assessment, or other payment on the funds as required under federal law. The agreement must also include a provision that requires an eligible employee to forfeit remuneration under subsection (4) of this section if the employee belongs to a unit that has been designated to participate in the benefit plan permitted under this subsection and the employee refuses to execute the required agreement.

(6) Remuneration or benefits received under this section are not included for the purposes of computing a retirement allowance under a public retirement system in this state.

(7) The state board for community and technical colleges shall adopt uniform rules to carry out the purposes of this section. The rules shall define categories of eligible employees. The categories of eligible employees are subject to approval by the office of financial management. The rules shall also require that each employer maintain complete and accurate sick leave records for all eligible employees.

(8) Should the legislature revoke a remuneration or benefit granted under this section, an affected employee is not then entitled to receive the benefits as a matter of contractual right.

[1997 c 232 § 1.]

Notes:

Conflict with federal requirements--1997 c 232: "If any part of section 1(5) of this act is found to be in conflict with federal tax laws or rulings or regulations of the federal internal revenue service, the conflicting part of section 1(5) of this act is inoperative solely to the extent of the conflict and such finding shall not affect the remainder of this act." [1997 c 232 § 3.]

RCW 28B.50.600 School district bonds--Redemption of by school district to continue though facility under control of college district board.

Whenever a common school board has contracted to redeem general obligation bonds used for the construction or acquisition of facilities which are now to be under the administration, control and occupancy of the college district board, the common school board shall continue to redeem the bonds in accordance with the provisions of the bonds.

[1991 c 238 § 60; 1969 ex.s. c 223 § 28B.50.600. Prior: 1967 ex.s. c 8 § 60. Formerly RCW 28.85.600.]

RCW 28B.50.601 School district bonds--Redemption--Facilities under administration of

college district board.

If a school board has contracted to redeem general obligation bonds used for the construction or acquisition of facilities which are now to be under the administration, control, and occupancy of the college district board, the school board shall continue to redeem the bonds in accordance with the provisions of the bonds.

[1991 c 238 § 138.]

RCW 28B.50.740 School district bonds--Those issued for community and technical college facilities not considered indebtedness under statutory limitations on.

Notwithstanding any other statutory provision relating to indebtedness of school districts, bonds heretofore issued by any common school district for the purpose of providing funds for community and technical college facilities shall not be considered as indebtedness in determining the maximum allowable indebtedness under any statutory limitation of indebtedness when the sum of all indebtedness therein does not exceed the maximum constitutional allowable indebtedness applied to the value of the taxable property contained in such school district: PROVIDED, That nothing contained herein shall be construed to affect the distribution of state funds under any applicable distribution formula.

[1991 c 238 § 61; 1969 ex.s. c 223 § 28B.50.740. Prior: 1967 ex.s. c 8 § 74. Formerly RCW 28.85.740.]

Notes:
Forty mill limit: State Constitution Art. 7 § 2.
Limitation of indebtedness prescribed: RCW 39.36.020.
Limitations upon municipal indebtedness: State Constitution Art. 8 § 6.

RCW 28B.50.835 Exceptional faculty awards--Intent.

The legislature recognizes that quality in the state's community and technical colleges would be strengthened by additional partnerships between citizens and the institutions. The legislature intends to foster these partnerships by creating a matching grant program to assist public community and technical colleges in creating endowments for funding exceptional faculty awards.

[1991 c 238 § 62; 1990 c 29 § 1.]

Notes:

Severability--1990 c 29: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 29 § 8.]

RCW 28B.50.8351 Exceptional faculty awards--"Foundation" defined.

For purposes of RCW 28B.50.835 through 28B.50.843 "foundation" means a private nonprofit corporation that: (1) Is registered under Title 24 RCW and qualified as a tax-exempt

entity under section 501(c)(3) of the federal internal revenue code; (2) exists solely for the benefit of one or more community or technical colleges in this state; and (3) is registered with the attorney general's office under the charitable trust act, chapter 11.110 RCW.

[1993 c 87 § 3.]

RCW 28B.50.837 Exceptional faculty awards--Established--Community and technical college faculty awards trust fund.

(1) The Washington community and technical college exceptional faculty awards program is established. The program shall be administered by the college board. The college faculty awards trust fund hereby created shall be administered by the state treasurer.

(2) Funds appropriated by the legislature for the community and technical college exceptional faculty awards program shall be deposited in the college faculty awards trust fund. At the request of the college board, the treasurer shall release the state matching funds to the local endowment fund of the college or its foundation. No appropriation is necessary for the expenditure of moneys from the fund.

[1993 c 87 § 1; 1991 sp.s. c 13 §§ 108, 109; 1991 c 238 § 63; 1990 c 29 § 2.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Severability--1990 c 29: See note following RCW 28B.50.835.

RCW 28B.50.839 Exceptional faculty awards--Guidelines--Matching funds--Donations--Disbursements.

(1) In consultation with eligible community and technical colleges, the college board shall set priorities and guidelines for the program.

(2) Under this section, a college shall not receive more than four faculty grants in twenty-five thousand dollar increments, with a maximum total of one hundred thousand dollars per campus in any biennium.

(3) All community and technical colleges and foundations shall be eligible for matching trust funds. Institutions and foundations may apply to the college board for grants from the fund in twenty-five thousand dollar increments up to a maximum of one hundred thousand dollars when they can match the state funds with equal cash donations from private sources, except that in the initial year of the program, no college or foundation may receive more than one grant until every college or its foundation has received one grant. These donations shall be made specifically to the exceptional faculty awards program and deposited by the institution or foundation in a local endowment fund or a foundation's fund. Otherwise unrestricted gifts may be deposited in the endowment fund by the institution or foundation.

(4) Once sufficient private donations are received by the institution or foundation, the institution shall inform the college board and request state matching funds. The college board shall evaluate the request for state matching funds based on program priorities and guidelines.

The college board may ask the state treasurer to release the state matching funds to a local endowment fund established by the institution or a foundation's fund established by a foundation for each faculty award created.

(5) A college, by action of its board of trustees, may transfer those exceptional faculty award funds accumulated in its local endowment fund between July 1, 1991, and July 25, 1993, to its foundation's local endowment fund established as provided in subsection (3) of this section.

[1994 c 234 § 3; 1993 c 87 § 2; 1991 c 238 § 64; 1990 c 29 § 3.]

Notes:

Severability--1990 c 29: See note following RCW 28B.50.835.

RCW 28B.50.841 Exceptional faculty awards--Name of award--Duties of institution--Use of endowment proceeds.

(1) The faculty awards are the property of the institution and may be named in honor of a donor, benefactor, or honoree of the institution, at the option of the institution. The institution shall designate the use of the award to individuals, groups, or for the improvement of faculty as a whole. The designation shall be made or renewed annually.

(2) The institution is responsible for soliciting private donations, investing and maintaining its endowment funds, administering the faculty awards, and reporting on the program to the governor, the college board, and the legislature, upon request. The institution may augment its endowment fund with additional unrestricted private donations. The principal of the invested endowment fund shall not be invaded.

(3) The proceeds from the endowment fund shall be used to pay expenses for faculty awards, which may include faculty development activities, in-service training, temporary substitute or replacement costs directly associated with faculty development programs, conferences, travel, publication and dissemination of exemplary projects; to supplement the salary of the holder or holders of a faculty award; or to pay expenses associated with the holder's program area. Funds from this program shall not be used to supplant existing faculty development funds.

[2000 c 127 § 1; 1991 c 238 § 65; 1990 c 29 § 4.]

Notes:

Severability--1990 c 29: See note following RCW 28B.50.835.

RCW 28B.50.843 Exceptional faculty awards--Determination of award--Collective bargaining.

The process for determining local awards shall be subject to collective bargaining. Decisions regarding the amounts of individual awards and who receives them shall not be subject to collective bargaining and shall be subject to approval of the applicable board of trustees.

[1991 c 238 § 66; 1990 c 29 § 5.]

Notes:

Severability--1990 c 29: See note following RCW 28B.50.835.

RCW 28B.50.844 Exceptional faculty awards--Eligibility of foundation for matching funds--Endowment fund management.

A foundation is not eligible to receive matching funds under RCW 28B.50.835 through 28B.50.843 unless the foundation and the board of trustees of the college for whose benefit the foundation exists have entered into a contract, approved by the attorney general, that: (1) Specifies the services to be provided by the foundation; (2) provides for protection of the community and technical college exceptional awards endowment funds under the foundation's control; and (3) provides for the college's assumption of ownership, management, and control of such funds if the foundation ceases to exist or function properly, or fails to provide the specified services in accordance with the contract.

The principal of the community and technical college exceptional awards endowment fund managed by the foundation shall not be invaded. Funds recovered by a college under this section shall be deposited into the college's local endowment fund. For purposes of this section, community and technical college exceptional awards endowment funds include the private donations, state matching funds, and any accrued interest on such donations and matching funds.

[1993 c 87 § 4.]

RCW 28B.50.850 Faculty tenure--Purpose.

It shall be the purpose of RCW 28B.50.850 through 28B.50.869 to establish a system of faculty tenure which protects the concepts of faculty employment rights and faculty involvement in the protection of those rights in the state system of community and technical colleges. RCW 28B.50.850 through 28B.50.869 shall define a reasonable and orderly process for appointment of faculty members to tenure status and the dismissal of the tenured faculty member.

Employees of the Seattle Vocational Institute are exempt from this section until July 1, 1993.

[1991 c 238 § 67; 1969 ex.s. c 283 § 32. Formerly RCW 28.85.850.]

Notes:

Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28B.50.851 Faculty tenure--Definitions.

As used in RCW 28B.50.850 through 28B.50.869:

(1) "Tenure" shall mean a faculty appointment for an indefinite period of time which may be revoked only for adequate cause and by due process;

(2)(a) "Faculty appointment", except as otherwise provided in (b) of this subsection, shall

mean full time employment as a teacher, counselor, librarian or other position for which the training, experience and responsibilities are comparable as determined by the appointing authority, except administrative appointments; "faculty appointment" shall also mean department heads, division heads and administrators to the extent that such department heads, division heads or administrators have had or do have status as a teacher, counselor, or librarian; faculty appointment shall also mean employment on a reduced work load basis when a faculty member has retained tenure under RCW 28B.50.859;

(b) "Faculty appointment" shall not mean special faculty appointment as a teacher, counselor, librarian, or other position as enumerated in (a) of this subsection, when such employment results from special funds provided to a community college district from federal moneys or other special funds which other funds are designated as "special funds" by the college board: PROVIDED, That such "special funds" so designated by the college board for purposes of this section shall apply only to teachers, counselors and librarians hired from grants and service agreements and teachers, counselors and librarians hired in nonformula positions. A special faculty appointment resulting from such special financing may be terminated upon a reduction or elimination of funding or a reduction or elimination of program: PROVIDED FURTHER, That "faculty appointees" holding faculty appointments pursuant to subsections (1) or (2)(a) of this section who have been subsequently transferred to positions financed from "special funds" pursuant to (b) of this subsection and who thereafter lose their positions upon reduction or elimination of such "special funding" shall be entitled to be returned to previous status as faculty appointees pursuant to subsection (1) or (2)(a) of this section depending upon their status prior to the "special funding" transfer. Notwithstanding the fact that tenure shall not be granted to anyone holding a special faculty appointment, the termination of any such faculty appointment prior to the expiration of the term of such faculty member's individual contract for any cause which is not related to elimination or reduction of financing or the elimination or reduction of program shall be considered a termination for cause subject to the provisions of this chapter;

(3) "Probationary faculty appointment" shall mean a faculty appointment for a designated period of time which may be terminated without cause upon expiration of the probationer's terms of employment;

(4) "Probationer" shall mean an individual holding a probationary faculty appointment;

(5) "Administrative appointment" shall mean employment in a specific administrative position as determined by the appointing authority;

(6) "Appointing authority" shall mean the board of trustees of a college district;

(7) "Review committee" shall mean a committee composed of the probationer's faculty peers, a student representative, and the administrative staff of the community or technical college: PROVIDED, That the majority of the committee shall consist of the probationer's faculty peers.

[1993 c 188 § 1; 1991 c 294 § 2; 1991 c 238 § 68; 1988 c 32 § 2; 1975 1st ex.s. c 112 § 1; 1974 ex.s. c 33 § 1; 1970 ex.s. c 5 § 3; 1969 ex.s. c 283 § 33. Formerly RCW 28.85.851.]

Notes:

Construction--1993 c 188: "Nothing contained in this act shall be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement." [1993 c 188 § 5.]

Effective date--1993 c 188: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 188 § 6.]

Severability--1993 c 188: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 188 § 7.]

Intent--1991 c 294: "Improving the quality of instruction at our state institutions of higher education is a priority of the legislature. Recently, many efforts have been made by the legislature, the colleges, and the higher education coordinating board to assess and improve the quality of instruction received by students at our state institutions. It is the intent of the legislature that, in conjunction with these various efforts, the process for the award of faculty tenure at community colleges should allow for a thorough review of the performance of faculty appointees prior to the granting of tenure." [1991 c 294 § 1.]

Construction--1991 c 294: "Nothing contained in this act shall be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement." [1991 c 294 § 6.]

Effective date--Application--1991 c 294: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991, and shall apply to all faculty appointments made by community colleges after June 30, 1991, but shall not apply to employees of community colleges who hold faculty appointments prior to July 1, 1991." [1991 c 294 § 7.]

Severability--1991 c 294: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 294 § 8.]

Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28B.50.852 Faculty tenure--Rules and regulations--Award of faculty tenure--Maximum probationary period.

The appointing authority shall promulgate rules and regulations implementing RCW 28B.50.850 through 28B.50.869 and shall provide for the award of faculty tenure following a probationary period not to exceed nine consecutive college quarters, excluding summer quarter and approved leaves of absence: PROVIDED, That tenure may be awarded at any time as may be determined by the appointing authority after it has given reasonable consideration to the recommendations of the review committee. Upon formal recommendation of the review committee and with the written consent of the probationary faculty member, the appointing authority may extend its probationary period for one, two, or three quarters, excluding summer quarter, beyond the maximum probationary period established herein. No such extension shall be made, however, unless the review committee's recommendation is based on its belief that the probationary faculty member needs additional time to complete satisfactorily a professional improvement plan already in progress and in the committee's further belief that the probationary faculty member will complete the plan satisfactorily. At the conclusion of any such extension, the appointing authority may award tenure unless the probationary faculty member has, in the judgment of the committee, failed to complete the professional improvement plan satisfactorily.

[1991 c 294 § 3; 1969 ex.s. c 283 § 34. Formerly RCW 28.85.852.]

Notes:

Intent--Construction--Effective date, application--Severability--1991 c 294: See notes following RCW 28B.50.851.

Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28B.50.855 Faculty tenure--Written agreement embodying terms of employment furnished faculty.

The appointing authority shall provide each faculty member, immediately upon employment, with a written agreement which delineates the terms of employment including all conditions and responsibilities attached thereto.

[1969 ex.s. c 283 § 35. Formerly RCW 28.85.855.]

Notes:

Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28B.50.856 Faculty tenure--Evaluation of probationer by review committee--Progress report, acknowledgment of receipt--Recommendation as to tenure.

The probationary faculty appointment period shall be one of continuing evaluation of a probationer by a review committee. The evaluation process shall place primary importance upon the probationer's effectiveness in his appointment. The review committee shall periodically advise each probationer, in writing, of his progress during the probationary period and receive the probationer's written acknowledgment thereof. The review committee shall at appropriate times make recommendations to the appointing authority as to whether tenure should or should not be granted to individual probationers: PROVIDED, That the final decision to award or withhold tenure shall rest with the appointing authority, after it has given reasonable consideration to the recommendations of the review committee.

[1969 ex.s. c 283 § 36. Formerly RCW 28.85.856.]

Notes:

Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28B.50.857 Faculty tenure--Decision not to renew probationary appointment, notice by appointing authority, when.

Upon the decision not to renew a probationary faculty appointment, the appointing authority shall notify the probationer of such decision as soon as possible during the regular college year: PROVIDED, That such notice may not be given later than one complete quarter, except summer quarter, before the expiration of the probationary faculty appointment.

[1991 c 294 § 4; 1969 ex.s. c 283 § 37. Formerly RCW 28.85.857.]

Notes:

Intent--Construction--Effective date, application--Severability--1991 c 294: See notes following RCW 28B.50.851.

Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28B.50.859 Faculty tenure--Tenure retained upon reduced work load assignment.

An appointing authority may allow a tenured faculty member to retain tenure upon assignment to a reduced work load. The appointing authority and the faculty member shall execute a written agreement setting forth the terms and conditions of the assignment, including the conditions, if any, under which the faculty member may return to full time employment.

[1988 c 32 § 1.]

RCW 28B.50.860 Faculty tenure--Tenure retained upon administrative appointment.

A tenured faculty member, upon appointment to an administrative appointment shall be allowed to retain his tenure.

[1977 ex.s. c 282 § 7; 1969 ex.s. c 283 § 38. Formerly RCW 28.85.860.]

Notes:

Severability--1977 ex.s. c 282: See note following RCW 28B.50.870.

Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28B.50.861 Faculty tenure--Dismissal only for sufficient cause.

The tenured faculty member shall not be dismissed except for sufficient cause, nor shall a faculty member who holds a probationary faculty appointment be dismissed prior to the written terms of the appointment except for sufficient cause.

[1969 ex.s. c 283 § 39. Formerly RCW 28.85.861.]

Notes:

Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28B.50.862 Faculty tenure--Certain grounds constituting sufficient cause.

Sufficient cause shall also include aiding and abetting or participating in: (1) Any unlawful act of violence; (2) Any unlawful act resulting in destruction of community college property; or (3) Any unlawful interference with the orderly conduct of the educational process.

[1969 ex.s. c 283 § 40. Formerly RCW 28.85.862.]

Notes:

Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28B.50.863 Faculty tenure--Review prior to dismissal--Scope--Recommendations

of review committee.

Prior to the dismissal of a tenured faculty member, or a faculty member holding an unexpired probationary faculty appointment, the case shall first be reviewed by a review committee. The review shall include testimony from all interested parties including, but not limited to, other faculty members and students. The faculty member whose case is being reviewed shall be afforded the right of cross-examination and the opportunity to defend himself. The review committee shall prepare recommendations on the action they propose be taken and submit such recommendations to the appointing authority prior to their final action.

[1969 ex.s. c 283 § 41. Formerly RCW 28.85.863.]

Notes:

Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28B.50.864 Faculty tenure--Appeal from decision for dismissal--Procedure.

Any faculty member dismissed pursuant to RCW 28B.50.850 through 28B.50.869 shall have a right to appeal the final decision of the appointing authority in accordance with RCW 34.05.510 through 34.05.598.

[1989 c 175 § 80; 1973 c 62 § 24; 1969 ex.s. c 283 § 42. Formerly RCW 28.85.864.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.
Savings--Severability--1973 c 62: See notes following RCW 28B.10.510.
Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28B.50.867 Faculty tenure--Tenure rights upon transfer of employment to another community or technical college.

Upon transfer of employment from one community or technical college to another community or technical college within a district, a tenured faculty member shall have the right to retain tenure and the rights accruing thereto which he or she had in his or her previous employment: PROVIDED, That upon permanent transfer of employment to another college district a tenured faculty member shall not have the right to retain his tenure or any of the rights accruing thereto.

[1991 c 238 § 69; 1969 ex.s. c 283 § 43. Formerly RCW 28.85.867.]

Notes:

Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28B.50.868 Faculty tenure--Faculty members currently employed granted tenure.

All employees of a community college district, except presidents, who were employed in the community college district at the effective date of chapter 283, Laws of 1969 ex. sess. and who hold or have held a faculty appointment with the community college district or its

predecessor school district shall be granted tenure by their appointing authority notwithstanding any other provision of RCW 28B.50.850 through 28B.50.869.

[1970 ex.s. c 5 § 4; 1969 ex.s. c 283 § 44. Formerly RCW 28.85.868.]

Notes:

Reviser's note: The various provisions of chapter 283, Laws of 1969 ex. sess. became effective on several different dates. The effective date of the provisions thereof relating to tenure appears to have been midnight August 10, 1969, see preface, Laws of 1969 ex. sess., and see also 1969 ex.s. c 283 §§ 54 and 55 (uncodified).

Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28B.50.869 Faculty tenure--Review committees, composition--Selection of faculty representatives, student representative.

The review committees required by RCW 28B.50.850 through 28B.50.869 shall be composed of members of the administrative staff, a student representative, and the faculty. The representatives of the faculty shall represent a majority of the members on each review committee. The members representing the faculty on each review committee shall be selected by a majority of the faculty and faculty department heads acting in a body. The student representative, who shall be a full time student, shall be chosen by the student association of the particular community or technical college in such manner as the members thereof shall determine.

[1993 c 188 § 2; 1991 c 238 § 70; 1974 ex.s. c 33 § 2; 1969 ex.s. c 283 § 45. Formerly RCW 28.85.869.]

Notes:

Construction--Effective date--Severability--1993 c 188: See notes following RCW 28B.50.851.

Severability--1969 ex.s. c 283: See note following RCW 28A.150.050.

RCW 28B.50.870 Faculty tenure--For certain educational programs operated in state correctional institutions.

The district board of trustees of any college district currently operating an educational program with funds provided by another state agency, including federal funds, which program has been in existence for five or more years under the administration of one or more college districts, shall provide for the award or denial of tenure to anyone who holds a special faculty appointment in such curricular program and for as long as the program continues to be funded in such manner, utilizing the prescribed probationary processes and procedures set forth in this chapter with the exception that no student representative shall be required to serve on the review committee defined in RCW 28B.50.851: PROVIDED, That such review processes and procedures shall not be applicable to faculty members whose contracts are renewed after *the effective date of this 1977 amendatory act and who have completed at least three consecutive years of satisfactory full time service in such program, who shall be granted tenure by the college district: PROVIDED FURTHER, That faculty members who have completed one year or more of satisfactory full time service in such program shall be credited with such service for

the purposes of this section: PROVIDED, FURTHER, That provisions relating to tenure for faculty under the provisions of this section shall be distinct from provisions relating to tenure for other faculty of the college district and faculty appointed to such special curricular program shall be treated as a separate unit as respects selection, retention, reduction in force or dismissal hereunder: AND PROVIDED FURTHER, That the provisions of this section shall only be applicable to faculty holding a special faculty appointment in an educational program operated in a state correctional institution pursuant to a written contract with a college district.

[1991 c 238 § 71; 1977 ex.s. c 282 § 1.]

Notes:

***Reviser's note:** Phrase "the effective date of this 1977 amendatory act": Except for RCW 28B.50.100 and 28B.50.101 which were effective January 1, 1978, (see note following RCW 28B.50.100) the effective date of 1977 ex.s. c 282 (the enactment of RCW 28B.50.870, 28B.50.090, 28B.50.140, 28B.50.300, and 28B.50.860 and the repeal of RCW 28B.50.570, 28B.50.590, 28B.50.750, and 28B.56.060) was September 21, 1977.

Severability--1977 ex.s. c 282: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 282 § 10.]

RCW 28B.50.872 Periodic posttenure evaluation.

By June 30, 1994, each community and technical college shall establish, through the local collective bargaining process, periodic posttenure evaluation of all full-time faculty consistent with the standards of the Northwest association of schools and colleges.

[1993 c 188 § 3.]

Notes:

Construction--Effective date--Severability--1993 c 188: See notes following RCW 28B.50.851.

RCW 28B.50.873 Reduction in force of tenured or probationary faculty members due to financial emergency--Conditions--Procedure--Rights.

The college board may declare a financial emergency under the following conditions: (1) Reduction of allotments by the governor pursuant to *RCW 43.88.110(2), or (2) reduction by the legislature from one biennium to the next or within a biennium of appropriated funds based on constant dollars using the implicit price deflator. When a district board of trustees determines that a reduction in force of tenured or probationary faculty members may be necessary due to financial emergency as declared by the state board, written notice of the reduction in force and separation from employment shall be given the faculty members so affected by the president or district president as the case may be. Said notice shall clearly indicate that separation is not due to the job performance of the employee and hence is without prejudice to such employee and need only state in addition the basis for the reduction in force as one or more of the reasons enumerated in subsections (1) and (2) of this section.

Said tenured or probationary faculty members will have a right to request a formal hearing when being dismissed pursuant to subsections (1) and (2) of this section. The only issue

to be determined shall be whether under the applicable policies, rules or collective bargaining agreement the particular faculty member or members advised of severance are the proper ones to be terminated. Said hearing shall be initiated by filing a written request therefor with the president or district president, as the case may be, within ten days after issuance of such notice. At such formal hearing the tenure review committee provided for in RCW 28B.50.863 may observe the formal hearing procedure and after the conclusion of such hearing offer its recommended decision for consideration by the hearing officer. Failure to timely request such a hearing shall cause separation from service of such faculty members so notified on the effective date as stated in the notice, regardless of the duration of any individual employment contract.

The hearing required by this section shall be an adjudicative proceeding pursuant to chapter 34.05 RCW, the Administrative Procedure Act, conducted by a hearing officer appointed by the board of trustees and shall be concluded by the hearing officer within sixty days after written notice of the reduction in force has been issued. Ten days written notice of the formal hearing will be given to faculty members who have requested such a hearing by the president or district president as the case may be. The hearing officer within ten days after conclusion of such formal hearing shall prepare findings, conclusions of law and a recommended decision which shall be forwarded to the board of trustees for its final action thereon. Any such determination by the hearing officer under this section shall not be subject to further tenure review committee action as otherwise provided in this chapter.

Notwithstanding any other provision of this section, at the time of a faculty member or members request for formal hearing said faculty member or members may ask for participation in the choosing of the hearing officer in the manner provided in RCW 28A.405.310(4), said employee therein being a faculty member for the purposes hereof and said board of directors therein being the board of trustees for the purposes hereof: PROVIDED, That where there is more than one faculty member affected by the board of trustees' reduction in force such faculty members requesting hearing must act collectively in making such request: PROVIDED FURTHER, That costs incurred for the services and expenses of such hearing officer shall be shared equally by the community or technical college and the faculty member or faculty members requesting hearing.

When more than one faculty member is notified of termination because of a reduction in force as provided in this section, hearings for all such faculty members requesting formal hearing shall be consolidated and only one such hearing for the affected faculty members shall be held, and such consolidated hearing shall be concluded within the time frame set forth herein.

Separation from service without prejudice after formal hearing under the provisions of this section shall become effective upon final action by the board of trustees.

It is the intent of the legislature by enactment of this section and in accordance with RCW 28B.52.035, to modify any collective bargaining agreements in effect, or any conflicting board policies or rules, so that any reductions in force which take place after December 21, 1981, whether in progress or to be initiated, will comply solely with the provisions of this section: PROVIDED, That any applicable policies, rules, or provisions contained in a collective bargaining agreement related to lay-off units, seniority and re-employment rights shall not be affected by the provisions of this paragraph.

Nothing in this section shall be construed to affect the right of the board of trustees or its designated appointing authority not to renew a probationary faculty appointment pursuant to RCW 28B.50.857.

[1991 c 238 § 72; 1990 c 33 § 559; 1989 c 175 § 81; 1981 2nd ex.s. c 13 § 1.]

Notes:

***Reviser's note:** RCW 43.88.110 was amended by 1991 c 358 § 2 changing subsection (2) to subsection (3).

Purpose--Statutory references--Severability--1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Effective date--1989 c 175: See note following RCW 34.05.010.

Severability--1981 2nd ex.s. c 13: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 2nd ex.s. c 13 § 3.]

RCW 28B.50.874 Transfer of administration of vocational-technical institutes to system of community and technical colleges--Personnel rights.

When the state system of community and technical colleges assumes administrative control of the vocational-technical institutes, personnel employed by the vocational-technical institutes shall:

(1) Suffer no reduction in compensation, benefits, seniority, or employment status. After September 1, 1991, classified employees shall continue to be covered by chapter 41.56 RCW and faculty members and administrators shall be covered by chapter 28B.50 RCW;

(2) To the extent applicable to faculty members, any faculty currently employed on a "continuing contract" basis under RCW 28A.405.210 be awarded tenure pursuant to RCW 28B.50.851 through 28B.50.873, except for any faculty members who are provisional employees under RCW 28A.405.220;

(3) Be eligible to participate in the health care and other insurance plans provided by the health care authority and the state employee benefits board pursuant to chapter 41.05 RCW;

(4) Be eligible to participate in old age annuities or retirement income plans under the rules of the state board for community and technical colleges pursuant to RCW 28B.10.400 or the teachers' retirement system plan 1 for personnel employed before July 1, 1977, or plan 2 for personnel employed after July 1, 1977, under chapter 41.32 RCW; however, no affected vocational-technical institute employee shall be required to choose from among any available retirement plan options prior to six months after September 1, 1991;

(5) Have transferred to their new administrative college district all accrued sick and vacation leave and thereafter shall earn and use all such leave under the rule established pursuant to RCW 28B.50.551;

(6) Be eligible to participate in the deferred compensation plan and the dependent care program pursuant to RCW 41.04.600 under the applicable rules.

An exclusive bargaining representative certified to represent a bargaining unit covering employees of a vocational technical institute on September 1, 1991, shall remain the exclusive representative of such employees thereafter until and unless such representative is replaced or

decertified in accordance with state law.

Any collective bargaining agreement in effect on June 30, 1991, shall remain in effect as it applies to employees of vocational technical institutes until its expiration or renewal date or until renegotiated or renewed in accordance with chapter 28B.52 or 41.56 RCW. After the expiration date of a collective bargaining agreement, all of the terms and conditions specified in the collective bargaining agreement, as it applies to employees of vocational-technical institutes, shall remain in effect until the effective date of a subsequent agreement, not to exceed one year from the termination date stated in the agreement. The board of trustees and the employees may mutually agree to continue the terms and conditions of the agreement beyond the one year extension. However, nothing in this section shall be construed to deny any employee right granted under chapter 28B.52 or 41.56 RCW. Labor relations processes and agreements covering faculty members of vocational technical institutes after September 1, 1991, shall be governed by chapter 28B.52 RCW. Labor relations processes and agreements covering classified employees of vocational technical institutes after September 1, 1991, shall continue to be governed by chapter 41.56 RCW.

[1998 c 116 § 14; 1991 c 238 § 83.]

RCW 28B.50.8742 Technical colleges--Employee option to reenroll in public employees' benefits trust.

Employees of technical colleges who were members of the [a] public employees' benefits trust and as a result of chapter 238, Laws of 1991, were required to enroll in public employees' benefits board-sponsored plans, must decide whether to reenroll in the trust by January 1, 1996, or the expiration of the current collective bargaining agreements, whichever is later. Employees of a bargaining unit or administrative or managerial employees otherwise not included in a bargaining unit shall be required to transfer by group. Administrative or managerial employees shall transfer in accordance with rules established by the health care authority. If employee groups elect to transfer, they are eligible to reenroll in the public employees' benefits board-sponsored plans. This one-time reenrollment option in the public employees' benefits board-sponsored plans is available to be exercised in January 2001, or only every five years thereafter, until exercised.

[1995 1st sp.s. c 6 § 10.]

Notes:

Effective date--1995 1st sp.s. c 6: See note following RCW 28A.400.410.

RCW 28B.50.8744 Technical colleges--Payment to public employees' and retirees' insurance account.

(1) In a manner prescribed by the state health care authority, technical colleges who have employees enrolled in a benefits trust shall remit to the health care authority for deposit in the public employees' and retirees' insurance account established in RCW 41.05.120 the amount specified for remittance in the omnibus appropriations act.

(2) The remittance requirements of this section do not apply to employees of a technical college who receive insurance benefits through contracts with the health care authority.

[1995 1st sp.s. c 6 § 19.]

Notes:

Effective date--1995 1st sp.s. c 6: See note following RCW 28A.400.410.

RCW 28B.50.875 Laboratory services for the analyzing of samples, public agencies may contract with college for.

Local law enforcement agencies or such other public agencies that shall be in need of such service may contract with any community or technical college for laboratory services for the analyzing of samples that chemists associated with such colleges may be able to perform under such terms and conditions as the individual college may determine.

Employees of the Seattle Vocational Institute are exempt from this section until July 1, 1993.

[1991 c 238 § 73; 1969 ex.s. c 261 § 35. Formerly RCW 28.85.875.]

Notes:

Severability--1969 ex.s. c 261: See note following RCW 28B.50.020.

RCW 28B.50.877 Technical colleges--Purchase of support services from school districts.

During the period from May 17, 1991, until September 1, 1991:

(1) The executive director of the state board for community and technical colleges, or the executive director's designee, may enter into contracts, or agreements for goods, services, and personnel, on behalf of the technical college, which are effective after September 1, 1991. The executive director, or the executive director's designee, may conduct business, including budget approval, relevant to the operation of the technical college in the period subsequent to September 1, 1991.

(2) Vocational-technical institute directors may conduct business relevant to the operation of the vocational-technical institutes. School boards and superintendents may not restrict or remove powers previously delegated to the vocational-technical institute directors during the 1990-91 school year.

(3) Technical colleges' boards of trustees appointed before September 1, 1991, shall serve in an advisory capacity to the vocational-technical institute director.

As of September 1, 1991, technical colleges may, by interlocal agreement, continue to purchase from the school districts, support services within mutually agreed upon categories at a cost not to exceed the indirect rate charged during the 1990-91 school year. No employee of a technical college may be discriminated against based on actions or opinions expressed on issues surrounding chapter 238, Laws of 1991. Any dispute related to issues contained in this section shall be resolved under RCW 28B.50.302.

[1991 c 238 § 143.]

RCW 28B.50.880 Apprentices--Recommendations of the state board for community and technical colleges.

The state board for community and technical colleges shall provide recommendations to the apprenticeship council and apprenticeship programs, established under chapter 49.04 RCW, on matters of related and supplemental instruction for apprentices, coordination of instruction with job experiences, and the qualification of teachers for such instruction.

[2001 c 204 § 8; 1991 c 238 § 111.]

RCW 28B.50.910 Severability--1969 ex.s. c 223.

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

[1969 ex.s. c 223 § 28B.50.910. Prior: 1967 ex.s. c 8 § 72. Formerly RCW 28.85.910.]

RCW 28B.50.912 Transfer of powers from superintendent of public instruction and state board of education to state board for community and technical colleges.

All powers, duties, and functions of the superintendent of public instruction and the state board of education pertaining to projects of adult education, including the state-funded Even Start and including the adult education programs operated pursuant to 20 U.S.C. Sec. 1201 as amended by P.L. 100-297, are transferred to the state board for community and technical colleges. All references to the director or superintendent of public instruction or the state board of education in the Revised Code of Washington shall be construed to mean the director or the state board for community and technical colleges when referring to the functions transferred in this section.

[1991 c 238 § 85.]

RCW 28B.50.913 Transfer of powers from Washington institute for applied technology to Seattle Vocational Institute.

The public nonprofit corporation for the Washington institute for applied technology is hereby abolished and its powers, duties, and functions are hereby transferred to the sixth college district. The Washington institute for applied technology shall be renamed the Seattle Vocational Institute. The Seattle Vocational Institute shall become a fourth unit of the sixth college district. All references to the director or public nonprofit corporation for the Washington institute for applied technology in the Revised Code of Washington shall be construed to mean the director of the Seattle Vocational Institute.

[1991 c 238 § 94.]

RCW 28B.50.914 Transfer of powers from school districts to state board for community and technical colleges.

All powers, duties, and functions of the school district pertaining to a vocational-technical institute are transferred to the state board for community and technical colleges until the establishment of local boards of trustees with authority for the technical college. All references to the director or school district in the Revised Code of Washington shall be construed to mean the director or state board for community and technical colleges when referring to the functions transferred in this section.

[1991 c 238 § 116.]

RCW 28B.50.915 Transfer of powers from superintendent of public instruction to state board for community and technical colleges.

All powers, duties, and functions of the superintendent of public instruction pertaining to vocational-technical institutes are transferred to the state board for community and technical colleges. All references to the director or superintendent of public instruction in the Revised Code of Washington shall be construed to mean the director or state board for community and technical colleges when referring to the functions transferred in this section.

[1991 c 238 § 122.]

RCW 28B.50.917 Effective dates--1991 c 238.

Sections 1 through 7, 14 through 19, 24 through 28, 33, 76 through 81, 85 through 111, 114, 140 through 144, and 164 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions.

Sections 33, 114, and 142 through 144 of this act shall take effect immediately.

Sections 1 through 8, 14 through 19, 24 through 28, 76 through 81, 85 through 111, 140, 141, and 164 of this act shall take effect July 1, 1991.

Sections 20 through 23, 29 through 32, 34 through 75, 82 through 84, 112, 113, 115 through 139, and 145 through 158 of this act shall take effect September 1, 1991.

Sections 8 through 13 of this act shall take effect October 1, 1991.

[1991 c 238 § 166.]

RCW 28B.50.918 Severability--1991 c 238.

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

[1991 c 238 § 167.]

Chapter 28B.52 RCW
COLLECTIVE BARGAINING--ACADEMIC PERSONNEL IN COMMUNITY COLLEGES

(Formerly: Negotiations by academic personnel--Community college districts)

Sections

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28B.52.020 Definitions.
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28B.52.300 Construction of chapter.
28B.52.900 Severability--1987 c 314.

RCW 28B.52.010 Declaration of purpose.

It is the purpose of this chapter to strengthen methods of administering employer-employee relations through the establishment of orderly methods of communication between academic employees and the college districts by which they are employed.

It is the purpose of this chapter to promote cooperative efforts by prescribing certain rights and obligations of the employees and employers and by establishing orderly procedures governing the relationship between the employees and their employers which procedures are designed to meet the special requirements and needs of public employment in higher education. It is the intent of this chapter to promote activity that includes the elements of open communication and access to information in a timely manner, with reasonable discussion and interpretation of that information. It is the further intent that such activity shall be characterized by mutual respect, integrity, reasonableness, and a desire on the part of the parties to address and resolve the points of concern.

[1991 c 238 § 145; 1987 c 314 § 1; 1971 ex.s. c 196 § 1.]

Notes:

Effective dates--Severability--1991 c 238: See RCW 28B.50.917 and 28B.50.918.

RCW 28B.52.020 Definitions.

As used in this chapter:

(1) "Employee organization" means any organization which includes as members the academic employees of a college district and which has as one of its purposes the representation of the employees in their employment relations with the college district.

(2) "Academic employee" means any teacher, counselor, librarian, or department head, who is employed by any college district, whether full or part time, with the exception of the chief administrative officer of, and any administrator in, each college district.

(3) "Administrator" means any person employed either full or part time by the college district and who performs administrative functions as at least fifty percent or more of his or her assignments, and has responsibilities to hire, dismiss, or discipline other employees. Administrators shall not be members of the bargaining unit unless a majority of such administrators and a majority of the bargaining unit elect by secret ballot for such inclusion pursuant to rules as adopted in accordance with RCW 28B.52.080.

(4) "Commission" means the public employment relations commission.

(5) "Unfair labor practice" means any unfair labor practice listed in RCW 28B.52.073.

(6) "Union security provision" means a provision in a collective bargaining agreement under which some or all employees in the bargaining unit may be required, as a condition of continued employment on or after the thirtieth day following the beginning of such employment or the effective date of the provision, whichever is later, to become a member of the exclusive bargaining representative or pay an agency fee equal to the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative.

(7) "Exclusive bargaining representative" means any employee organization which has:

(a) Been certified or recognized under this chapter as the representative of the employees in an appropriate collective bargaining unit; or

(b) Before July 26, 1987, been certified or recognized under a predecessor statute as the representative of the employees in a bargaining unit which continues to be appropriate under this chapter.

(8) "Collective bargaining" and "bargaining" mean the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times to bargain in good faith in an effort to reach agreement with respect to wages, hours, and other terms and conditions of employment, such as procedures related to nonretention, dismissal, denial of tenure, and reduction in force. Prior law, practice, or interpretation shall be neither restrictive, expansive, nor determinative with respect to the scope of bargaining. A written contract incorporating any agreements reached shall be executed if requested by either party. The obligation to bargain does not compel either party to agree to a proposal or to make a concession.

In the event of a dispute between an employer and an exclusive bargaining representative

over the matters that are terms and conditions of employment, the commission shall decide which items are mandatory subjects for bargaining.

[1991 c 238 § 146; 1987 c 314 § 2; 1975 1st ex.s. c 296 § 12; 1973 1st ex.s. c 205 § 1; 1971 ex.s. c 196 § 2.]

Notes:

Effective dates--Severability--1991 c 238: See RCW 28B.50.917 and 28B.50.918.

Effective date--1975 1st ex.s. c 296 § 12: See RCW 41.58.901.

Severability--1973 1st ex.s. c 205: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 205 § 7.]

Public employment relations commission: Chapter 41.58 RCW.

RCW 28B.52.025 Right to organize or refrain from organizing.

Employees have the right to self-organization, to form, join, or assist employee organizations, to bargain collectively through representatives of their own choosing, and also have the right to refrain from any or all of these activities except to the extent that employees may be required to make payments to an exclusive bargaining representative or charitable organization under a union security provision authorized in this chapter.

[1987 c 314 § 5.]

RCW 28B.52.030 Representatives of employee organization--Right to collective bargaining.

Representatives of an employee organization, which organization shall by secret ballot have won a majority in an election to represent the academic employees within its college district, shall have the right to bargain as defined in RCW 28B.52.020(8).

[1991 c 238 § 147; 1987 c 314 § 3; 1973 1st ex.s. c 205 § 2; 1971 ex.s. c 196 § 3.]

Notes:

Effective dates--Severability--1991 c 238: See RCW 28B.50.917 and 28B.50.918.

Severability--1973 1st ex.s. c 205: See note following RCW 28B.52.020.

RCW 28B.52.035 Negotiations reduced to written agreements--Provisions relating to salary increases--Restrictions.

At the conclusion of any negotiation processes as provided for in RCW 28B.52.030, any matter upon which the parties have reached agreement shall be reduced to writing and acted upon in a regular or special meeting of the boards of trustees, and become part of the official proceedings of said board meeting. Provisions of written contracts relating to salary increases shall not exceed the amount or percentage established by the legislature in the appropriations act and allocated to the board of trustees by the state board for community and technical colleges. The length of term of any such agreement shall be for not more than three fiscal years. Any provisions of these agreements pertaining to salary increases will not be binding upon future

actions of the legislature. If any provision of a salary increase is changed by subsequent modification of the appropriations act by the legislature, both parties shall immediately enter into collective bargaining for the sole purpose of arriving at a mutually agreed upon replacement for the modified provision.

[1991 c 238 § 148; 1987 c 314 § 4; 1973 1st ex.s. c 205 § 4.]

Notes:

Effective dates--Severability--1991 c 238: See RCW 28B.50.917 and 28B.50.918.

Severability--1973 1st ex.s. c 205: See note following RCW 28B.52.020.

RCW 28B.52.040 Negotiated agreements--Procedures for binding arbitration.

A board of trustees or an employee organization that enters into a negotiated agreement under RCW 28B.52.030 may include in the agreement procedures for binding arbitration of the disputes arising about the interpretation or application of the agreement including but not limited to nonretention, dismissal, denial of tenure, and reduction in force.

[1987 c 314 § 6.]

RCW 28B.52.045 Collective bargaining agreement--Exclusive bargaining representative--Union security provisions--Dues and fees.

(1) Upon filing with the employer the voluntary written authorization of a bargaining unit employee under this chapter, the employee organization which is the exclusive bargaining representative of the bargaining unit shall have the right to have deducted from the salary of the bargaining unit employee the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative. Such employee authorization shall not be irrevocable for a period of more than one year. Such dues and fees shall be deducted from the pay of all employees who have given authorization for such deduction, and shall be transmitted by the employer to the employee organization or to the depository designated by the employee organization.

(2) A collective bargaining agreement may include union security provisions, but not a closed shop. If an agency shop or other union security provision is agreed to, the employer shall enforce any such provision by deductions from the salary of bargaining unit employees affected thereby and shall transmit such funds to the employee organization or to the depository designated by the employee organization.

(3) An employee who is covered by a union security provision and who asserts a right of nonassociation based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member shall pay to a nonreligious charity or other charitable organization an amount of money equivalent to the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative. The charity shall be agreed upon by the employee and the employee organization to which such employee would otherwise pay the dues and fees. The employee shall furnish

written proof that such payments have been made. If the employee and the employee organization do not reach agreement on such matter, the commission shall designate the charitable organization.

[1987 c 314 § 8.]

RCW 28B.52.050 Academic employee may appear in own behalf.

Nothing in this chapter shall prohibit any academic employee from appearing in his or her own behalf on matters relating to his or her employment relations with the college district.

[1991 c 238 § 149; 1971 ex.s. c 196 § 4.]

Notes:

Effective dates--Severability--1991 c 238: See RCW 28B.50.917 and 28B.50.918.

RCW 28B.52.060 Commission--Mediation activities--Other dispute resolution procedures authorized.

The commission shall conduct mediation activities upon the request of either party as a means of assisting in the settlement of unresolved matters considered under this chapter.

In the event that any matter being jointly considered by the employee organization and the board of trustees of the college district is not settled by the means provided in this chapter, either party, twenty-four hours after serving written notice of its intended action to the other party, may, request the assistance and advice of the commission. Nothing in this section prohibits an employer and an employee organization from agreeing to substitute, at their own expense, some other impasse procedure or other means of resolving matters considered under this chapter.

[1991 c 238 § 150; 1987 c 314 § 9; 1975 1st ex.s. c 296 § 13; 1973 1st ex.s. c 205 § 3; 1971 ex.s. c 196 § 5.]

Notes:

Effective dates--Severability--1991 c 238: See RCW 28B.50.917 and 28B.50.918.
Effective date--1975 1st ex.s. c 296 § 13: See RCW 41.58.901.
Severability--1973 1st ex.s. c 205: See note following RCW 28B.52.020.

RCW 28B.52.065 Commission's adjudication of unfair labor practices--Rules--Binding arbitration authorized.

The commission may adjudicate any unfair labor practices alleged by a board of trustees or an employee organization and shall adopt reasonable rules to administer this section. However, the parties may agree to seek relief from unfair labor practices through binding arbitration.

[1987 c 314 § 10.]

RCW 28B.52.070 Discrimination prohibited.

Boards of trustees of college districts or any administrative officer thereof shall not discriminate against academic employees or applicants for such positions because of their membership or nonmembership in employee organizations or their exercise of other rights under this chapter.

[1991 c 238 § 151; 1971 ex.s. c 196 § 6.]

Notes:

Effective dates--Severability--1991 c 238: See RCW 28B.50.917 and 28B.50.918.

RCW 28B.52.073 Unfair labor practices.

(1) It shall be an unfair labor practice for an employer:

(a) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed by this chapter;

(b) To dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it: PROVIDED, That subject to rules adopted by the commission, an employer shall not be prohibited from permitting employees to confer with it or its representatives or agents during working hours without loss of time or pay;

(c) To encourage or discourage membership in any employee organization by discrimination in regard to hire, tenure of employment, or any term or condition of employment;

(d) To discharge or discriminate otherwise against an employee because that employee has filed charges or given testimony under this chapter;

(e) To refuse to bargain collectively with the representatives of its employees.

(2) It shall be an unfair labor practice for an employee organization:

(a) To restrain or coerce an employee in the exercise of the rights guaranteed by this chapter: PROVIDED, That this subsection shall not impair the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership in the employee organization or to an employer in the selection of its representatives for the purpose of bargaining or the adjustment of grievances;

(b) To cause or attempt to cause an employer to discriminate against an employee in violation of subsection (1)(c) of this section;

(c) To discriminate against an employee because that employee has filed charges or given testimony under this chapter;

(d) To refuse to bargain collectively with an employer.

(3) The expressing of any views, arguments, or opinion, or the dissemination thereof to the public, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under this chapter, if such expression contains no threat of reprisal or force or promise of benefit.

[1987 c 314 § 11.]

RCW 28B.52.078 Strikes and lockouts prohibited--Violations--Remedies.

The right of college faculty to engage in any strike is prohibited. The right of a board of

trustees to engage in any lockout is prohibited. Should either a strike or lockout occur, the representative of the faculty or board of trustees may invoke the jurisdiction of the superior court in the county in which the labor dispute exists and such court shall have jurisdiction to issue an appropriate order against either or both parties. In fashioning an order, the court shall take into consideration not only the elements necessary for injunctive relief but also the purpose and goals of this chapter and any mitigating factors such as the commission of an unfair labor practice by either party.

[1991 c 238 § 152; 1987 c 314 § 13.]

Notes:

Effective dates--Severability--1991 c 238: See RCW 28B.50.917 and 28B.50.918.

RCW 28B.52.080 Commission to adopt rules and regulations--Boards may request commission services.

The commission shall adopt reasonable rules and regulations for the administration of employer-employee relations under this chapter. The boards may request the services of the commission to assist in the conduction of certification elections as provided for in RCW 28B.52.030.

[1975 1st ex.s. c 296 § 14; 1973 1st ex.s. c 205 § 5; 1971 ex.s. c 196 § 7.]

Notes:

Effective date--1975 1st ex.s. c 296 § 14: See 1975-'76 2nd ex.s. c 5 § 8, RCW 41.58.901.

Severability--1973 1st ex.s. c 205: See note following RCW 28B.52.020.

RCW 28B.52.090 Prior agreements.

Nothing in this chapter shall be construed to annul or modify, or to preclude the renewal or continuation of, any lawful agreement heretofore entered into between any college district and any representative of its employees.

[1991 c 238 § 153; 1971 ex.s. c 196 § 8.]

Notes:

Effective dates--Severability--1991 c 238: See RCW 28B.50.917 and 28B.50.918.

RCW 28B.52.100 State higher education administrative procedure act not to affect.

Contracts or agreements, or any provision thereof entered into between boards of trustees and employees organizations pursuant to this chapter shall not be affected by or be subject to chapter 34.05 RCW.

[1971 ex.s. c 196 § 9.]

RCW 28B.52.200 Scope of chapter--Limitations--When attempts to resolve dispute required.

Nothing in chapter 28B.52 RCW as now or hereafter amended shall compel either party

to agree to a proposal or to make a concession, nor shall any provision in chapter 28B.52 RCW as now or hereafter amended be construed as limiting or precluding the exercise by each college board of trustees of any powers or duties authorized or provided to it by law unless such exercise is contrary to the terms and conditions of any lawful negotiated agreement, except that other than to extend the terms of a previous contract, a board of trustees shall not take unilateral action on any unresolved issue under negotiation, unless the parties have first participated in good faith mediation or some other procedure as authorized by RCW 28B.52.060 to seek resolution of the issue.

[1991 c 238 § 154; 1987 c 314 § 12; 1973 1st ex.s. c 205 § 6.]

Notes:

Effective dates--Severability--1991 c 238: See RCW 28B.50.917 and 28B.50.918.

Severability--1973 1st ex.s. c 205: See note following RCW 28B.52.020.

RCW 28B.52.210 Scope of chapter--Community and technical colleges faculty awards trust program.

With respect to the community and technical colleges faculty awards trust program, the permissible scope of collective bargaining under this chapter shall be governed by RCW 28B.50.843.

[1991 c 238 § 155; 1990 c 29 § 6.]

Notes:

Effective dates--Severability--1991 c 238: See RCW 28B.50.917 and 28B.50.918.

Severability--1990 c 29: See note following RCW 28B.50.835.

RCW 28B.52.220 Scope of chapter--Community and technical colleges part-time academic employees.

With respect to the community and technical colleges part-time academic employees, the permissible scope of collective bargaining under this chapter shall be governed by RCW 28B.50.4893 and 28B.50.489.

[2000 c 128 § 4.]

Notes:

Construction--2000 c 128: "Nothing contained in this act may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement." [2000 c 128 § 5.]

RCW 28B.52.300 Construction of chapter.

Except as otherwise expressly provided in this chapter, this chapter shall not be construed to deny or otherwise abridge any rights, privileges, or benefits granted by law to employees. This chapter shall not be construed to interfere with the responsibilities and rights of the board of trustees as specified by federal and state law.

[1987 c 314 § 7.]

RCW 28B.52.900 Severability--1987 c 314.

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

[1987 c 314 § 15.]

Chapter 28B.56 RCW
1972 COMMUNITY COLLEGES FACILITIES AID--BOND ISSUE

Sections

28B.56.010 Purpose.
28B.56.020 Bonds authorized--Payment--Limitations.
28B.56.040 Proceeds from bond sale--Administration and expenditure.
28B.56.050 "Community college facilities" defined.
28B.56.070 Referral to electorate.
28B.56.080 Form, terms, conditions and manner of sale and issuance--Limitation.
28B.56.090 Anticipation notes--Authorized--Contents--Payment.
28B.56.100 Community college capital improvements bond redemption fund of 1972--Created--Tax receipts--Use of funds--Use of debt-limit general fund bond retirement account.
28B.56.110 Legislature may provide additional means of revenue.
28B.56.120 Bonds as legal investment for state and municipal corporation funds.

RCW 28B.56.010 Purpose.

The community colleges of the state of Washington have more than doubled their enrollment since 1966, including a three hundred percent increase in occupational education. The capital fund resources of the state community college system are not adequate to meet the facility needs of today's students. Major increments of community college facilities will be needed to serve the still growing numbers of commuting youth and adults attending the community college system. A determination of the facility needs of each college has been made through the uniform application of guidelines developed by the *state board for community college education to evaluate facility needs.

[1972 ex.s. c 133 § 1.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Legislative direction--1972 ex.s. c 133: "Upon adoption and ratification by the people as provided for in section 7 of this act, sections 1 through 12 herein shall constitute a new chapter in Title 28B RCW." [1972 ex.s. c

133 § 13.]

RCW 28B.56.020 Bonds authorized--Payment--Limitations.

For the purpose of providing funds for the acquisition, construction and improvement of community college facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of fifty million dollars or so much thereof as may be required to finance the improvements defined in this chapter and all costs incidental thereto. These bonds shall be paid and discharged within twenty years of the date of issuance, or within thirty years, should Article VIII of the Constitution of the state of Washington be amended to permit such longer term. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of such bonds to be sold.

[1977 ex.s. c 242 § 5; 1972 ex.s. c 133 § 2.]

Notes:

Severability--1977 ex.s. c 242: See note following RCW 43.83A.020.

RCW 28B.56.040 Proceeds from bond sale--Administration and expenditure.

The proceeds from the sale of bonds deposited in the community college capital improvements account shall be administered and expended by the *state board for community college education subject to legislative appropriation.

[1972 ex.s. c 133 § 4.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

RCW 28B.56.050 "Community college facilities" defined.

For the purposes of this chapter, the term "community college facilities" shall mean and include, but not be limited to, vocational facilities, including capital equipment acquisition, and such other specific projects as approved and funded for planning purposes by the legislature which shall include general education classrooms, science laboratories, faculty offices, student dining facilities, library and media facilities, offices for student personnel services and administrative personnel, and all real property and interests therein, equipment, parking facilities, utilities, appurtenances and landscaping incidental to such facilities.

[1972 ex.s. c 133 § 5.]

RCW 28B.56.070 Referral to electorate.

This chapter shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1972, in accordance with the provisions of section 3, Article VIII of the

Constitution of the state of Washington, and in accordance with the provisions of section 1, Article II of the Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof.

[1972 ex.s. c 133 § 7.]

Notes:

Reviser's note: Chapter 28B.56 RCW was adopted and ratified by the people at the November 7, 1972, general election (Referendum Bill No. 31). Governor's proclamation declaring approval of measure is dated December 7, 1972.

RCW 28B.56.080 Form, terms, conditions and manner of sale and issuance--Limitation.

The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance. None of the bonds herein authorized shall be sold for less than their par value.

[1972 ex.s. c 133 § 8.]

RCW 28B.56.090 Anticipation notes--Authorized--Contents--Payment.

When the state finance committee has decided to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of such bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of bonds and notes.

[1972 ex.s. c 133 § 9.]

RCW 28B.56.100 Community college capital improvements bond redemption fund of 1972--Created--Tax receipts--Use of funds--Use of debt-limit general fund bond retirement account.

The community college capital improvements bond redemption fund of 1972 is created in the state treasury. This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30 of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and on July 1 of each year, the state treasurer shall deposit such amount in the community college capital improvements bond redemption fund of 1972 from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be retail sales tax collections. Such amount

certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest.

The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein.

If a debt-limit general fund bond retirement account is created in the state treasury by chapter 456, Laws of 1997 and becomes effective prior to the issuance of any of the bonds authorized by this chapter, the debt-limit general fund bond retirement account shall be used for the purposes of this chapter in lieu of the community college capital improvements bonds redemption fund of 1972.

[1997 c 456 § 10; 1972 ex.s. c 133 § 10.]

Notes:

Severability--1997 c 456: See RCW 43.99L.900.

Effective date--1997 c 456 §§ 9-43: See RCW 43.99M.901.

RCW 28B.56.110 Legislature may provide additional means of revenue.

The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized herein, and this chapter shall not be deemed to provide an exclusive method for such payment.

[1972 ex.s. c 133 § 11.]

RCW 28B.56.120 Bonds as legal investment for state and municipal corporation funds.

The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and for all funds of municipal corporations.

[1972 ex.s. c 133 § 12.]

Chapter 28B.57 RCW
1975 COMMUNITY COLLEGE SPECIAL CAPITAL PROJECTS BOND ACT

Sections

28B.57.010 State general obligation bonds in lieu of building, limited obligation bonds--"Community college capital projects" defined.
28B.57.020 Amount of bonds authorized.
28B.57.030 Projects enumerated.
28B.57.040 Bond anticipation notes, authorized, payment--Form, terms, conditions, sale and covenants of bonds and notes.
28B.57.050 Disposition of proceeds--1975 community college capital construction account, use.
28B.57.060 Administration of proceeds from bonds and notes.
28B.57.070 1975 community college capital construction bond retirement fund--Created--Purpose.
28B.57.080 Moneys to be transferred from community college account to state general fund--Limitation.

28B.57.090 Bonds as legal investment for public funds.
28B.57.100 Prerequisite to bond issuance.

RCW 28B.57.010 State general obligation bonds in lieu of building, limited obligation bonds--"Community college capital projects" defined.

The legislature has previously approved by its appropriation of funds from time to time, certain capital projects for the state community colleges, which appropriations were to be funded primarily by the issuance of building, limited obligation bonds by the *state board for community college education (hereinafter in this chapter called the "college board"). In order that any future appropriations for such approved capital projects may be funded on terms most advantageous to the state, it is hereby determined to be in the public interest to provide for the issuance of state general obligation bonds, in lieu of building, limited obligation bonds.

For purposes of this chapter, "community college capital projects" means the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets owned by the *state board for community college education in the name of the state of Washington, and the acquisition of sites, rights of way, easements, improvements or appurtenances in relation thereto.

[1985 c 390 § 61; 1975 1st ex.s. c 65 § 1.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability--1975 1st ex.s. c 65: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances, shall in no way be affected." [1975 1st ex.s. c 65 § 13.]

RCW 28B.57.020 Amount of bonds authorized.

For the purpose of providing funds for carrying out the community college capital projects described in RCW 28B.57.030, and to fund indebtedness and expenditures heretofore incurred for such projects, the state finance committee is hereby authorized to issue from time to time general obligation bonds of the state of Washington in the aggregate principal amount of nine million dollars, or so much thereof as may be required for such purposes, to be paid and discharged within thirty years of the date or dates of issuance, in accordance with Article VIII, section 1 of the Constitution of the state of Washington.

[1975 1st ex.s. c 65 § 2.]

Notes:

Severability--1975 1st ex.s. c 65: See note following RCW 28B.57.010.

RCW 28B.57.030 Projects enumerated.

The community college capital projects referred to in RCW 28B.57.020 are (1) at Walla Walla Community College, for construction of vocational facilities, Phase II, at a cost of not more than two million two thousand three hundred ninety-nine dollars and (2) at Seattle Central Community College, for remodeling of Edison South High School, at a cost of not more than six million nine hundred ninety-seven thousand six hundred and one dollars, which projects were to be primarily funded, but have not heretofore been sufficiently funded, from the proceeds of general tuition fee, limited obligation bonds issued by the college board.

[1975 1st ex.s. c 65 § 3.]

Notes:

Severability--1975 1st ex.s. c 65: See note following RCW 28B.57.010.

RCW 28B.57.040 Bond anticipation notes, authorized, payment--Form, terms, conditions, sale and covenants of bonds and notes.

When the state finance committee has determined to issue such general obligation bonds or a portion thereof, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of principal and redemption premium, if any, of and interest on such notes shall be applied thereto when such bonds are issued.

The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds and/or the bond anticipation notes, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and the interest thereon when due.

[1975 1st ex.s. c 65 § 4.]

Notes:

Severability--1975 1st ex.s. c 65: See note following RCW 28B.57.010.

RCW 28B.57.050 Disposition of proceeds--1975 community college capital construction account, use.

The proceeds from the sale of the bonds authorized herein, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the college board may direct the state treasurer to deposit therein, shall be deposited in the 1975 community college capital construction account, hereby created in the state treasury.

[1991 sp.s. c 13 § 51; 1985 c 57 § 18; 1975 1st ex.s. c 65 § 5.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date--1985 c 57: See note following RCW 18.04.105.

Severability--1975 1st ex.s. c 65: See note following RCW 28B.57.010.

Disposition of proceeds from sale of bonds and notes--1977 community college capital projects bond act: RCW 28B.59B.040.

RCW 28B.57.060 Administration of proceeds from bonds and notes.

All proceeds of the bonds authorized in this chapter shall be administered by the college board exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes.

[1975 1st ex.s. c 65 § 6.]

Notes:

Severability--1975 1st ex.s. c 65: See note following RCW 28B.57.010.

RCW 28B.57.070 1975 community college capital construction bond retirement fund--Created--Purpose.

The 1975 community college capital construction bond retirement fund is hereby created in the state treasury for the purpose of the payment of principal of and interest on the bonds authorized to be issued pursuant to this chapter.

The state finance committee, on or before June 30 of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on such bonds. On July 1st of each such year the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1975 community college capital construction bond retirement fund an amount equal to the amount certified by the state finance committee.

[1975 1st ex.s. c 65 § 7.]

Notes:

Severability--1975 1st ex.s. c 65: See note following RCW 28B.57.010.

Disposition of proceeds from sale of bonds and notes--1977 community college capital projects bond act: RCW 28B.59B.040.

RCW 28B.57.080 Moneys to be transferred from community college account to state general fund--Limitation.

On or before June 30 of each year, the college board shall accumulate in the community college capital projects account from building fees and other moneys deposited therein, an amount at least equal to the amount required in the next succeeding twelve months for the payment of principal of and interest on the bonds issued pursuant to this chapter. On July 1st of each such year, the state treasurer shall withdraw said sum from the community college capital projects account and deposit said sum in the state general fund: PROVIDED, That withdrawal of building fees from the community college capital projects account for deposit into the state

general fund pursuant to the provisions of this section shall be made only after provision has first been made for the payment in full of the principal of and interest on all outstanding building, limited obligation bonds of the college board coming due in the twelve months next succeeding July 1 of each such year, and for any reserve account deposits necessary for such outstanding bonds in the same period.

[1985 c 390 § 63; 1975 1st ex.s. c 65 § 8.]

Notes:

Severability--1975 1st ex.s. c 65: See note following RCW 28B.57.010.

RCW 28B.57.090 Bonds as legal investment for public funds.

The bonds authorized in this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

[1975 1st ex.s. c 65 § 9.]

Notes:

Severability--1975 1st ex.s. c 65: See note following RCW 28B.57.010.

RCW 28B.57.100 Prerequisite to bond issuance.

The bonds authorized in this chapter shall be issued only after the college board has certified to the state finance committee that its projected building fees revenue shall be adequate, based upon reasonable projections of student enrollments, for the college board to meet the requirements of RCW 28B.57.080, during the life of the bonds proposed to be issued.

[1985 c 390 § 62; 1975 1st ex.s. c 65 § 10.]

Notes:

Severability--1975 1st ex.s. c 65: See note following RCW 28B.57.010.

Chapter 28B.58 RCW
1975 COMMUNITY COLLEGE GENERAL CAPITAL PROJECTS BOND ACT

Sections

28B.58.010 State general obligation bonds in lieu of building, limited obligation bonds--"Community college capital projects" defined--Consideration for minority contractors on projects so funded.
28B.58.020 Amount of bonds authorized.
28B.58.030 Bond anticipation notes, authorized, payment--Form, term, conditions, sale and covenants of bonds and notes.
28B.58.040 Disposition of proceeds from sale of bonds and notes.
28B.58.050 Administration of proceeds from bonds and notes.
28B.58.060 Payment of principal and interest on bonds.
28B.58.070 Moneys to be transferred from community college account to state general fund--Limitation.
28B.58.080 Bonds as legal investment for public funds.

28B.58.090 Prerequisite to bond issuance.

RCW 28B.58.010 State general obligation bonds in lieu of building, limited obligation bonds--"Community college capital projects" defined--Consideration for minority contractors on projects so funded.

The legislature has approved by its appropriation of funds from time to time, capital projects for the state community colleges, which appropriations have been funded primarily by the issuance of building, limited obligation bonds by the *state board for community college education (hereinafter in this chapter called the "college board"). In order that any future appropriations for such approved capital projects may be funded on terms most advantageous to the state, it is hereby determined to be in the public interest to provide for the issuance of state general obligation bonds, in lieu of building, limited obligation bonds.

For purposes of this chapter, "community college capital projects" means the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets owned by the *state board for community college education in the name of the state of Washington, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto. It is the intent of the legislature that in any decision to contract for capital projects funded as the result of this chapter, full and fair consideration shall be given to minority contractors.

[1985 c 390 § 64; 1975 1st ex.s. c 236 § 1.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability--1975 1st ex.s. c 236: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances, shall in no way be affected." [1975 1st ex.s. c 236 § 11.]

RCW 28B.58.020 Amount of bonds authorized.

For the purpose of financing the community college capital projects as determined by the legislature in its capital appropriations act, chapter 276, Laws of 1975 1st ex. sess., the state finance committee is hereby authorized to issue from time to time general obligation bonds of the state of Washington in the aggregate principal amount of fourteen million seven hundred seventy-six thousand dollars, or so much thereof as may be required for such purposes, to be paid and discharged within thirty years of the date or dates of issuance, in accordance with Article VIII, section 1 of the Constitution of the state of Washington.

[1975 1st ex.s. c 236 § 2.]

Notes:

Severability--1975 1st ex.s. c 236: See note following RCW 28B.58.010.

RCW 28B.58.030 Bond anticipation notes, authorized, payment--Form, term, conditions, sale and covenants of bonds and notes.

When the state finance committee has determined to issue such general obligation bonds, or a portion thereof, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of principal and redemption premium, if any, of and interest on such notes shall be applied thereto when such bonds are issued.

The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds and/or the bond anticipation notes, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and the interest thereon when due.

[1975 1st ex.s. c 236 § 3.]

Notes:

Severability--1975 1st ex.s. c 236: See note following RCW 28B.58.010.

RCW 28B.58.040 Disposition of proceeds from sale of bonds and notes.

Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 28B.58.030, the proceeds from the sale of the bonds and/or bond anticipation notes authorized in this chapter, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the college board may direct the state treasurer to deposit therein, shall be deposited in the 1975 community college capital construction account in the state general fund.

[1975 1st ex.s. c 236 § 4.]

Notes:

Severability--1975 1st ex.s. c 236: See note following RCW 28B.58.010.

1975 community college capital construction account, created, use: RCW 28B.57.050.

RCW 28B.58.050 Administration of proceeds from bonds and notes.

Subject to legislative appropriation, all proceeds of the bonds authorized in this chapter shall be administered by the college board exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes.

[1975 1st ex.s. c 236 § 5.]

Notes:

Severability--1975 1st ex.s. c 236: See note following RCW 28B.58.010.

RCW 28B.58.060 Payment of principal and interest on bonds.

The 1975 community college capital construction bond retirement fund in the state treasury shall be used for the purpose of the payment of principal of and interest on the bonds authorized to be issued pursuant to this chapter.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on such bonds. On July 1st of each such year the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1975 community college capital construction bond retirement fund, an amount equal to the amount certified by the state finance committee.

[1975 1st ex.s. c 236 § 6.]

Notes:

Severability--1975 1st ex.s. c 236: See note following RCW 28B.58.010.

1975 community college capital construction bond retirement fund--Created--Purpose: RCW 28B.57.070.

RCW 28B.58.070 Moneys to be transferred from community college account to state general fund--Limitation.

On or before June 30th of each year, the college board shall accumulate in the community college capital projects account from building fees and other moneys deposited therein, an amount at least equal to the amount required in the next succeeding twelve months for the payment of principal of and interest on the bonds issued pursuant to this chapter. On July 1st of each such year, the state treasurer shall withdraw said sum from the community college capital projects account and deposit said sum in the state general fund: PROVIDED, That withdrawal of building fees from the community college capital projects account for deposit into the general fund pursuant to the provisions of this section shall be made only after provision has first been made for the payment in full of the principal of and interest on all outstanding building, limited obligation bonds of the college board coming due in the twelve months next succeeding July 1st of each such year, and for any reserve account deposits necessary for such outstanding bonds in the same period.

[1985 c 390 § 65; 1975 1st ex.s. c 236 § 7.]

Notes:

Severability--1975 1st ex.s. c 236: See note following RCW 28B.58.010.

RCW 28B.58.080 Bonds as legal investment for public funds.

The bonds authorized in this chapter shall constitute a legal investment for all state funds

or for funds under state control and all funds of municipal corporations.

[1975 1st ex.s. c 236 § 8.]

Notes:

Severability--1975 1st ex.s. c 236: See note following RCW 28B.58.010.

RCW 28B.58.090 Prerequisite to bond issuance.

The bonds authorized in this chapter shall be issued only after the college board has certified to the state finance committee that its projected building fees revenue shall be adequate, based upon reasonable projections of student enrollments, for the college board to meet the requirements of RCW 28B.58.070, during the life of the bonds proposed to be issued.

[1985 c 390 § 66; 1975 1st ex.s. c 236 § 9.]

Notes:

Severability--1975 1st ex.s. c 236: See note following RCW 28B.58.010.

Chapter 28B.59 RCW
1976 COMMUNITY COLLEGE CAPITAL PROJECTS BOND ACT

Sections

28B.59.010 Purpose--"Community college capital projects" defined.
28B.59.020 Amount of general obligation bonds authorized.
28B.59.030 Bond anticipation notes, authorized, payment--Form, term, conditions, sale and covenants of bonds and notes.
28B.59.040 Disposition of proceeds from sale of bonds and notes.
28B.59.050 Administration of the proceeds from bonds and notes.
28B.59.060 Payment of the principal and interest on bonds.
28B.59.070 Moneys to be transferred from community college account to state general fund--Limitation.
28B.59.080 Bonds as legal investment for public funds.
28B.59.090 Prerequisite to bond issuance.

RCW 28B.59.010 Purpose--"Community college capital projects" defined.

The legislature has approved by its appropriation of funds from time to time, capital projects for the state community colleges, which appropriations have been funded primarily by the issuance of building, limited obligation bonds by the *state board for community college education (hereinafter in this chapter called the "college board"). In order that any future appropriations for such approved capital projects may be funded on terms most advantageous to the state, it is hereby determined to be in the public interest to provide for the issuance of state general obligation bonds, in lieu of building, limited obligation bonds.

For purposes of this chapter, "community college capital projects" means the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration

of buildings and other capital assets owned by the *state board for community college education in the name of the state of Washington, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto.

[1985 c 390 § 67; 1975-'76 2nd ex.s. c 107 § 1.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability--1975-'76 2nd ex.s. c 107: "If any provision of this 1976 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 107 § 11.]

RCW 28B.59.020 Amount of general obligation bonds authorized.

For the purpose of financing the community college capital projects as determined by the legislature in its capital appropriation act, chapter 133, Laws of 1975-'76 2nd ex. sess., the state finance committee is hereby authorized to issue from time to time general obligation bonds of the state of Washington in the aggregate principal amount of twenty-six million four hundred eighty-seven thousand dollars, or so much thereof as may be required for such purposes, to be paid and discharged within thirty years of the date or dates of issuance, in accordance with Article VIII, section 1 of the Constitution of the state of Washington.

[1975-'76 2nd ex.s. c 107 § 2.]

Notes:

Severability--1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

RCW 28B.59.030 Bond anticipation notes, authorized, payment--Form, term, conditions, sale and covenants of bonds and notes.

When the state finance committee has determined to issue such general obligation bonds, or a portion thereof, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of principal of and redemption premium, if any, and interest on such notes shall be applied thereto when such bonds are issued.

The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds and/or the bond anticipation notes, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and the interest thereon when due.

[1975-'76 2nd ex.s. c 107 § 3.]

Notes:

Severability--1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

RCW 28B.59.040 Disposition of proceeds from sale of bonds and notes.

Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 28B.59.030, the proceeds from the sale of the bonds and/or bond anticipation notes authorized in this chapter, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the college board may direct the state treasurer to deposit therein, shall be deposited in the 1975 community college capital construction account in the state general fund.

[1975-'76 2nd ex.s. c 107 § 4.]

Notes:

Severability--1975-'76 2nd ex.s c 107: See note following RCW 28B.59.010.

RCW 28B.59.050 Administration of the proceeds from bonds and notes.

Subject to legislative appropriation, all proceeds of the bonds authorized in this chapter shall be administered by the college board exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes.

[1975-'76 2nd ex.s. c 107 § 5.]

Notes:

Severability--1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

RCW 28B.59.060 Payment of the principal and interest on bonds.

The 1975 community college capital construction bond retirement fund in the state treasury shall be used for the purpose of the payment of the principal of and interest on the bonds authorized to be issued pursuant to this chapter.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on such bonds. On July 1st of each such year the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1975 community college capital construction bond retirement fund, an amount equal to the amount certified by the state finance committee.

[1975-'76 2nd ex.s. c 107 § 6.]

Notes:

Severability--1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

RCW 28B.59.070 Moneys to be transferred from community college account to state

general fund--Limitation.

On or before June 30th of each year, the college board shall accumulate in the community college capital projects account from building fees and other moneys deposited therein, an amount at least equal to the amount required in the next succeeding twelve months for the payment of principal of and interest on the bonds issued pursuant to this chapter. On July 1st of each such year, the state treasurer shall withdraw said sum from the community college capital projects account and deposit said sum in the state general fund: PROVIDED, That withdrawal of building fees from the community college capital projects account for deposit into the general fund pursuant to the provisions of this section shall be made only after provision has first been made for the payment in full of the principal of and interest on all outstanding building, limited obligation bonds of the college board coming due in the twelve months next succeeding July 1st of each such year, and for any reserve account deposits necessary for such outstanding bonds in the same period.

[1985 c 390 § 68; 1975-'76 2nd ex.s. c 107 § 7.]

Notes:

Severability--1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

RCW 28B.59.080 Bonds as legal investment for public funds.

The bonds authorized in this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

[1975-'76 2nd ex.s. c 107 § 8.]

Notes:

Severability--1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

RCW 28B.59.090 Prerequisite to bond issuance.

The bonds authorized in this chapter shall be issued only after the college board has certified to the state finance committee that its projected building fees revenue shall be adequate, based upon reasonable projections of student enrollments, for the college board to meet the requirements of RCW 28B.59.070, during the life of the bonds proposed to be issued.

[1985 c 390 § 69; 1975-'76 2nd ex.s. c 107 § 9.]

Notes:

Severability--1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

Chapter 28B.59B RCW
1977 COMMUNITY COLLEGE CAPITAL PROJECTS BOND ACT

Sections

28B.59B.010 Purpose--Bonds authorized--Amount--Conditions.

28B.59B.020 Bond anticipation notes--Authorized--Bond proceeds to apply to payment on.
28B.59B.030 Form, terms, conditions, sale, redemption and covenants of bonds and notes--Pledge of state's credit.
28B.59B.040 Disposition of proceeds from sale of bonds and notes.
28B.59B.050 Administration of proceeds from bonds and notes.
28B.59B.060 Payment of the principal and interest on bonds and notes.
28B.59B.070 Moneys to be transferred from community college account to state general fund.
28B.59B.080 Bonds as legal investment for public funds.
28B.59B.090 Prerequisite to bond issuance.

RCW 28B.59B.010 Purpose--Bonds authorized--Amount--Conditions.

For the purpose of financing the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets owned by the *state board for community college education in the name of the state of Washington, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto as determined by the legislature in its capital appropriations act, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of seven million five hundred thousand dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

[1977 ex.s. c 346 § 1.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability--1977 ex.s. c 346: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 346 § 11.]

RCW 28B.59B.020 Bond anticipation notes--Authorized--Bond proceeds to apply to payment on.

When the state finance committee has determined to issue such general obligation bonds, or a portion thereof, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of principal of and redemption premium, if any, and interest on such notes shall be applied thereto when such bonds are issued.

[1977 ex.s. c 346 § 2.]

Notes:

Severability--1977 ex.s. c 346: See note following RCW 28B.59B.010.

RCW 28B.59B.030 Form, terms, conditions, sale, redemption and covenants of bonds and notes--Pledge of state's credit.

The state finance committee is authorized to determine the aggregate amounts, dates, form, terms, conditions, denominations, interest rates, maturities, rights and manner of redemption prior to maturity, registration privileges, place(s) of payment and covenants of such bonds and/or the bond anticipation notes, the time or times of sale of all or any portion of them, and the conditions and manner of their sale, issuance and redemption.

Each such bond and bond anticipation note shall state that it is a general obligation of the state of Washington, shall contain a pledge of the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain the state's unconditional promise to pay such principal and interest as the same shall become due.

[1977 ex.s. c 346 § 3.]

Notes:

Severability--1977 ex.s. c 346: See note following RCW 28B.59B.010.

RCW 28B.59B.040 Disposition of proceeds from sale of bonds and notes.

The proceeds from the sale of the bonds and/or bond anticipation notes authorized in this chapter, together with all grants, donations, transferred funds and all other moneys which the state finance committee or the college board may direct the state treasurer to deposit therein, shall be deposited in the 1975 community college capital construction account in the state general fund: PROVIDED, That such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal of and interest on any outstanding bond anticipation notes, together with accrued interest on the bonds received from the purchasers upon their delivery, shall be deposited in the 1975 community college capital construction bond retirement fund.

[1977 ex.s. c 346 § 4.]

Notes:

Severability--1977 ex.s. c 346: See note following RCW 28B.59B.010.

1975 Community college capital construction account--Created--Use: RCW 28B.57.050.

1975 Community college capital construction bond retirement fund--Created--Purpose: RCW 28B.57.070.

RCW 28B.59B.050 Administration of proceeds from bonds and notes.

Subject to legislative appropriation, all principal proceeds of the bonds and/or bond anticipation notes authorized in this chapter shall be administered by the college board exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with their sale and issuance.

[1977 ex.s. c 346 § 5.]

Notes:

Severability--1977 ex.s. c 346: See note following RCW 28B.59B.010.

RCW 28B.59B.060 Payment of the principal and interest on bonds and notes.

The 1975 community college capital construction bond retirement fund in the state treasury shall be used for the purpose of the payment of the principal of and redemption premium, if any, and interest on the bonds and/or the bond anticipation notes authorized to be issued pursuant to this chapter.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on such bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1975 community college capital construction bond retirement fund an amount equal to the amount certified by the state finance committee to be due on such payment date.

[1977 ex.s. c 346 § 6.]

Notes:

Severability--1977 ex.s. c 346: See note following RCW 28B.59B.010.

RCW 28B.59B.070 Moneys to be transferred from community college account to state general fund.

On or before June 30th of each year, the college board shall accumulate in the community college capital projects account from building fees and other moneys deposited therein, an amount at least equal to the amount required in the next succeeding twelve months for the payment of principal of and interest on the bonds issued pursuant to this chapter. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw said sum from the community college capital projects account and deposit said sum in the state general fund.

[1985 c 390 § 70; 1977 ex.s. c 346 § 7.]

Notes:

Severability--1977 ex.s. c 346: See note following RCW 28B.59B.010.

RCW 28B.59B.080 Bonds as legal investment for public funds.

The bonds authorized in this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

[1977 ex.s. c 346 § 8.]

Notes:

Severability--1977 ex.s. c 346: See note following RCW 28B.59B.010.

RCW 28B.59B.090 Prerequisite to bond issuance.

The bonds authorized in this chapter shall be issued only after the college board has certified to the state finance committee that its anticipated general tuition fee revenue shall be adequate, based upon reasonable projections of student enrollments, for the college board to meet the requirements of RCW 28B.59B.070 during the life of the bonds proposed to be issued.

[1977 ex.s. c 346 § 9.]

Notes:

Severability--1977 ex.s. c 346: See note following RCW 28B.59B.010.

Chapter 28B.59C RCW
1979 COMMUNITY COLLEGE CAPITAL PROJECTS BOND ACT

Sections

28B.59C.010 Purpose--Bonds authorized--Amount--Conditions.
28B.59C.020 Bond anticipation notes--Authorized--Bond proceeds to apply to payment on.
28B.59C.030 Form, terms, conditions, sale, redemption and covenants of bonds and notes--Pledge of state's credit.
28B.59C.040 Disposition of proceeds from sale of bonds and notes.
28B.59C.050 Administration of proceeds from bonds and notes.
28B.59C.060 Payment of principal and interest on bonds and notes.
28B.59C.070 Moneys to be transferred from community college account to state general fund.
28B.59C.080 Bonds as legal investment for public funds.

RCW 28B.59C.010 Purpose--Bonds authorized--Amount--Conditions.

For the purpose of financing the construction, reconstruction, erection, equipping, maintenance, demolition, and major alteration of buildings and other capital assets owned by the *state board for community college education in the name of the state of Washington, and the acquisition of sites, rights of way, easements, improvements, or appurtenances in relation thereto as determined by the legislature in its capital appropriations act, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of twenty-four million dollars, or so much thereof as may be required, to finance such projects, and all costs incidental thereto. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

[1979 ex.s. c 226 § 1.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Effective date--1979 ex.s. c 226: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [June 15, 1979]." [1979 ex.s. c 226 § 13.]

Severability--1979 ex.s. c 226: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 226 § 12.]

RCW 28B.59C.020 Bond anticipation notes--Authorized--Bond proceeds to apply to payment on.

When the state finance committee has determined to issue the general obligation bonds, or a portion thereof, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of the bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of the bonds as may be required for the payment of principal of and redemption premium, if any, and interest on the notes shall be applied thereto when the bonds are issued.

[1979 ex.s. c 226 § 2.]

Notes:

Effective date--Severability--1979 ex.s. c 226: See notes following RCW 28B.59C.010.

RCW 28B.59C.030 Form, terms, conditions, sale, redemption and covenants of bonds and notes--Pledge of state's credit.

The state finance committee is authorized to determine the aggregate amounts, dates, form, terms, conditions, denominations, interest rates, maturities, rights and manner of redemption prior to maturity, registration privileges, place(s) of payment and covenants of the bonds and/or the bond anticipation notes, the time or times of sale of all or any portion of them, and the conditions and manner of their sale, issuance, and redemption.

Each bond and bond anticipation note shall state that it is a general obligation of the state of Washington, shall contain a pledge of the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain the state's unconditional promise to pay the principal and interest as the same shall become due.

[1979 ex.s. c 226 § 3.]

Notes:

Effective date--Severability--1979 ex.s. c 226: See notes following RCW 28B.59C.010.

RCW 28B.59C.040 Disposition of proceeds from sale of bonds and notes.

The proceeds from the sale of the bonds and/or bond anticipation notes authorized in this chapter, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the college board may direct the state treasurer to deposit therein,

shall be deposited in the 1975 community college capital construction account in the state general fund: PROVIDED, That such portion of the proceeds of the sale of the bonds as may be required for the payment of the principal of and interest on any outstanding bond anticipation notes, together with accrued interest and premium, if any, on the bonds received from the purchasers upon their delivery, shall be deposited in the 1975 community college capital construction bond retirement fund.

[1979 ex.s. c 226 § 4.]

Notes:

Effective date--Severability--1979 ex.s. c 226: See notes following RCW 28B.59C.010.

RCW 28B.59C.050 Administration of proceeds from bonds and notes.

Subject to legislative appropriation, all principal proceeds of the bonds and/or bond anticipation notes authorized in this chapter shall be administered by the college board exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with their sale and issuance.

[1979 ex.s. c 226 § 5.]

Notes:

Effective date--Severability--1979 ex.s. c 226: See notes following RCW 28B.59C.010.

RCW 28B.59C.060 Payment of principal and interest on bonds and notes.

The 1975 community college capital construction bond retirement fund in the state treasury shall be used for the purpose of the payment of the principal of and redemption premium, if any, and interest on the bonds and/or the bond anticipation notes authorized to be issued under this chapter.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1975 community college capital construction bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

[1979 ex.s. c 226 § 6.]

Notes:

Effective date--Severability--1979 ex.s. c 226: See notes following RCW 28B.59C.010.

RCW 28B.59C.070 Moneys to be transferred from community college account to state general fund.

On or before June 30th of each year, the college board shall accumulate in the community college capital projects account from building fees and other moneys deposited therein, an amount at least equal to the amount required in the next succeeding twelve months

for the payment of principal of and interest on the bonds issued under this chapter. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw the sum from the community college capital projects account and deposit the sum in the state general fund.

[1985 c 390 § 71; 1979 ex.s. c 226 § 7.]

Notes:

Effective date--Severability--1979 ex.s. c 226: See notes following RCW 28B.59C.010.

RCW 28B.59C.080 Bonds as legal investment for public funds.

The bonds authorized in this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

[1979 ex.s. c 226 § 8.]

Notes:

Effective date--Severability--1979 ex.s. c 226: See notes following RCW 28B.59C.010.

Chapter 28B.59D RCW
1981 COMMUNITY COLLEGE CAPITAL PROJECTS BOND ACT

Sections

28B.59D.010 Purpose--Bonds authorized--Amount--Condition.
28B.59D.020 Bonds to pledge credit of state, promise to pay.
28B.59D.030 Disposition of proceeds from sale of bonds.
28B.59D.040 Administration and expenditure of proceeds from sale of bonds--Condition.
28B.59D.050 Existing fund utilized for payment of principal and interest--Committee and treasurer's duties.
28B.59D.060 Transfer of account moneys to general fund--College board and treasurer's duties.
28B.59D.070 Bonds as legal investment for public funds.

RCW 28B.59D.010 Purpose--Bonds authorized--Amount--Condition.

For the purpose of financing the construction, reconstruction, erection, equipping, maintenance, demolition, and major alteration of buildings and other capital assets owned by the *state board for community college education in the name of the state of Washington, and the acquisition of sites, rights of way, easements, improvements, or appurtenances in relation thereto as determined by the legislature in its capital appropriations act, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of seven million three hundred thousand dollars, or so much thereof as may be required, to finance such projects, and all costs incidental thereto. No bonds authorized by RCW 28B.59D.010 through 28B.59D.070 may be offered for sale without prior legislative appropriation.

[1981 c 237 § 1.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability--1981 c 237: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 237 § 8.]

RCW 28B.59D.020 Bonds to pledge credit of state, promise to pay.

Each bond shall state that it is a general obligation of the state of Washington, shall contain a pledge of the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain the state's unconditional promise to pay the principal and interest as the same shall become due.

[1981 c 237 § 2.]

Notes:

Severability--1981 c 237: See note following RCW 28B.59D.010.

RCW 28B.59D.030 Disposition of proceeds from sale of bonds.

The proceeds from the sale of the bonds authorized in RCW 28B.59D.010 through 28B.59D.070, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the college board may direct the state treasurer to deposit therein, shall be deposited in the 1975 community college capital construction account in the state general fund.

[1981 c 237 § 3.]

Notes:

Severability--1981 c 237: See note following RCW 28B.59D.010.

RCW 28B.59D.040 Administration and expenditure of proceeds from sale of bonds--Condition.

Subject to legislative appropriation, all principal proceeds of the bonds authorized in RCW 28B.59D.010 through 28B.59D.070 shall be administered by the college board exclusively for the purposes specified in RCW 28B.59D.010 through 28B.59D.070 and for the payment of the expenses incurred in connection with their sale and issuance.

[1981 c 237 § 4.]

Notes:

Severability--1981 c 237: See note following RCW 28B.59D.010.

RCW 28B.59D.050 Existing fund utilized for payment of principal and interest--Committee and treasurer's duties.

The 1975 community college capital construction bond retirement fund in the state

treasury shall be used for the purpose of the payment of the principal of and redemption premium, if any, and interest on the bonds authorized to be issued under RCW 28B.59D.010 through 28B.59D.070.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1975 community college capital construction bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

[1981 c 237 § 5.]

Notes:

Severability--1981 c 237: See note following RCW 28B.59D.010.

RCW 28B.59D.060 Transfer of account moneys to general fund--College board and treasurer's duties.

(1) On or before June 30th of each year, the college board shall accumulate in the community college capital projects account from building fees and other moneys deposited therein, to the extent the fees and moneys are available, an amount at least equal to the amount required in the next succeeding twelve months for the payment of principal of and interest on the bonds issued under RCW 28B.59D.010 through 28B.59D.070. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw this amount, to the extent available, from the community college capital projects account and deposit it in the state general fund.

(2) The state treasurer shall make withdrawals from the community college capital projects account for deposit in the general fund of amounts equal to debt service payments on state general obligation bonds issued for community college purposes pursuant to Title 28B RCW only to the extent that funds are or become actually available in the account from time to time. Any unpaid debt service payments shall be a continuing obligation against the community college capital projects account until paid. Beginning with the 1979-1981 biennium, the *state board for community college education need not accumulate any specific amount in the community college capital projects account for purposes of these withdrawals by the state treasurer.

[1985 c 390 § 72; 1981 c 237 § 6.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Severability--1981 c 237: See note following RCW 28B.59D.010.

RCW 28B.59D.070 Bonds as legal investment for public funds.

The bonds authorized in RCW 28B.59D.010 through 28B.59D.060 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

[1981 c 237 § 7.]

Notes:

Severability--1981 c 237: See note following RCW 28B.59D.010.

Chapter 28B.63 RCW
COMMERCIAL ACTIVITIES BY INSTITUTIONS OF HIGHER EDUCATION

Sections

28B.63.010 Intent.
28B.63.020 Definitions.
28B.63.030 Development of policies and mechanisms for defining and reviewing commercial activities.
28B.63.040 Criteria for developing policies.
28B.63.050 Programs and activities exempt from chapter.

RCW 28B.63.010 Intent.

The primary mission of institutions of higher education is the creation and dissemination of knowledge. Institutions of higher education must be mindful that in providing goods and services for fees, they may be competing with local private businesses.

It is the intent of the legislature to require institutions of higher education to define the legitimate purposes under which commercial activities may be approved, and to establish a mechanism for review of such activities.

[1987 c 97 § 1.]

RCW 28B.63.020 Definitions.

For the purposes of this chapter:

(1) "Institutions of higher education" or "institutions" mean those institutions as defined in RCW 28B.10.016(4).

(2) "Commercial activity" means an activity which provides a product or service for a fee which could be obtained from a commercial source.

(3) "Fees" means any fees or charges imposed for goods, services, or facilities.

[1987 c 97 § 2.]

RCW 28B.63.030 Development of policies and mechanisms for defining and reviewing commercial activities.

Institutions of higher education in consultation with local business organizations and representatives of the small business community are required to develop:

(1) Comprehensive policies that define the legitimate purposes under which the institutions shall provide goods, services, or facilities that are practically available from private businesses;

(2) A mechanism for reviewing current and proposed commercial activities to ensure that activities are consistent with institutional policies; and

(3) A mechanism for receiving, reviewing, and responding to enquiries from private businesses about commercial activities carried on by institutions of higher education.

[1987 c 97 § 3.]

RCW 28B.63.040 Criteria for developing policies.

(1) The following criteria shall be considered in developing policies in regard to providing goods, services, or facilities to persons other than students, faculty, staff, patients, and invited guests:

(a) The goods, services, or facilities represent a resource which is substantially and directly related to the institution's instructional, research, or public service mission, which is not practically available in the private marketplace and for which there is a demand from the external community.

(b) Fees charged for the goods, services, or facilities shall take into account the full direct and indirect costs, overhead, and the price of such items in the private marketplace.

(2) The following criteria shall be considered in developing policies in regard to providing goods, services, or facilities to students, faculty, staff, patients, and invited guests:

(a) The goods, services, or facilities are substantially and directly related to the institution's instructional, research, or public service mission.

(b) Provision of the goods, services, or facilities on campus represents a special convenience to and supports the campus community, or facilitates extracurricular, public service, or on-campus residential life.

(c) Fees charged for the goods, services, or facilities shall take into account the full direct and indirect costs, including overhead.

(d) The adequacy of security procedures to ensure that the goods, services, or facilities are provided only to persons who are students, faculty, staff, patients, or invited guests.

[1987 c 97 § 4.]

RCW 28B.63.050 Programs and activities exempt from chapter.

This chapter shall not apply to the initiation of or changes in academic or vocational programs of instruction in the institutions' regular, extension, evening, or continuing education

programs, or the fees therefor, fees for services provided in the practicum aspects of instruction, or research programs, and in extracurricular or residential life programs, including residence halls, food services, athletic and recreational programs, and performing arts programs.

[1987 c 97 § 5.]

Chapter 28B.65 RCW
HIGH-TECHNOLOGY EDUCATION AND TRAINING

Sections

28B.65.010 Legislative findings.
28B.65.020 Definitions.
28B.65.030 Washington state high-technology education and training program established--Goals.
28B.65.040 Washington high-technology coordinating board created--Members--Travel expenses.
28B.65.050 Board--Duties--Rules--Termination of board.
28B.65.060 Board--Staff support.
28B.65.070 Board--Solicitation of private and federal support, gifts, conveyances, etc.
28B.65.080 Consortium and baccalaureate degree training programs--Board recommendations--Requirements--Coordination.
28B.65.090 Masters and doctorate level degrees in technology at University of Washington authorized.
28B.65.095 Washington technology center at University of Washington.
28B.65.100 Masters and doctorate level degrees in technology at Washington State University authorized.
28B.65.110 State-wide off-campus telecommunications system--Establishment by Washington State University for education in high-technology fields.
28B.65.900 Short title--1983 1st ex.s. c 72.
28B.65.905 Effective date--1983 1st ex.s. c 72.

RCW 28B.65.010 Legislative findings.

The legislature finds that:

(1) A coordinated state policy is needed to stimulate the education and training of individuals in high-technology fields, in order to improve productivity, strengthen the state's competitive position, and reindustrialize declining areas;

(2) The Washington high-technology education and training program will give persons from all backgrounds opportunities to pursue training and education programs leading to baccalaureate and graduate degrees consistent with present and future needs of high-technology industries;

(3) Incentives to stimulate increased collaboration between community colleges, regional universities, and the state universities and private-sector industrial, commercial, and labor interests are essential to the development of a pool of skilled high-technology workers; and

(4) Investment in education is the most feasible method for state assistance to the high-technology industry.

[1983 1st ex.s. c 72 § 2.]

RCW 28B.65.020 Definitions.

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

(1) "Board" means the high-technology coordinating board.

(2) "High technology" or "technology" includes but is not limited to the modernization, miniaturization, integration, and computerization of electronic, hydraulic, pneumatic, laser, mechanical, robotics, nuclear, chemical, telecommunication, and other technological applications to enhance productivity in areas including but not limited to manufacturing, communications, medicine, bioengineering, and commerce.

[1983 1st ex.s. c 72 § 3.]

RCW 28B.65.030 Washington state high-technology education and training program established--Goals.

A Washington state high-technology education and training program is hereby established. The program shall be designed to:

(1) Develop the competence needed to make Washington state a leader in high-technology fields, to increase the productivity of state industries, and to improve the state's competitiveness in regional, national, and international trade;

(2) Develop degree programs to enable students to be productive in new and emerging high-technology fields by using the resources of the state's two-year community colleges, regional universities, the University of Washington, Washington State University, and The Evergreen State College; and

(3) Provide industries in the state with a highly-skilled work force capable of producing, operating, and servicing the advancing technology needed to modernize the state's industries and to revitalize the state's economy.

[1983 1st ex.s. c 72 § 4.]

RCW 28B.65.040 Washington high-technology coordinating board created--Members--Travel expenses.

(1) The Washington high-technology coordinating board is hereby created.

(2) The board shall be composed of eighteen members as follows:

(a) Eleven shall be citizen members appointed by the governor, with the consent of the senate, for four-year terms. In making the appointments the governor shall ensure that a balanced geographic representation of the state is achieved and shall attempt to choose persons experienced in high-technology fields, including at least one representative of labor. Any person appointed to fill a vacancy occurring before a term expires shall be appointed only for the remainder of that term; and

(b) Seven of the members shall be as follows: One representative from each of the state's

two research universities, one representative of the state college and regional universities, the director for the state system of community and technical colleges or the director's designee, the superintendent of public instruction or the superintendent's designee, a representative of the higher education coordinating board, and the director of the department of community, trade, and economic development or the director's designee.

(3) Members of the board shall not receive any salary for their services, but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060 for each day actually spent in attending to duties as a member of the board.

(4) A citizen member of the board shall not be, during the term of office, a member of the governing board of any public or private educational institution, or an employee of any state or local agency.

[1995 c 399 § 29. Prior: 1985 c 381 § 1; 1985 c 370 § 86; 1984 c 66 § 1; 1983 1st ex.s. c 72 § 5.]

Notes:

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

RCW 28B.65.050 Board--Duties--Rules--Termination of board.

(1) The board shall oversee, coordinate, and evaluate the high-technology programs.

(2) The board shall:

(a) Determine the specific high-technology occupational fields in which technical training is needed and advise the institutions of higher education and the higher education coordinating board on their findings;

(b) Identify economic areas and high-technology industries in need of technical training and research and development critical to economic development and advise the institutions of higher education and the higher education coordinating board on their findings;

(c) Oversee and coordinate the Washington high-technology education and training program to ensure high standards, efficiency, and effectiveness;

(d) Work cooperatively with the superintendent of public instruction to identify the skills prerequisite to the high-technology programs in the institutions of higher education;

(e) Work cooperatively with and provide any information or advice which may be requested by the higher education coordinating board during the board's review of new baccalaureate degree program proposals which are submitted under this chapter. Nothing in this chapter shall be construed as altering or superseding the powers or prerogatives of the higher education coordinating board over the review of new degree programs as established in *section 6(2) of this 1985 act;

(f) Work cooperatively with the department of community, trade, and economic development to identify the high-technology education and training needs of existing Washington businesses and businesses with the potential to locate in Washington;

(g) Work towards increasing private sector participation and contributions in Washington high-technology programs;

(h) Identify and evaluate the effectiveness of state sponsored research related to high

technology; and

(i) Establish and maintain a plan, including priorities, to guide high-technology program development in public institutions of higher education, which plan shall include an assessment of current high-technology programs, steps to increase existing programs, new initiatives and programs necessary to promote high technology, and methods to coordinate and target high-technology programs to changing market opportunities in business and industry.

(3) The board may adopt rules under chapter 34.05 RCW as it deems necessary to carry out the purposes of this chapter.

(4) The board shall cease to exist on June 30, 1987, unless extended by law for an additional fixed period of time.

[1998 c 245 § 22; 1995 c 399 § 30. Prior: 1985 c 381 § 2; 1985 c 370 § 87; 1983 1st ex.s. c 72 § 6.]

Notes:

***Reviser's note:** A literal translation of "section 6(2) of this 1985 act" would be RCW 28B.80.350(2), however, material relating to new degree programs is found in RCW 28B.80.340.

Severability--Effective dates--1985 c 370: See RCW 28B.80.911 and 28B.80.912.

RCW 28B.65.060 Board--Staff support.

Staff support for the high-technology coordinating board shall be provided by the department of community, trade, and economic development.

[1995 c 399 § 31; 1985 c 381 § 3; 1983 1st ex.s. c 72 § 7.]

RCW 28B.65.070 Board--Solicitation of private and federal support, gifts, conveyances, etc.

The board may solicit gifts, grants, conveyances, bequests and devises, whether real or personal property, or both, in trust or otherwise, to be directed to institutions of higher education for the use or benefit of the high-technology education and training program. The board shall actively solicit support from business and industry and from the federal government for the high-technology education program.

[1983 1st ex.s. c 72 § 8.]

RCW 28B.65.080 Consortium and baccalaureate degree training programs--Board recommendations--Requirements--Coordination.

(1) The high-technology coordinating board shall make recommendations regarding:

(a) The establishment of regional consortiums for the establishment and development of high-technology education and training;

(b) The establishment of baccalaureate degree training programs in high-technology fields; and

(c) The offering of high-technology education and training programs at both community

college facilities and at state colleges and regional universities.

(2) If the program is approved, the first two years of the baccalaureate degree program offered by the respective state colleges and regional universities at community college facilities shall be administered and operated by the respective community colleges. The third and fourth years of the baccalaureate degree program offered at the community college facilities shall be administered and operated by the respective state colleges and regional universities. Each community college participating in the program shall offer two-year associate degrees in high-technology fields which shall be transferrable to and accepted by the state colleges and regional universities.

(3) The high-technology coordinating board shall oversee and coordinate the operation of the consortiums.

(4) Any such consortiums shall be implemented upon approval by the high-technology coordinating board: PROVIDED, That if the fiscal impact of any program recommendations exceeds existing resources plus the two hundred fifty thousand dollars appropriated in section 15, chapter 72, Laws of 1983 1st ex. sess., such programs shall require legislative approval.

[1983 1st ex.s. c 72 § 9.]

RCW 28B.65.090 Masters and doctorate level degrees in technology at University of Washington authorized.

See RCW 28B.20.280.

RCW 28B.65.095 Washington technology center at University of Washington.

See RCW 28B.20.285.

RCW 28B.65.100 Masters and doctorate level degrees in technology at Washington State University authorized.

See RCW 28B.30.500.

RCW 28B.65.110 State-wide off-campus telecommunications system--Establishment by Washington State University for education in high-technology fields.

See RCW 28B.30.520.

RCW 28B.65.900 Short title--1983 1st ex.s. c 72.

This act may be known and cited as the Washington high-technology education and training act.

[1983 1st ex.s. c 72 § 1.]

RCW 28B.65.905 Effective date--1983 1st ex.s. c 72.

This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1983.

[1983 1st ex.s. c 72 § 18.]

Chapter 28B.70 RCW
WESTERN REGIONAL HIGHER EDUCATION COMPACT

Sections

28B.70.010 Ratification of compact.
28B.70.020 Terms and provisions of compact.
28B.70.030 Formal ratification.
28B.70.040 Appointment, removal of commissioners.
28B.70.050 Exemption from nonresident tuition fees differential.

Notes:

Board to coordinate state participation within student exchange compact programs: RCW 28B.80.150 through 28B.80.170.

RCW 28B.70.010 Ratification of compact.

The western regional higher education compact, recommended by the western governors' conference on November 10, 1950, for adoption by the states or territories of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, Alaska and Hawaii, is hereby ratified and approved and the adherence of this state to the provisions of this compact, upon its ratification and approval by any four or more of such states or territories in addition to this state, is hereby declared.

[1969 ex.s. c 223 § 28B.70.010. Prior: 1955 c 214 § 1. Formerly RCW 28.82.010.]

RCW 28B.70.020 Terms and provisions of compact.

The terms and provisions of the compact referred to in RCW 28B.70.010 are as follows:

WESTERN REGIONAL
HIGHER EDUCATION COMPACT

Article I

WHEREAS, The future of this Nation and of the Western States is dependent upon the quality of the education of its youth; and

WHEREAS, Many of the Western States individually do not have sufficient numbers of potential students to warrant the establishment and maintenance within their borders of adequate facilities in all the essential fields of technical, professional and graduate training, nor do all of the states have the financial ability to furnish within their borders institutions capable of providing acceptable standards of training in all of the fields mentioned above; and

WHEREAS, It is believed that the Western States, or group of such states within the Region, cooperatively can provide acceptable and efficient educational facilities to meet the needs of the Region and of the students thereof;

NOW, THEREFORE, The States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming, and the Territories of Alaska and Hawaii, do hereby covenant and agree as follows:

Article II

Each of the compacting states and territories pledge to each of the other compacting states and territories faithful cooperation in carrying out all the purposes of this compact.

Article III

The compacting states and territories hereby create the Western Interstate Commission for Higher Education, hereinafter called the Commission. Said Commission shall be a body corporate of each compacting state and territory and an agency thereof. The Commission shall have all the powers and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states and territories.

Article IV

The Commission shall consist of three resident members from each compacting state or territory. At all times one commissioner from each compacting state or territory shall be an educator engaged in the field of higher education in the state or territory from which he is appointed.

The commissioners from each state and territory shall be appointed by the governor thereof as provided by law in such state or territory. Any commissioner may be removed or suspended from office as provided by the law of the state or territory from which he shall have been appointed.

The term of each commissioner shall be four years: PROVIDED, HOWEVER, That the first three commissioners shall be appointed as follows: one for two years, one for three years, and one for four years. Each commissioner shall hold office until his successor shall be appointed and qualified. If any office becomes vacant for any reason, the governor shall appoint a commissioner to fill the office for the remainder of the unexpired term.

Article V

Any business transacted at any meeting of the Commission must be by affirmative vote of a majority of the whole number of compacting states and territories.

One or more commissioners from a majority of the compacting states and territories shall constitute a quorum for the transaction of business.

Each compacting state and territory represented at any meeting of the Commission is entitled to one vote.

Article VI

The Commission shall elect from its number a chairman and a vice-chairman, and may appoint, and at its pleasure dismiss or remove, such officers, agents and employees as may be required to carry out the purpose of this compact; and shall fix and determine their duties, qualifications and compensation, having due regard for the importance of the responsibilities involved.

The commissioners shall serve without compensation, but shall be reimbursed for their actual and necessary expenses from the funds of the Commission.

Article VII

The Commission shall adopt a seal and bylaws and shall adopt and promulgate rules and regulations for its management and control.

The Commission may elect such committees as it deems necessary for the carrying out of its functions.

The Commission shall establish and maintain an office within one of the compacting states for the transaction of its business and may meet at any time, but in any event must meet at least once a year. The chairman may call such additional meetings and upon the request of a majority of the commissioners of three or more compacting states or territories shall call additional meetings.

The Commission shall submit a budget to the governor of each compacting state and territory at such time and for such period as may be required.

The Commission shall, after negotiations with interested institutions, determine the cost of providing the facilities for graduate and professional education for use in its contractual agreements throughout the Region.

On or before the fifteenth day of January of each year, the Commission shall submit to the governors and legislatures of the compacting states and territories a report of its activities for the preceding calendar year.

The Commission shall keep accurate books of account, showing in full its receipts and disbursements, and said books of account shall be open at any reasonable time for inspection by the governor of any compacting state or territory or his designated representative. The Commission shall not be subject to the audit and accounting procedure of any of the compacting

states or territories. The Commission shall provide for an independent annual audit.

Article VIII

It shall be the duty of the Commission to enter into such contractual agreements with any institutions in the Region offering graduate or professional education and with any of the compacting states or territories as may be required in the judgment of the Commission to provide adequate services and facilities of graduate and professional education for the citizens of the respective compacting states or territories. The Commission shall first endeavor to provide adequate services and facilities in the fields of dentistry, medicine, public health and veterinary medicine, and may undertake similar activities in other professional and graduate fields.

For this purpose the Commission may enter into contractual agreements

(a) with the governing authority of any educational institution in the Region, or with any compacting state or territory to provide such graduate or professional educational services upon terms and conditions to be agreed upon between contracting parties and

(b) with the governing authority of any educational institution in the Region or with any compacting state or territory to assist in the placement of graduate or professional students in educational institutions in the Region providing the desired services and facilities, upon such terms and conditions as the Commission may prescribe.

It shall be the duty of the Commission to undertake studies of needs for professional and graduate educational facilities in the Region, the resources of meeting such needs, and the long-range effects of the compact on higher education; and from time to time prepare comprehensive reports on such research for presentation to the Western Governors' Conference and to the legislatures of the compacting states and territories. In conducting such studies, the Commission may confer with any national or regional planning body which may be established. The Commission shall draft and recommend to the governors of the various compacting states and territories, uniform legislation dealing with problems of higher education in the Region.

For the purposes of this compact the word "Region" shall be construed to mean the geographical limits of the several compacting states and territories.

Article IX

The operating costs of the Commission shall be apportioned equally among the compacting states and territories.

Article X

This compact shall become operative and binding immediately as to those states and territories adopting it whenever five or more of the states or territories of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, Alaska and Hawaii have duly adopted it prior to July 1, 1955. This compact shall become effective as to any additional states or territories thereafter at the time of such adoption.

Article XI

This compact may be terminated at any time by consent of a majority of the compacting states or territories. Consent shall be manifested by passage and signature in the usual manner of legislation expressing such consent by the legislature and governor of such terminating state. Any state or territory may at any time withdraw from this compact by means of appropriate legislation to that end. Such withdrawal shall not become effective until two years after written notice thereof by the governor of the withdrawing state or territory accompanied by a certified copy of the requisite legislative action is received by the Commission. Such withdrawal shall not relieve the withdrawing state or territory from its obligations hereunder accruing prior to the effective date of withdrawal. The withdrawing state or territory may rescind its action of withdrawal at any time within the two-year period. Thereafter the withdrawing state or territory may be reinstated by application to and the approval by a majority vote of the Commission.

Article XII

If any compacting state or territory shall at any time default in the performance of any of its obligations assumed or imposed in accordance with the provisions of this compact, all rights, privileges and benefits conferred by this compact or agreements hereunder, shall be suspended from the effective date of such default as fixed by the commission.

Unless such default shall be remedied within a period of two years following the effective date of such default, this compact may be terminated with respect to such defaulting state or territory by affirmative vote of three-fourths of the other member states or territories.

Any such defaulting state may be reinstated by (a) performing all acts and obligations upon which it has heretofore defaulted, and (b) application to and the approval by a majority vote of the Commission.

[1969 ex.s. c 223 § 28B.70.020. Prior: 1955 c 214 § 2. Formerly RCW 28.82.020.]

RCW 28B.70.030 Formal ratification.

Upon ratification and approval of the western regional higher education compact by any four or more of the specified states or territories in addition to this state, the governor of this state is authorized and directed to execute said compact on behalf of this state and to perform any other acts which may be deemed requisite to its formal ratification and promulgation.

[1969 ex.s. c 223 § 28B.70.030. Prior: 1955 c 214 § 3. Formerly RCW 28.82.030.]

RCW 28B.70.040 Appointment, removal of commissioners.

(1) The governor shall appoint the members, for this state, of the Western Interstate Commission for Higher Education, which is created under the provisions of Article III of the western regional higher education compact.

(2) The qualifications and terms of office of the members of the commission for this state shall conform with the provisions of Article IV of said compact.

(3) The commissioners shall serve without compensation and they shall be reimbursed for their actual and necessary expenses by the Western Interstate Commission for Higher Education.

(4) The governor may remove a member of the commission in conformity with the provisions of RCW 43.06.070, 43.06.080 and 43.06.090.

[1981 c 338 § 14; 1969 ex.s. c 223 § 28B.70.040. Prior: 1955 c 214 § 4. Formerly RCW 28.82.040.]

RCW 28B.70.050 Exemption from nonresident tuition fees differential.

When said compact becomes operative the governing board of each institution of higher education in this state, to the extent necessary to conform with the terms of the contractual agreement, subject to the limitations of RCW 28B.15.910, may exempt from payment all or a portion of the nonresident tuition fees differential, any student admitted to such institution under the terms of a contractual agreement entered into with the commission in accord with the provisions of Article VIII(a) of the compact.

[1993 sp.s. c 18 § 33; 1992 c 231 § 30; 1969 ex.s. c 223 § 28B.70.050. Prior: 1955 c 214 § 5. Formerly RCW 28.82.050.]

Notes:

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Effective date--1992 c 231: See note following RCW 28B.10.016.

Chapter 28B.80 RCW
HIGHER EDUCATION COORDINATING BOARD

(Formerly: Council for postsecondary education in the state of Washington)

Sections

28B.80.110 Members--Compensation and travel expenses.
28B.80.129 Staff support for high-technology coordinating board.
28B.80.131 Distinguished professorship trust fund program--Board to administer.
28B.80.132 Graduate fellowship trust fund program--Board to administer.
28B.80.134 Board to administer future teachers conditional scholarship program.
28B.80.150 Board to coordinate state participation within student exchange compact programs--Designate certifying officer.
28B.80.160 Board to coordinate state participation within student exchange compact programs--Criteria--Washington interstate commission on higher education professional student exchange program trust fund.
28B.80.170 Board to coordinate state participation within student exchange compact programs--Advice to governor, legislature.
28B.80.175 Forum for education issues--Task force.
28B.80.180 Board may develop and administer demonstration projects.
28B.80.200 Board as state commission for federal law purposes.
28B.80.210 Board to administer certain federal programs.

28B.80.230 Federal funds, private gifts or grants, board to administer.
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28B.80.255 Washington award for excellence--Use of academic grant.
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28B.80.450 Placebound students--Study of needs.
28B.80.500 Branch campuses--Adjustment of enrollment lids.
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28B.80.520 Branch campuses--Facilities acquisition.
28B.80.600 Coordination of telecommunications planning.
28B.80.610 Higher education institutional responsibilities.
28B.80.612 Identification of methods to reduce administrative barriers.
28B.80.614 Study of higher education system operations.
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28B.80.620 Washington teacher training pilot program--Higher education coordinating board powers and duties--Reports.
28B.80.622 Washington teacher training pilot program--Established.
28B.80.624 Washington teacher training pilot program--Gifts, grants, endowments.
28B.80.626 Higher education coordinating board teacher training pilot account.
28B.80.805 Border county higher education opportunity pilot project--Findings--Intent.
28B.80.806 Border county higher education opportunity pilot project--Created.
28B.80.807 Border county higher education opportunity pilot project--Administration--Report.
28B.80.910 Severability--1969 ex.s. c 277.

28B.80.911 Severability--1985 c 370.
28B.80.912 Effective dates--1985 c 370.

NOTES:
Actions against educational boards--Defense--Costs--Payment of obligations from liability account: RCW 28B.10.840, 28B.10.842.
Blind students' assistance at institutions of higher education, council duties concerning: RCW 28B.10.210 through 28B.10.220.
Board to adopt rules relating to students' residency status, recovery of fees: RCW 28B.15.015.
British Columbia--Tuition and fees--Reciprocity with Washington: RCW 28B.15.756 and 28B.15.758.
Development of definitions, criteria, and procedures for the operating cost of instruction--Educational cost study: RCW 28B.15.070.
Displaced homemaker act, board participation: Chapter 28B.04 RCW.
Educational boards, insurance to protect and hold personally harmless: RCW 28B.10.840, 28B.10.844.
High-technology coordinating board, representative of council or designee member of: RCW 28B.65.040.
Idaho--Tuition and fees--Reciprocity with Washington: RCW 28B.15.750 through 28B.15.754.
Oregon--Tuition and fees--Reciprocity with Washington: RCW 28B.15.730 through 28B.15.736.
Remunerated professional leaves for faculty members of institutions of higher education: RCW 28B.10.650.

RCW 28B.80.110 Members--Compensation and travel expenses.

Members of the board shall be compensated in accordance with RCW 43.03.240 and shall receive travel expenses in accordance with RCW 43.03.050 and 43.03.060.

[1985 c 370 § 16; 1984 c 287 § 65; 1975-'76 2nd ex.s. c 34 § 77; 1969 ex.s. c 277 § 12. Formerly RCW 28.89.110.]

Notes:

Legislative findings--Severability--Effective date--1984 c 287: See notes following RCW 43.03.220.
Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 28B.80.129 Staff support for high-technology coordinating board.

See RCW 28B.65.060.

RCW 28B.80.131 Distinguished professorship trust fund program--Board to administer.

See RCW 28B.10.867.

RCW 28B.80.132 Graduate fellowship trust fund program--Board to administer.

See RCW 28B.10.881.

RCW 28B.80.134 Board to administer future teachers conditional scholarship program.

See RCW 28B.102.030.

RCW 28B.80.150 Board to coordinate state participation within student exchange compact programs--Designate certifying officer.

The board is hereby specifically directed to develop such state plans as are necessary to coordinate the state of Washington's participation within the student exchange compact programs under the auspices of the Western Interstate Commission for Higher Education, as provided by chapter 28B.70 RCW. In addition to establishing such plans the board shall designate the state certifying officer for student programs.

[1985 c 370 § 17; 1974 ex.s. c 4 § 3.]

Notes:

Severability--1974 ex.s. c 4: "If any provision of this 1973 [1974] act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 4 § 6.]

RCW 28B.80.160 Board to coordinate state participation within student exchange compact programs--Criteria--Washington interstate commission on higher education professional student exchange program trust fund.

In the development of any such plans as called for within RCW 28B.80.150, the board shall use at least the following criteria:

(1) Students who are eligible to attend compact-authorized programs in other states shall meet the Washington residency requirements of chapter 28B.15 RCW prior to being awarded tuition assistance.

(2) For recipients named after January 1, 1995, the tuition assistance shall be in the form of loans that may be completely forgiven in exchange for the student's service within the state of Washington after graduation. The requirements for such service and provisions for loan forgiveness shall be determined in rules adopted by the board.

(3) If appropriations are insufficient to fund all students qualifying under subsection (1) of this section, then the plans shall include criteria for student selection that would be in the best interest in meeting the state's educational needs, as well as recognizing the financial needs of students.

(4) Receipts from the payment of principal or interest or any other subsidies to which the board as administrator is entitled, that are paid by or on behalf of participants under this section, shall be deposited with the board and placed in an account created in this section and shall be used to cover the costs of granting the scholarships, maintaining necessary records, and making collections. The board shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant conditional loans to eligible students.

(5) The Washington interstate commission on higher education professional student exchange program trust fund is created in the custody of the state treasurer. All receipts from loan repayment shall be deposited into the fund. Only the higher education coordinating board, or its designee, may authorize expenditures from the fund. No appropriation is required for expenditures from this fund.

[1995 c 217 § 1; 1985 c 370 § 18; 1974 ex.s. c 4 § 4.]

Notes:

Effective date--1995 c 217: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 3, 1995]." [1995 c 217 § 3.]

Severability--1974 ex.s. c 4: See note following RCW 28B.80.150.

RCW 28B.80.170 Board to coordinate state participation within student exchange compact programs--Advice to governor, legislature.

The board shall periodically advise the governor and the legislature of the policy implications of the state of Washington's participation in the Western Interstate Commission for Higher Education student exchange programs as they affect long-range planning for post-secondary education, together with recommendations on the most efficient way to provide high cost or special educational programs to Washington residents.

[1985 c 370 § 19; 1974 ex.s. c 4 § 5.]

Notes:

Severability--1974 ex.s. c 4: See note following RCW 28B.80.150.

RCW 28B.80.175 Forum for education issues--Task force.

The higher education coordinating board shall work with the state board of education to establish the task force under RCW 28A.305.285.

[1994 c 222 § 3.]

Notes:

Effective date--1994 c 222: See note following RCW 28A.305.280.

RCW 28B.80.180 Board may develop and administer demonstration projects.

The higher education coordinating board may develop and administer demonstration projects designed to prepare and assist persons to obtain a higher education in this state.

[1989 c 306 § 2.]

RCW 28B.80.200 Board as state commission for federal law purposes.

The higher education coordinating board is designated as the state commission as provided for in Section 1202 of the education amendments of 1972 (Public Law 92-318), as now or hereafter amended; and shall perform such functions as is necessary to comply with federal directives pertaining to the provisions of such law: PROVIDED, That notwithstanding the provisions of *RCW 28B.80.050, all members of the board shall have full voting powers in taking actions related to federal postsecondary educational planning functions as provided for in this section and RCW 28B.80.210 through 28B.80.240.

[1985 c 370 § 20; 1975 1st ex.s. c 132 § 9.]

Notes:

***Reviser's note:** RCW 28B.80.050 was repealed by 1985 c 370 § 105, effective January 1, 1986.

Effective date--1975 1st ex.s. c 132: "This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1975." [1975 1st ex.s. c 132 § 19.]

Severability--1975 1st ex.s. c 132: "If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 132 § 18.]

RCW 28B.80.210 Board to administer certain federal programs.

The board shall administer any federal act pertaining to higher education which is not administered by another state agency.

[1985 c 370 § 21; 1975 1st ex.s. c 132 § 12. Prior: 1969 ex.s. c 263 § 3. Formerly RCW 28.90.120, 28B.81.030.]

Notes:

Effective date--Severability--1975 1st ex.s. c 132: See notes following RCW 28B.80.200.

RCW 28B.80.230 Federal funds, private gifts or grants, board to administer.

The board is authorized to receive and expend federal funds and any private gifts or grants, such federal funds or private funds to be expended in accordance with the conditions contingent in such grant thereof.

[1985 c 370 § 22; 1975 1st ex.s. c 132 § 14. Prior: 1969 ex.s. c 263 § 5. Formerly RCW 28.90.140, 28B.81.050.]

Notes:

Effective date--Severability--1975 1st ex.s. c 132: See notes following RCW 28B.80.200.

RCW 28B.80.240 Student financial aid programs, board to administer.

The board shall administer any state program or state-administered federal program of student financial aid now or hereafter established.

[1985 c 370 § 23; 1975 1st ex.s. c 132 § 15. Prior: 1969 ex.s. c 263 § 7. Formerly RCW 28.90.160, 28B.81.070.]

Notes:

Effective date--Severability--1975 1st ex.s. c 132: See notes following RCW 28B.80.200.

RCW 28B.80.245 Washington scholars award and Washington scholars-alternate award.

(1) Recipients of the Washington scholars award or the Washington scholars-alternate award under RCW 28A.600.100 through 28A.600.150 who choose to attend an independent college or university in this state, as defined in subsection (4) of this section, and recipients of the award named after June 30, 1994, who choose to attend a public college or university in the state may receive grants under this section if moneys are available. The higher education coordinating board shall distribute grants to eligible students under this section from moneys appropriated for this purpose. The individual grants shall not exceed, on a yearly basis, the yearly, full-time, resident, undergraduate tuition and service and activities fees in effect at the state-funded research universities. Grants to recipients attending an independent institution shall

be contingent upon the institution matching on at least a dollar-for-dollar basis, either with actual money or by a waiver of fees, the amount of the grant received by the student from the state. The higher education coordinating board shall establish procedures, by rule, to disburse the awards as direct grants to the students.

(2) The higher education coordinating board shall establish rules that provide for the annual awarding of grants, if moneys are available, to three Washington scholars per legislative district; and, if not used by an original recipient, to the Washington scholars-alternate from the same legislative district.

Beginning with scholars selected in the year 2000, if the recipients of grants fail to demonstrate in a timely manner that they will enroll in a Washington institution of higher education in the fall term of the academic year following the award of the grant or are deemed by the higher education coordinating board to have withdrawn from college during the first academic year following the award, then the grant shall be considered relinquished. The higher education coordinating board may then award any remaining grant amounts to the Washington scholars-alternate from the same legislative district if the grants are awarded within one calendar year of the recipient being named a Washington scholars-alternate. Washington scholars-alternates named as recipients of the grant must also demonstrate in a timely manner that they will enroll in a Washington institution of higher education during the next available term, as determined by the higher education coordinating board. The board may accept appeals and grant waivers to the enrollment requirements of this section based on exceptional mitigating circumstances of individual grant recipients.

To maintain eligibility for the grants, recipients must maintain a minimum grade point average at the college or university equivalent to 3.30. Students shall be eligible to receive a maximum of twelve quarters or eight semesters of grants for undergraduate study and may transfer among in-state public and independent colleges and universities during that period and continue to receive the grant as provided under RCW 28B.80.246. If the student's cumulative grade point average falls below 3.30 during the first three quarters or two semesters, that student may petition the higher education coordinating board which shall have the authority to establish a probationary period until such time as the student's grade point average meets required standards.

(3) No grant shall be awarded to any student who is pursuing a degree in theology.

(4) As used in this section, "independent college or university" means a private, nonprofit educational institution, the main campus of which is permanently situated in the state, open to residents of the state, providing programs of education beyond the high school level leading at least to the baccalaureate degree, and accredited by the northwest association of schools and colleges as of June 9, 1988, and other institutions as may be developed that are approved by the higher education coordinating board as meeting equivalent standards as those institutions accredited under this section.

(5) As used in this section, "public college or university" means an institution of higher education as defined in RCW 28B.10.016.

[1999 c 159 § 3; 1995 1st sp.s. c 5 § 3; 1990 c 33 § 560; 1988 c 210 § 1.]

Notes:

Findings--Intent--1999 c 159: See note following RCW 28A.600.150.

Severability--Effective date--1995 1st sp.s. c 5: See notes following RCW 28A.600.130.

Purpose--Statutory references--Severability--1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Application--1988 c 210 § 1: "RCW 28B.80.245 shall apply to persons holding the Washington scholars award as of June 9, 1988, as well as persons holding the award after June 9, 1988." [1988 c 210 § 3.]

RCW 28B.80.246 Washington scholars award waivers or grants--Transfers between colleges and universities.

Students receiving grants under RCW 28B.80.245 or waivers under RCW 28B.15.543 are entitled to transfer among in-state public and independent colleges or universities and to continue to receive award benefits, as provided in this section, in the form of a grant or waiver of tuition and services and activities fees while enrolled at such institutions during the period of eligibility. The total grants or waivers for any one student shall not exceed twelve quarters or eight semesters of undergraduate study.

(1) Scholars named to the award on or before June 30, 1994, may transfer between in-state public institutions, or from an eligible independent college or university to an in-state public institution of higher education, and are entitled to receive the waiver of tuition and services and activities fees.

(2) Scholars named to the award on or before June 30, 1994, may transfer from an in-state public institution to an eligible independent college or university, or between eligible independent colleges or universities, and continue to receive a grant contingent upon available funding.

(3) Scholars named to the award after June 30, 1994, may transfer among in-state public or private colleges and universities and continue to receive the grant contingent upon available funding.

(4) In addition, scholars who transfer to an eligible independent institution may receive the grant contingent upon the agreement of the school to match on at least a dollar-for-dollar basis, either with actual money or by a waiver of fees, the amount of the grant received by the student from the state.

[1995 1st sp.s. c 5 § 4; 1988 c 210 § 2.]

Notes:

Severability--Effective date--1995 1st sp.s. c 5: See notes following RCW 28A.600.130.

RCW 28B.80.250 "Management employees" defined.

Notes:

Reviser's note: RCW 28B.80.250 was amended by 1985 c 370 § 24, effective January 1, 1986, without reference to its repeal by 1985 c 461 § 16. It has been decodified for publication purposes pursuant to RCW 1.12.025.

RCW 28B.80.255 Washington award for excellence--Use of academic grant.

(1) Teachers, classified employees, and principals or administrators who select an academic grant under *RCW 28A.625.041(2)(a) shall use the grant to attend a state public institution of higher education located in the state of Washington, except that the academic grant may be used for courses at a private institution of higher education in the state of Washington if the conditions in subsection (3) of this section are met, and the academic grant may be used for courses at a public or a private institution of higher education in another state or country if the conditions in subsection (4) of this section are met.

(2) "Institution of higher education" means:

(a) Any public university, college, community college, or technical college operated by the state of Washington or any political subdivision thereof; or

(b) Any other university, college, school, or institute in the state of Washington offering instruction beyond the high school level which is a member institution of an accrediting association recognized by rule of the board. Any institution, branch, extension, or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of an accrediting association recognized by the board.

(3) Teachers, classified employees, and principals or administrators who select an academic grant under *RCW 28A.625.041(2)(a) may use the grant for courses at any private institution as defined in subsection (2)(b) of this section subject to the following conditions:

(a) The academic grant shall provide reimbursement to the recipient for actual costs incurred for tuition and fees for up to forty-five quarter credit hours or thirty semester credit hours at a rate of reimbursement per credit hour not to exceed the resident graduate, part-time cost per credit hour at the University of Washington in the year the recipient takes the credits. In addition, a stipend not to exceed one thousand dollars shall be provided for costs incurred in taking courses covered by the academic grant beginning with 1992 recipients, if funds are appropriated for the stipends in the omnibus appropriations act. This stipend shall be provided as reimbursement for actual costs incurred;

(b) The academic grant shall be contingent on the private institution matching on at least a dollar-for-dollar basis, either with actual money or by waiver of fees, the amount of the academic grant received by the recipient from the state; and

(c) The academic grant may not be used for any courses that include any religious worship or exercise, or apply to any degree in religious, seminarian, or theological academic studies.

(4) Teachers, classified employees, and principals or administrators who select an academic grant under *RCW 28A.625.041(2)(a) may use the grant for courses at a public or private higher education institution in another state or country subject to the following conditions:

(a) The institution has an exchange program with a public or private higher education institution in Washington and the exchange program is approved or recognized by the higher education coordinating board; or

(b) The institution is approved or recognized by the higher education coordinating board; and

(c) The recipient of the Washington award for excellence in education has submitted in writing to the higher education coordinating board an explanation of why the preferred course or courses are not available at a public or private institution in Washington; and

(d) The academic grant may not be used for any courses that include any religious worship or exercise, or apply to any degree in religious, seminarian, or theological academic studies.

[1992 c 83 § 3; 1992 c 50 § 2; 1991 c 255 § 6.]

Notes:

Reviser's note: *(1) RCW 28A.625.041 expired June 30, 1998.

(2) This section was amended by 1992 c 50 § 2 and by 1992 c 83 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date--1992 c 83: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect April 30, 1992." [1992 c 83 § 6.]

Effective date--1992 c 50: "This act shall take effect June 30, 1993." [1992 c 50 § 4.]

RCW 28B.80.260 Management employee performance evaluations--Procedures and forms.

Notes:

Reviser's note: RCW 28B.80.260 was amended by 1985 c 370 § 25, effective January 1, 1986, without reference to its repeal by 1985 c 461 § 16. It has been decodified for publication purposes pursuant to RCW 1.12.025.

RCW 28B.80.265 Washington award for excellence--Rules.

(1) The higher education coordinating board shall adopt rules as necessary under chapter 34.05 RCW to administer the academic grants awarded under *RCW 28A.625.041(2)(a).

(2) The rules adopted by the board shall reflect that the changes to *RCW 28A.625.041(2)(a) in section 1, chapter 83, Laws of 1992 shall apply to all recipients of a Washington award for excellence in education, regardless of the statutory language in effect at the time the award was granted.

[1992 c 83 § 4; 1991 c 255 § 7.]

Notes:

***Reviser's note:** RCW 28A.625.041 expired June 30, 1998.

Effective date--1992 c 83: See note following RCW 28B.80.255.

RCW 28B.80.270 Management employee performance evaluations--Merit increases in salary.

Notes:

Reviser's note: RCW 28B.80.270 was amended by 1985 c 370 § 26, effective January 1, 1986, without reference to its repeal by 1985 c 461 § 16. It has been decodified for publication purposes pursuant to RCW 1.12.025.

RCW 28B.80.272 Washington award for vocational excellence--Grants--Definitions.

(1) Recipients of the Washington award for vocational excellence under RCW 28C.04.520 through 28C.04.550, who receive the award after June 30, 1994, may receive a grant, if funds are available. The grant shall be used to attend a postsecondary institution located in the state of Washington. Recipients may attend an institution of higher education as defined in RCW 28B.10.016, or an independent college or university, or a licensed private vocational school. The higher education coordinating board shall distribute grants to eligible students under this section from moneys appropriated for this purpose. The individual grants shall not exceed, on a yearly basis, the yearly, full-time, resident, undergraduate tuition and service and activities fees in effect at the state-funded research universities. In consultation with the work force training and education coordinating board, the higher education coordinating board shall establish procedures, by rule, to disburse the awards as direct grants to the students.

(2) To qualify for the grant, recipients shall enter the postsecondary institution within three years of high school graduation and maintain a minimum grade point average at the institution equivalent to 3.00, or, at a technical college, an above average rating. Students shall be eligible to receive a maximum of two years of grants for undergraduate study and may transfer among in-state eligible postsecondary institutions during that period and continue to receive the grant.

(3) No grant may be awarded to any student who is pursuing a degree in theology.

(4) As used in this section, "independent college or university" means a private, nonprofit educational institution, the main campus of which is permanently situated in the state, open to residents of the state, providing programs of education beyond the high school level leading at least to the baccalaureate degree, and accredited by the Northwest association of schools and colleges as of June 9, 1988, and other institutions as may be developed that are approved by the higher education coordinating board as meeting equivalent standards as those institutions accredited under this section.

(5) As used in this section, "licensed private vocational school" means a private postsecondary institution, located in the state, licensed by the work force training and education coordinating board under chapter 28C.10 RCW, and offering postsecondary education in order to prepare persons for a vocation or profession, as defined in RCW 28C.10.020(7).

[1995 1st sp.s. c 7 § 8.]

Notes:

Severability--1995 1st sp.s. c 7: See note following RCW 28C.04.520.

RCW 28B.80.280 State-wide transfer of credit policy and agreement--Board to establish with assistance of institutions of higher education, when.

The board shall, in cooperation with the state institutions of higher education and the state board for community and technical colleges, establish and maintain a state-wide transfer of credit policy and agreement. The policy and agreement shall, where feasible, include course and program descriptions consistent with state-wide interinstitutional guidelines. The institutions of higher education shall provide support and staff resources as necessary to assist in developing and maintaining this policy and agreement. The state-wide transfer of credit policy and agreement shall be effective beginning with the 1985-86 academic year.

[1998 c 245 § 23; 1985 c 370 § 27; 1983 c 304 § 1.]

RCW 28B.80.290 State-wide transfer of credit policy and agreement--Requirements.

The state-wide transfer of credit policy and agreement shall be designed to facilitate the transfer of students and the evaluation of transcripts, to better serve persons seeking information about courses and programs, to aid in academic planning, and to improve the review and evaluation of academic programs in the state institutions of higher education. The state-wide transfer of credit policy and agreement shall not require nor encourage the standardization of course content and shall not prescribe course content or the credit value assigned by any institution to the course.

[1983 c 304 § 2.]

RCW 28B.80.300 Board created.

There is hereby created the Washington higher education coordinating board.

[1985 c 370 § 1.]

RCW 28B.80.310 Definitions.

For the purposes of this chapter:

(1) "Board" means the higher education coordinating board; and

(2) "Four-year institutions" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College.

[1985 c 370 § 2.]

RCW 28B.80.320 Purpose.

The purpose of the board is to provide planning, coordination, monitoring, and policy analysis for higher education in the state of Washington in cooperation and consultation with the institutions' autonomous governing boards and with all other segments of postsecondary education, including but not limited to the *state board for community college education and the **commission for vocational education. The legislature intends that the board represent the

broad public interest above the interests of the individual colleges and universities.

[1985 c 370 § 3.]

Notes:

Reviser's note: *(1) The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

**(2) The commission on vocational education and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1986, and repealed June 30, 1987. See 1983 c 197 §§ 17 and 43.

RCW 28B.80.330 Duties.

The board shall perform the following planning duties in consultation with the four-year institutions, the community and technical college system, and when appropriate the work force training and education coordinating board, the superintendent of public instruction, and the independent higher educational institutions:

(1) Develop and establish role and mission statements for each of the four-year institutions and for the community and technical college system;

(2) Identify the state's higher education goals, objectives, and priorities;

(3) Prepare a comprehensive master plan which includes but is not limited to:

(a) Assessments of the state's higher education needs. These assessments may include, but are not limited to: The basic and continuing needs of various age groups; business and industrial needs for a skilled work force; analyses of demographic, social, and economic trends; consideration of the changing ethnic composition of the population and the special needs arising from such trends; college attendance, retention, and dropout rates, and the needs of recent high school graduates and placebound adults. The board should consider the needs of residents of all geographic regions, but its initial priorities should be applied to heavily populated areas underserved by public institutions;

(b) Recommendations on enrollment and other policies and actions to meet those needs;

(c) Guidelines for continuing education, adult education, public service, and other higher education programs;

(d) Mechanisms through which the state's higher education system can meet the needs of employers hiring for industrial projects of state-wide significance.

The initial plan shall be submitted to the governor and the legislature by December 1, 1987. Comments on the plan from the board's advisory committees and the institutions shall be submitted with the plan.

The plan shall be updated every four years, and presented to the governor and the appropriate legislative policy committees. Following public hearings, the legislature shall, by concurrent resolution, approve or recommend changes to the initial plan, and the updates. The plan shall then become state higher education policy unless legislation is enacted to alter the policies set forth in the plan;

(4) Review, evaluate, and make recommendations on operating and capital budget requests from four-year institutions and the community and technical college system, based on the elements outlined in subsections (1), (2), and (3) of this section, and on guidelines which outline the board's fiscal priorities. These guidelines shall be distributed to the institutions and

the community college board by December of each odd-numbered year. The institutions and the community college board shall submit an outline of their proposed budgets, identifying major components, to the board no later than August 1 of each even-numbered year. The board shall submit recommendations on the proposed budgets and on the board's budget priorities to the office of financial management before November 1st of each even-numbered year, and to the legislature by January 1 of each odd-numbered year;

(5) Institutions and the state board for community and technical colleges shall submit any supplemental budget requests and revisions to the board at the same time they are submitted to the office of financial management. The board shall submit recommendations on the proposed supplemental budget requests to the office of financial management by November 1st and to the legislature by January 1st;

(6) Recommend legislation affecting higher education;

(7) Recommend tuition and fees policies and levels based on comparisons with peer institutions;

(8) Establish priorities and develop recommendations on financial aid based on comparisons with peer institutions;

(9) Prepare recommendations on merging or closing institutions; and

(10) Develop criteria for identifying the need for new baccalaureate institutions.

[1997 c 369 § 10; 1996 c 174 § 1; 1993 c 363 § 6; 1985 c 370 § 4.]

Notes:

Findings--Effective date--1993 c 363: See notes following RCW 28B.80.610.

Industrial project of state-wide significance--Defined: RCW 43.157.010.

RCW 28B.80.340 Program responsibilities.

The board shall perform the following program responsibilities, in consultation with the institutions and with other interested agencies and individuals:

(1) Approve the creation of any new degree programs at the four-year institutions and prepare fiscal notes on any such programs;

(2) Review, evaluate, and make recommendations for the modification, consolidation, initiation, or elimination of on-campus programs, at the four-year institutions;

(3) Review and evaluate and approve, modify, consolidate, initiate, or eliminate off-campus programs at the four-year institutions;

(4) Approve, and adopt guidelines for, higher education centers and consortia;

(5) Approve purchase or lease of major off-campus facilities for the four-year institutions and the community colleges;

(6) Establish campus service areas and define on-campus and off-campus activities and major facilities; and

(7) Approve contracts for off-campus educational programs initiated by the state's four-year institutions individually, in concert with other public institutions, or with independent institutions.

[1985 c 370 § 5.]

RCW 28B.80.350 Coordination of activities with segments of higher education.

The board shall coordinate educational activities among all segments of higher education taking into account the educational programs, facilities, and other resources of both public and independent two and four-year colleges and universities. The four-year institutions and the state board for community and technical colleges shall coordinate information and activities with the board. The board shall have the following additional responsibilities:

(1) Promote interinstitutional cooperation;

(2) Establish minimum admission standards for four-year institutions, including a requirement that coursework in American sign language or an American Indian language shall satisfy any requirement for instruction in a language other than English that the board or the institutions may establish as a general undergraduate admissions requirement;

(3) Establish transfer policies;

(4) Adopt rules implementing statutory residency requirements;

(5) Develop and administer reciprocity agreements with bordering states and the province of British Columbia;

(6) Review and recommend compensation practices and levels for administrative employees, exempt under *chapter 28B.16 RCW, and faculty using comparative data from peer institutions;

(7) Monitor higher education activities for compliance with all relevant state policies for higher education;

(8) Arbitrate disputes between and among four-year institutions or between and among four-year institutions and community colleges at the request of one or more of the institutions involved, or at the request of the governor, or from a resolution adopted by the legislature. The decision of the board shall be binding on the participants in the dispute;

(9) Establish and implement a state system for collecting, analyzing, and distributing information;

(10) Recommend to the governor and the legislature ways to remove any economic incentives to use off-campus program funds for on-campus activities; and

(11) Make recommendations to increase minority participation, and monitor and report on the progress of minority participation in higher education.

[1993 c 77 § 2; 1992 c 60 § 3; 1988 c 172 § 4; 1985 c 370 § 6.]

Notes:

***Reviser's note:** Chapter 28B.16 RCW was repealed by 1993 c 281, with the exception of RCW 28B.16.015 and 28B.16.240, which was recodified as RCW 41.06.382. For exemptions to higher education personnel law see chapter 41.06 RCW.

RCW 28B.80.360 Administrative responsibilities.

The board shall perform the following administrative responsibilities:

(1) Administer the programs set forth in the following statutes: RCW 28A.600.100 through 28A.600.150 (Washington scholars); chapter 28B.04 RCW (displaced homemakers); chapter 28B.85 RCW (degree-granting institutions); RCW 28B.10.210 through 28B.10.220 (blind students subsidy); RCW 28B.10.800 through 28B.10.824 (student financial aid program); chapter 28B.12 RCW (work study); RCW 28B.15.067 (establishing tuition and fees); RCW 28B.15.543 (tuition waivers for Washington scholars); RCW 28B.15.760 through 28B.15.766 (math and science loans); RCW 28B.80.150 through 28B.80.170 (student exchange compact); RCW 28B.80.240 (student aid programs); and RCW 28B.80.210 (federal programs).

(2) Study the delegation of the administration of the following: RCW 28B.65.040 through 28B.65.060 (high-technology board); chapter 28B.85 RCW (degree-granting institutions); RCW 28B.80.150 through 28B.80.170 (student exchange compact programs); RCW 28B.80.200 (state commission for federal law purposes); RCW 28B.80.210 (enumerated federal programs); RCW 28B.80.230 (receipt of federal funds); RCW 28B.80.240 (student financial aid programs); RCW 28A.600.120 through 28A.600.150 (Washington scholars); RCW 28B.15.543 (Washington scholars); RCW 28B.04.020 through 28B.04.110 (displaced homemakers); RCW 28B.10.215 and 28B.10.220 (blind students); RCW 28B.10.790, 28B.10.792, and 28B.10.802 through 28B.10.844 (student financial aid); RCW 28B.12.040 through 28B.12.070 (student work study); RCW 28B.15.100 (reciprocity agreement); RCW 28B.15.730 through 28B.15.736 (Oregon reciprocity); RCW 28B.15.750 through 28B.15.754 (Idaho reciprocity); RCW 28B.15.756 and 28B.15.758 (British Columbia reciprocity); and RCW 28B.15.760 through 28B.15.764 (math/science loans).

[1998 c 245 § 24; 1995 1st sp.s. c 9 § 12; 1990 c 33 § 561; 1986 c 136 § 20; 1985 c 370 § 7.]

Notes:

Intent--Purpose--Effective date--1995 1st sp.s. c 9: See notes following RCW 28B.15.031.

Purpose--Statutory references--Severability--1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability--Effective date--1986 c 136: See RCW 28B.85.900 and 28B.85.902.

RCW 28B.80.370 Adoption of rules.

The board shall have authority to adopt rules as necessary to implement this chapter.

[1985 c 370 § 8.]

RCW 28B.80.380 Advisory committees.

The board shall establish advisory committees composed of members representing faculty, administrators, students, regents and trustees, and staff of the public institutions, the superintendent of public instruction, and the independent institutions.

[1985 c 370 § 9.]

RCW 28B.80.390 Members--Appointment.

The board shall consist of nine members who are representative of the public, including women and the racial minority community. All members shall be appointed at large by the governor and approved by the senate. The governor shall appoint the chair, who shall serve at the governor's pleasure.

[1985 c 370 § 10.]

RCW 28B.80.400 Members--Terms.

The members of the board, except the chair, shall serve for terms of four years, the terms expiring on June 30th of the fourth year of the term except that in the case of initial members, two shall be appointed to two-year terms, three shall be appointed to three-year terms, and three shall be appointed to four-year terms.

[1985 c 370 § 11.]

RCW 28B.80.410 Members--Vacancies.

Any vacancies among board members shall be filled by the governor subject to confirmation by the senate then in session, or if not in session, at the next session. Board members appointed under this section shall have full authority to act as such prior to the time the senate acts on their confirmation. Appointments to fill vacancies shall be only for such terms as remain unexpired.

[1985 c 370 § 12.]

RCW 28B.80.420 Bylaws--Meetings.

The board shall adopt bylaws and shall meet at least four times each year and at such other times as determined by the chair who shall give reasonable prior notice to the members.

Board members are expected to consistently attend board meetings. The chair of the board may ask the governor to remove any member who misses more than two meetings in any calendar year without cause.

[1985 c 370 § 13.]

RCW 28B.80.430 Director--Duties--Board use of state agencies.

The board shall employ a director and may delegate agency management to the director. The director shall serve at the pleasure of the board, shall be the executive officer of the board, and shall, under the board's supervision, administer the provisions of this chapter. The executive director shall, with the approval of the board: (1) Employ necessary deputy and assistant directors and other exempt staff under chapter 28B.16 RCW who shall serve at his or her pleasure on such terms and conditions as he or she determines and (2) subject to the provisions of chapter 28B.16 RCW, appoint and employ such other employees as may be required for the

proper discharge of the functions of the board. The executive director shall exercise such additional powers, other than rule making, as may be delegated by the board by resolution. In fulfilling the duties under this chapter, the board shall make extensive use of those state agencies with responsibility for implementing and supporting postsecondary education plans and policies including but not limited to appropriate legislative groups, the postsecondary education institutions, the office of financial management, the *commission for vocational education, and the **state board for community college education. Outside consulting and service agencies may also be employed. The board may compensate these groups and consultants in appropriate ways.

[1987 c 330 § 301; 1985 c 370 § 14.]

Notes:

Reviser's note: *(1) The commission on vocational education and its powers and duties, pursuant to the Sunset Act, chapter 43.131 RCW, were terminated June 30, 1986, and repealed June 30, 1987. See 1983 c 197 §§ 17 and 43.

**(2) The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

Construction--Application of rules--Severability--1987 c 330: See notes following RCW 28B.12.050.

RCW 28B.80.440 Interstate discussions and agreements about standards and programs for teachers, administrators, and educational staff associates.

(1) The higher education coordinating board, jointly with the state board of education and the superintendent of public instruction, shall establish formal contact with education officials in Oregon, and other member states of the western interstate commission on higher education, as necessary, for the purpose of entering into ongoing discussions relating to:

(a) Accreditation standards for programs leading to certification of teachers, administrators, and educational staff associates;

(b) Program requirements for the preparation of teachers, administrators, and educational staff associates; and

(c) Definitions of educational staff associates.

(2) The purpose of such discussions shall be to encourage agreements between Washington and Oregon, and Washington and other western regional states, to facilitate interstate recognition of certification programs, standards, and requirements and thus encourage and accommodate interstate student teaching opportunities and reduce barriers for persons receiving certification in one state from being immediately eligible for employment in another state.

[1987 c 40 § 1.]

RCW 28B.80.442 Interstate discussions--Support and services of western interstate commission on higher education.

In order to comply with the purposes of RCW 28B.80.440, the higher education coordinating board is encouraged to enlist the support and services of the western interstate

commission on higher education.

[1987 c 40 § 2.]

RCW 28B.80.450 Placebound students--Study of needs.

The higher education coordinating board shall study upper division baccalaureate educational needs of placebound students, and the graduate educational needs of teachers, living in areas of the state not currently served by either existing four-year institutions or branch campuses. The study shall include recommendations on how the needs should be addressed, and which institutions should be responsible for serving specific areas.

[1990 c 288 § 1.]

RCW 28B.80.500 Branch campuses--Adjustment of enrollment lids.

It is the intent of the legislature that, at the same time additional capital or operating funds are approved for the purposes of RCW 28B.45.020 through 28B.45.060, enrollment lids at existing baccalaureate institutions of higher education should be raised at the upper-division level insofar as doing so would increase participation rates in underserved areas.

[1989 1st ex.s. c 7 § 2.]

Notes:

Legislative findings--1989 1st ex.s. c 7: See RCW 28B.45.010.

RCW 28B.80.510 Branch campuses--Partnership between community colleges and four-year institutions.

In rules and guidelines adopted for purposes of chapter 7, Laws of 1989 1st ex. sess., the higher education coordinating board shall ensure a collaborative partnership between the community colleges and the four-year institutions. The partnership shall be one in which the community colleges prepare students for transfer to the upper-division programs of the branch campuses.

[1989 1st ex.s. c 7 § 8.]

Notes:

Legislative findings--1989 1st ex.s. c 7: See RCW 28B.45.010.

RCW 28B.80.520 Branch campuses--Facilities acquisition.

Before approving any institutional request to acquire facilities in an area assigned in RCW 28B.45.020 through 28B.45.060, the higher education coordinating board shall ensure that creative and cost-effective methods of serving the needs of each assigned area are considered, including but not limited to:

(1) Exploring the possibility of time-sharing existing college or university facilities for instructional and administrative purposes;

(2) Using rented facilities; and

(3) Utilizing telecommunication technology.

[1989 1st ex.s. c 7 § 9.]

Notes:

Legislative findings--1989 1st ex.s. c 7: See RCW 28B.45.010.

RCW 28B.80.600 Coordination of telecommunications planning.

The higher education coordinating board shall provide state-wide coordination in telecommunications programming, location selection, meeting community needs, and development of a state-wide higher education telecommunications plan.

[1996 c 137 § 9; 1990 c 208 § 9.]

Notes:

Effective date--Application--1996 c 137: See notes following RCW 43.105.830.

RCW 28B.80.610 Higher education institutional responsibilities.

(1) At the local level, the higher education institutional responsibilities include but are not limited to:

(a) Development and provision of strategic plans under the guidelines established by the higher education coordinating board. In developing their strategic plans, the research universities shall consider the feasibility of significantly increasing the number of evening graduate classes;

(b) For the four-year institutions of higher education, timely provision of information required by the higher education coordinating board to report to the governor, the legislature, and the citizens;

(c) Provision of local student financial aid delivery systems to achieve both state-wide goals and institutional objectives in concert with state-wide policy; and

(d) Operating as efficiently as feasible within institutional missions and goals.

(2) At the state level, the higher education coordinating board shall be responsible for:

(a) Delineation and coordination of strategic plans to be prepared by the institutions;

(b) Preparation of reports to the governor, the legislature, and the citizens on program accomplishments and use of resources by the institutions;

(c) Administration and policy implementation for state-wide student financial aid programs; and

(d) Assistance to institutions in improving operational efficiency through measures that include periodic review of program efficiencies.

(3) At the state level, on behalf of community colleges and technical colleges, the state board for community and technical colleges shall coordinate and report on the system's strategic plans and shall provide any information required of its colleges by the higher education coordinating board.

[1993 c 363 § 2.]

Notes:

Findings--1993 c 363: "The legislature finds a need to redefine the relationship between the state and its

postsecondary education institutions through a compact based on trust, evidence, and a new alignment of responsibilities. As the proportion of the state budget dedicated to postsecondary education programs has continued to decrease and the opportunity for this state's citizens to participate in such programs also has declined, the state institutions of higher education have increasingly less flexibility to respond to emerging challenges through innovative management and programming. The legislature finds that this state has not provided its institutions of higher education with the ability to effectively achieve state-wide goals and objectives to increase access to, improve the quality of, and enhance the accountability for its postsecondary education system.

Therefore, the legislature declares that the policy of the state of Washington is to create an environment in which the state institutions of higher education have the authority and flexibility to enhance attainment of state-wide goals and objectives for the state's postsecondary education system through decisions and actions at the local level. The policy shall have the following attributes:

(1) The accomplishment of equitable and adequate enrollment by significantly raising enrollment lids, adequately funding those increases, and providing sufficient financial aid for the neediest students;

(2) The development and use of a new definition of quality measured by effective operations and clear results; the efficient use of funds to achieve well-educated students;

(3) The attainment of a new resource management relationship that removes the state from micromanagement, allows institutions greater management autonomy to focus resources on essential functions, and encourages innovation; and

(4) The development of a system of coordinated planning and sufficient feedback to assure policymakers and citizens that students are succeeding and resources are being prudently deployed." [1993 c 363 § 1.]

Effective date--1993 c 363: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 363 § 7.]

RCW 28B.80.612 Identification of methods to reduce administrative barriers.

In cooperation with institutions of higher education, the state board for community and technical colleges, and appropriate state and local agencies, the higher education coordinating board may identify methods to reduce administrative barriers to efficient institutional operations. These methods may include waivers of statutory requirements and administrative rules. In cooperation with affected institutions, the board shall work with appropriate agencies to reduce administrative barriers that do not require statutory changes.

[1998 c 245 § 25; 1993 c 363 § 3.]

Notes:

Findings--Effective date--1993 c 363: See notes following RCW 28B.80.610.

RCW 28B.80.614 Study of higher education system operations.

The higher education coordinating board, in conjunction with the four-year institutions of higher education, shall conduct a study of higher education system operations to identify efficiencies to increase access to, improve the quality of, and reduce the cost of higher education. This study shall include but not be limited to:

(1) Examining potential unnecessary duplicative and low-productivity programs for possible consolidation or termination;

(2) Developing criteria for and conducting an evaluation of faculty productivity;

(3) Reviewing and developing recommendations on appropriate institutional roles for providing remedial instruction;

(4) Exploring the potential for greater use of the public higher education system physical plant and other resources through such means as expanded operations during summer terms, evenings, and weekends;

(5) Examining the effectiveness of proposals on variable tuition rates and faculty salary incentives; and

(6) Identifying ways for institutions to share resources, faculty, and curricula through collaboration with other public and private postsecondary institutions and common school districts in their service areas to increase student opportunities and reduce costs. Analyses shall include clear articulation of functions among institutions, means to reduce duplication, and policies to facilitate student movement among institutions.

[1993 c 363 § 4.]

Notes:

Findings--Effective date--1993 c 363: See notes following RCW 28B.80.610.

RCW 28B.80.616 Reports to legislature and citizens on postsecondary educational system--Reports to board from state board for community and technical colleges and state institutions of higher education--Cooperation with independent colleges and universities.

The higher education coordinating board, in conjunction with the state board for community and technical colleges and the institutions of higher education, shall report regularly to the legislature and the citizens the accomplishments of, expenditures for, and requirements of the postsecondary educational system in the state of Washington. The state board for community and technical colleges and the state institutions of higher education shall report uniformly to the higher education coordinating board, on an annual basis, the information necessary to prepare the report. Independent colleges and universities are encouraged to cooperate with this effort and to provide to the board information in a uniform format developed by the board, in cooperation with the institutions. Examples of performance measures that could be included are:

(1) Retention and graduation rates;

(2) Average time to a degree;

(3) Credit hours per degree awarded;

(4) Degrees awarded by discipline and by level;

(5) Multiple degrees;

(6) Measures taken to reduce duplicative courses, programs, and requirements;

(7) Student-faculty contact hours;

(8) Placement rates;

(9) Success in recruiting and graduating underrepresented groups;

(10) Various fiscal and management measures; and

(11) Demographic information on enrolled students, including but not limited to socioeconomic and ethnic backgrounds.

[1993 c 363 § 5.]

Notes:

Findings--Effective date--1993 c 363: See notes following RCW 28B.80.610.

RCW 28B.80.620 Washington teacher training pilot program--Higher education coordinating board powers and duties--Reports. *(Expires January 30, 2005.)*

(1) The higher education coordinating board, in consultation with the state board of education has the following powers and duties in administering the pilot program established in RCW 28B.80.622:

(a) To adopt rules necessary to carry out the program;

(b) To establish one or more review committees to assist in the evaluation of proposals for funding. The review committee shall include individuals with significant experience in higher education in areas relevant to one or more of the funding period priorities and shall include representatives from elementary, two-year, and four-year sectors of education;

(c) To award grants no later than September 1st in those years when funding is available by June 30th;

(d) To establish each biennium specific guidelines for submitting grant proposals consistent with the overall goals of the program. During the 1999-2001 biennium, the guidelines shall be consistent with the following desired outcomes of:

(i) Designing a college-level course for enrollment of selected high school seniors interested in teaching careers and students enrolled in a school-based future teachers academy;

(ii) Designing discipline-based lower division courses that are thematically linked to state student learning goals, essential academic learning requirements, and upper division courses in the interdisciplinary arts and science curriculum and supportive of teaching areas appropriate for prospective teachers;

(iii) Designing a preprofessional educational studies minor that would be pursued by prospective kindergarten through eighth grade teachers in conjunction with an interdisciplinary arts and science major;

(iv) Designing mentoring and service learning activities at the community college level that would provide prospective teachers with an orientation to professional education; and

(v) Designing a process for satisfying certification requirements that encompasses pedagogical coursework and school-based internships cognizant of the financial constraints of working students.

(2) The pilot project in this section shall conclude no later than January 1, 2005.

(3) Beginning on December 31, 2001, the higher education coordinating board shall submit an annual written report to the education and higher education committees of the legislature, the state board of education, and the office of the superintendent of public instruction on the status of the pilot project.

[1999 c 177 § 2.]

Notes:

Intent--1999 c 177: "There is a need for a coordinated program of teacher training that will involve high schools, community colleges, and four-year institutions of higher education in a collaborative, seamless approach to developing teachers for the kindergarten through twelfth grade system. Therefore, it is the intent of the legislature that an innovative pilot project be established for teacher training and attracting teacher candidates. Furthermore, the

legislature intends to establish a pilot program by creating a competitive grant program to assist educational institutions in developing teacher training programs." [1999 c 177 § 1.]

Expiration date--1999 c 177: "Sections 1 through 5 of this act expire January 30, 2005." [1999 c 177 § 8.]

RCW 28B.80.622 Washington teacher training pilot program--Established. *(Expires January 30, 2005.)*

The Washington teacher training pilot program is established. The higher education coordinating board shall administer the program. Through this program the board may award, on a competitive basis, grants to public institutions of higher education or consortia of institutions to encourage high quality and effective teacher training programs. Grants shall not exceed a two-year period. Strong priority shall be given to proposals that involve shared facilities, shared resources, and cocurricular planning to establish the teacher training program, and to proposals that involve participants from the interdisciplinary arts and science curriculum and professional education faculty as well as classroom teachers from school districts. Institutions of higher education are encouraged to solicit nonstate funds to support this coordinated approach to teacher training.

[1999 c 177 § 3.]

Notes:

Intent--Expiration date--1999 c 177: See notes following RCW 28B.80.620.

RCW 28B.80.624 Washington teacher training pilot program--Gifts, grants, endowments. *(Expires January 30, 2005.)*

The higher education coordinating board may solicit and receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the program and may expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

[1999 c 177 § 4.]

Notes:

Intent--Expiration date--1999 c 177: See notes following RCW 28B.80.620.

RCW 28B.80.626 Higher education coordinating board teacher training pilot account. *(Expires January 30, 2005.)*

The higher education coordinating board teacher training pilot account is established in the custody of the state treasurer. The higher education coordinating board shall deposit in the account all moneys received under RCW 28B.80.624. Moneys in the account may be spent only for the purposes of RCW 28B.80.622. Disbursements from the account shall be on the authorization of the higher education coordinating board. The account is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for

disbursements.

[1999 c 177 § 5.]

Notes:

Intent--Expiration date--1999 c 177: See notes following RCW 28B.80.620.

RCW 28B.80.805 Border county higher education opportunity pilot project--Findings--Intent. *(Expires June 30, 2002.)*

(1) The legislature finds that certain tuition policies in Oregon state are more responsive to the needs of students living in economic regions that cross the state border than the Washington state policies. Under Oregon policy, students who are Washington residents may enroll at Portland State University for eight credits or less and pay the same tuition as Oregon residents. Further, the state of Oregon passed legislation in 1997 to begin providing to its community colleges the same level of state funding for students residing in bordering states as students residing in Oregon.

(2) The legislature intends to build on the recent Oregon initiatives regarding tuition policy for students in bordering states and to facilitate regional planning for higher education delivery by creating a pilot project on resident tuition rates in four Washington counties that border Oregon state.

[1999 c 320 § 1.]

Notes:

Expiration date--1999 c 320: "This act expires June 30, 2002." [1999 c 320 § 6.]

RCW 28B.80.806 Border county higher education opportunity pilot project--Created. *(Expires June 30, 2002.)*

(1) The border county higher education opportunity pilot project is created. The purpose of the pilot project is to allow four Washington institutions of higher education that are located in four counties on the Oregon border to implement, on a trial basis, tuition policies that correspond to Oregon policies. Under the border county pilot project, Lower Columbia Community College, Grays Harbor Community College, and Clark Community College may enroll students who reside in the bordering Oregon counties of Columbia, Multnomah, Clatsop, Clackamas, and Washington at resident tuition rates. The Vancouver branch of Washington State University may enroll students who reside in the bordering Oregon counties of Columbia, Multnomah, Clatsop, Clackamas, and Washington for eight credits or less at resident tuition rates.

(2) Washington institutions of higher education participating in the pilot project shall give priority program enrollment to Washington residents.

[2000 c 160 § 3; 1999 c 320 § 2.]

Notes:

Expiration date--2000 c 160: "This act expires June 30, 2002." [2000 c 160 § 4.]

Expiration date--1999 c 320: See note following RCW 28B.80.805.

Resident tuition rates--Border county higher education opportunity pilot project: RCW 28B.15.0139.

RCW 28B.80.807 Border county higher education opportunity pilot project--Administration--Report. *(Expires June 30, 2002.)*

(1) The higher education coordinating board shall administer Washington's participation in the border county higher education opportunity pilot project.

(2) By November 30, 2001, the board shall report to the governor and appropriate committees of the legislature on the results of the pilot project. For each participating Washington institution of higher education, the report shall analyze, by program, the impact of the pilot project on: Enrollment levels, distribution of students by residency, and enrollment capacity. The report shall also include a recommendation on the extent to which border county tuition policies should be revised or expanded.

[1999 c 320 § 3.]

Notes:

Expiration date--1999 c 320: See note following RCW 28B.80.805.

RCW 28B.80.910 Severability--1969 ex.s. c 277.

If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected.

[1969 ex.s. c 277 § 15. Formerly RCW 28.89.910.]

RCW 28B.80.911 Severability--1985 c 370.

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

[1985 c 370 § 107.]

RCW 28B.80.912 Effective dates--1985 c 370.

This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions. Section 106 of this act shall take effect June 30, 1985. Sections 1 through 96, and 105 of this act shall take effect January 1, 1986, but any steps that may be necessary to ensure that this act is implemented on its effective dates may be taken immediately.

[1985 c 370 § 108.]

Chapter 28B.85 RCW
DEGREE-GRANTING INSTITUTIONS

Sections

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RCW 28B.85.010 Definitions.

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

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

(2) "Degree" means any designation, appellation, letters, or words including but not limited to "associate," "bachelor," "master," "doctor," or "fellow" which signify or purport to signify satisfactory completion of the requirements of an academic program of study beyond the secondary school level.

(3) "Degree-granting institution" means an entity that offers educational credentials, instruction, or services prerequisite to or indicative of an academic or professional degree beyond the secondary level.

[1986 c 136 § 1.]

RCW 28B.85.020 Board's duties--Rules--Investigations--Interagency agreements for degree and nondegree programs--Financial disclosure exempt from public disclosure.

(1) The board:

(a) Shall adopt by rule minimum standards for degree-granting institutions concerning granting of degrees, quality of education, unfair business practices, financial stability, and other necessary measures to protect citizens of this state against substandard, fraudulent, or deceptive practices. The board shall adopt the rules in accordance with chapter 34.05 RCW;

(b) May investigate any entity the board reasonably believes to be subject to the jurisdiction of this chapter. In connection with the investigation, the board may administer oaths and affirmations, issue subpoenas and compel attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the board deems relevant or material to the investigation. The board, including its staff and any other authorized persons, may conduct site inspections and examine records of all institutions subject to this chapter;

(c) Shall develop an interagency agreement with the work force training and education coordinating board to regulate degree-granting private vocational schools with respect to degree and nondegree programs.

(2) Financial disclosures provided to the board by degree-granting private vocational schools are not subject to public disclosure under chapter 42.17 RCW.

[1996 c 305 § 1; 1994 c 38 § 1; 1986 c 136 § 2.]

Notes:

Severability--1996 c 305: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1996 c 305 § 5.]

RCW 28B.85.030 Current authorization required to offer or grant degree.

A degree-granting institution shall not operate and shall not grant or offer to grant any degree unless the institution has obtained current authorization from the board.

[1986 c 136 § 3.]

RCW 28B.85.040 Completion of program of study prerequisite to degree--Application of chapter.

(1) An institution or person shall not advertise, offer, sell, or award a degree or any other type of educational credential unless the student has enrolled in and successfully completed a prescribed program of study, as outlined in the institution's publications. This prohibition shall not apply to honorary credentials clearly designated as such on the front side of the diploma or certificate and awarded by institutions offering other educational credentials in compliance with state law.

(2) Except as provided in subsection (1) of this section, this chapter shall not apply to:

(a) Any public college, university, community college, technical college, or institute operating as part of the public higher educational system of this state;

(b) Institutions that have been accredited by an accrediting association recognized by the agency for the purposes of this chapter: PROVIDED, That those institutions meet minimum exemption standards adopted by the agency; and PROVIDED FURTHER, That an institution, branch, extension, or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of any such accrediting association to qualify for this exemption;

(c) Institutions of a religious character, but only as to those education programs devoted exclusively to religious or theological objectives if the programs are represented in an accurate manner in institutional catalogs and other official publications; or

(d) Institutions not otherwise exempt which offer only workshops or seminars lasting no longer than three calendar days and for which academic credit is not awarded.

[1996 c 97 § 1; 1994 c 38 § 2; 1986 c 136 § 4.]

RCW 28B.85.045 Institutions offering teacher preparation programs--Exploration of methods to enhance awareness of teacher preparation programs.

See RCW 28B.10.032.

RCW 28B.85.050 Board may require information.

All degree-granting institutions subject to this chapter shall file information with the board as the board may require.

[1986 c 136 § 5.]

RCW 28B.85.060 Fees.

The board shall impose fees on any degree-granting institution authorized to operate under this chapter. Fees shall be set and revised by the board by rule at the level necessary to approximately recover the staffing costs incurred in administering this chapter. Fees shall be deposited in the general fund.

[1986 c 136 § 6.]

RCW 28B.85.070 Surety bonds--Security in lieu of bond--Cancellation of bond--Notice--Claims.

(1) The board may require any degree-granting institution to have on file with the board an approved surety bond or other security in lieu of a bond in an amount determined by the board.

(2) In lieu of a surety bond, an institution may deposit with the board a cash deposit or

other negotiable security acceptable to the board. The security deposited with the board in lieu of the surety bond shall be returned to the institution one year after the institution's authorization has expired or been revoked if legal action has not been instituted against the institution or the security deposit at the expiration of the year. The obligations and remedies relating to surety bonds authorized by this section, including but not limited to the settlement of claims procedure in subsection (5) of this section, shall apply to deposits filed with the board, as applicable.

(3) Each bond shall:

(a) Be executed by the institution as principal and by a corporate surety licensed to do business in the state;

(b) Be payable to the state for the benefit and protection of any student or enrollee of an institution, or, in the case of a minor, his or her parents or guardian;

(c) Be conditioned on compliance with all provisions of this chapter and the board's rules adopted under this chapter;

(d) Require the surety to give written notice to the board at least thirty-five days before cancellation of the bond; and

(e) Remain in effect for one year following the effective date of its cancellation or termination as to any obligation occurring on or before the effective date of cancellation or termination.

(4) Upon receiving notice of a bond cancellation, the board shall notify the institution that the authorization will be suspended on the effective date of the bond cancellation unless the institution files with the board another approved surety bond or other security. The board may suspend or revoke the authorization at an earlier date if it has reason to believe that such action will prevent students from losing their tuition or fees.

(5) If a complaint is filed under RCW 28B.85.090(1) against an institution, the board may file a claim against the surety and settle claims against the surety by following the procedure in this subsection.

(a) The board shall attempt to notify all potential claimants. If the absence of records or other circumstances makes it impossible or unreasonable for the board to ascertain the names and addresses of all the claimants, the board after exerting due diligence and making reasonable inquiry to secure that information from all reasonable and available sources, may make a demand on a bond on the basis of information in the board's possession. The board is not liable or responsible for claims or the handling of claims that may subsequently appear or be discovered.

(b) Thirty days after notification, if a claimant fails, refuses, or neglects to file with the board a verified claim, the board shall be relieved of further duty or action under this chapter on behalf of the claimant.

(c) After reviewing the claims, the board may make demands upon the bond on behalf of those claimants whose claims have been filed. The board may settle or compromise the claims with the surety and may execute and deliver a release and discharge of the bond.

(d) If the surety refuses to pay the demand, the board may bring an action on the bond in behalf of the claimants. If an action is commenced on the bond, the board may require a new bond to be filed.

(e) Within ten days after a recovery on a bond or other posted security has occurred, the

institution shall file a new bond or otherwise restore its security on file to the required amount.

(6) The liability of the surety shall not exceed the amount of the bond.

[1986 c 136 § 7.]

RCW 28B.85.080 Suspension or modification of requirements authorized.

The board may suspend or modify any of the requirements under this chapter in a particular case if the board finds that:

(1) The suspension or modification is consistent with the purposes of this chapter; and

(2) The education to be offered addresses a substantial, demonstrated need among residents of the state or that literal application of this chapter would cause a manifestly unreasonable hardship.

[1986 c 136 § 8.]

RCW 28B.85.090 Claims--Complaints--Investigations--Hearings--Orders.

(1) A person claiming loss of tuition or fees as a result of an unfair business practice may file a complaint with the board. The complaint shall set forth the alleged violation and shall contain information required by the board. A complaint may also be filed with the board by an authorized staff member of the board or by the attorney general.

(2) The board shall investigate any complaint under this section and may attempt to bring about a settlement. The board may hold a hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW, in order to determine whether a violation has occurred. If the board prevails, the degree-granting institution shall pay the costs of the administrative hearing.

(3) If, after the hearing, the board finds that the institution or its agent engaged in or is engaging in any unfair business practice, the board shall issue and cause to be served upon the violator an order requiring the violator to cease and desist from the act or practice and may impose the penalties under RCW 28B.85.100. If the board finds that the complainant has suffered loss as a result of the act or practice, the board may order full or partial restitution for the loss. The complainant is not bound by the board's determination of restitution and may pursue any other legal remedy.

[1989 c 175 § 82; 1986 c 136 § 9.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 28B.85.100 Violations--Civil penalties.

Any person, group, or entity or any owner, officer, agent, or employee of such entity who wilfully violates any provision of this chapter or the rules adopted under this chapter shall be subject to a civil penalty of not more than one hundred dollars for each violation. Each day on which a violation occurs constitutes a separate violation. The fine may be imposed by the higher education coordinating board or by any court of competent jurisdiction.

[1986 c 136 § 10.]

RCW 28B.85.110 Violations--Criminal sanctions.

Any person, group, or entity or any owner, officer, agent, or employee of such entity who wilfully violates RCW 28B.85.030 shall be guilty of a gross misdemeanor and, upon conviction, shall be punished by a fine not to exceed one thousand dollars or by imprisonment in the county jail for a term not to exceed one year, or by both such fine and imprisonment. Each day on which a violation occurs constitutes a separate violation. The criminal sanctions may be imposed by a court of competent jurisdiction in an action brought by the attorney general of this state.

[1986 c 136 § 11.]

RCW 28B.85.120 Actions resulting in jurisdiction of courts.

A degree-granting institution, whether located in this state or outside of this state, that conducts business of any kind, makes any offers, advertises, solicits, or enters into any contracts in this state or with a resident of this state is subject to the jurisdiction of the courts of this state for any cause of action arising from the acts.

[1986 c 136 § 12.]

RCW 28B.85.130 Educational records--Permanent file--Protection.

If any degree-granting institution discontinues its operation, the chief administrative officer of the institution shall file with the board the original or legible true copies of all educational records required by the board. If the board determines that any educational records are in danger of being made unavailable to the board, the board may seek a court order to protect and if necessary take possession of the records. The board shall cause to be maintained a permanent file of educational records coming into its possession.

[1986 c 136 § 13.]

RCW 28B.85.140 Contracts voidable--When.

If a student or prospective student is a resident of this state at the time any contract relating to payment for education or any note, instrument, or other evidence of indebtedness relating thereto is entered into, RCW 28B.85.150 shall govern the rights of the parties to the contract or evidence of indebtedness. If a contract or evidence of indebtedness contains any of the following agreements, the contract is voidable at the option of the student or prospective student:

(1) That the law of another state shall apply;

(2) That the maker or any person liable on the contract or evidence of indebtedness consents to the jurisdiction of another state;

(3) That another person is authorized to confess judgment on the contract or evidence of indebtedness; or

(4) That fixes venue.

[1986 c 136 § 14.]

RCW 28B.85.150 Enforceability of debts--Authority to offer degree required.

A note, instrument, or other evidence of indebtedness or contract relating to payment for education for a degree is not enforceable in the courts of this state by a degree-granting institution or holder of the instrument unless the institution was authorized to offer the degree under this chapter at the time the note, instrument, or other evidence of indebtedness or contract was entered into.

[1986 c 136 § 15.]

RCW 28B.85.160 Actions to enforce chapter--Who may bring--Relief.

The attorney general or the prosecuting attorney of any county in which a degree-granting institution or agent of the institution is found may bring an action in any court of competent jurisdiction for the enforcement of this chapter. The court may issue an injunction or grant any other appropriate form of relief.

[1986 c 136 § 16.]

RCW 28B.85.170 Injunctive relief--Board may seek.

The board may seek injunctive relief, after giving notice to the affected party, in a court of competent jurisdiction for a violation of this chapter or the rules adopted under this chapter. The board need not allege or prove that the board has no adequate remedy at law. The right of injunction provided in this section is in addition to any other legal remedy which the board has and is in addition to any right of criminal prosecution provided by law. The existence of board action with respect to alleged violations of this chapter and rules adopted under this chapter does not operate as a bar to an action for injunctive relief under this section.

[1986 c 136 § 17.]

RCW 28B.85.180 Violation of chapter unfair or deceptive practice under RCW 19.86.020.

A violation of this chapter or the rules adopted under this chapter affects the public interest and is an unfair or deceptive act or practice in violation of RCW 19.86.020 of the consumer protection act. The remedies and sanctions provided by this section shall not preclude application of other remedies and sanctions.

[1986 c 136 § 18.]

RCW 28B.85.190 Remedies and penalties in chapter nonexclusive and cumulative.

The remedies and penalties provided for in this chapter are nonexclusive and cumulative and do not affect any other actions or proceedings.

[1986 c 136 § 19.]

RCW 28B.85.900 Severability--1986 c 136.

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

[1986 c 136 § 21.]

RCW 28B.85.902 Effective date--1986 c 136.

This act shall take effect July 1, 1986.

[1986 c 136 § 24.]

RCW 28B.85.905 Validity of registration under prior laws.

A degree-granting institution registered under chapter 188, Laws of 1979, as amended, as of June 30, 1986, is not required to apply for authorization under chapter 28B.85 RCW until the expiration date of such registration.

[1986 c 136 § 22.]

RCW 28B.85.906 Application of chapter to foreign degree-granting institution branch campuses.

This chapter shall not apply to any approved branch campus of a foreign degree-granting institution in compliance with chapter 28B.90 RCW.

[1993 c 181 § 7.]

Chapter 28B.90 RCW
FOREIGN DEGREE-GRANTING BRANCH CAMPUSES

Sections

28B.90.005 Findings.
28B.90.010 Definitions.
28B.90.020 Approval of foreign degree-granting institution as branch campus.
28B.90.030 Branch campuses exempt under chapter 28B.85 RCW.

RCW 28B.90.005 Findings.

The legislature finds that it has previously declared in *RCW 28B.107.005 that it is important to the economic future of the state to promote international awareness and understanding, and in RCW 1.20.100, that the state's economy and economic well-being depends heavily on foreign trade and international exchange.

The legislature finds that it is appropriate that such policies should be implemented by encouraging universities and colleges domiciled in foreign countries to establish branch campuses in Washington and that it is also important to those foreign colleges and universities that their status as authorized foreign degree-granting institutions be recognized by this state to facilitate the establishment and operation of such branch campuses.

In the furtherance of such policy, the legislature adopts the foreign degree-granting institution approved branch campus act.

[1995 c 335 § 404; 1993 c 181 § 1.]

Notes:

***Reviser's note:** RCW 28B.107.005 expired June 30, 1996, pursuant to 1990 c 243 § 8.

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

RCW 28B.90.010 Definitions.

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

(1) "Degree" means any designation, appellation, certificate, letters or words including, but not limited to, "associate," "bachelor," "masters," "doctorate," or "fellow" that signifies, or purports to signify, satisfactory and successful completion of requirements of a postsecondary academic program of study.

(2) "Foreign degree-granting institution" means a public or private college or university, either profit or nonprofit:

(a) That is domiciled in a foreign country;

(b) That offers in its country of domicile credentials, instruction, or services prerequisite to the obtaining of an academic or professional degree granted by such college or university; and

(c) That is authorized under the laws or regulations of its country of domicile to operate a degree-granting institution in that country.

(3) "Approved branch campus" means a foreign degree-granting institution's branch campus that has been approved by the higher education coordinating board to operate in the state.

(4) "Branch campus" means an educational facility located in the state that:

(a) Is either owned and operated directly by a foreign degree-granting institution or indirectly through a Washington profit or nonprofit corporation in which the foreign degree-granting institution is the sole or controlling shareholder or member; and

(b) Provides courses solely and exclusively to students enrolled in a degree-granting

program offered by the foreign degree-granting institution who:

(i) Have received academic credit for courses of study completed at the foreign degree-granting institution in its country of domicile;

(ii) Will receive academic credit towards their degree from the foreign degree-granting institution for the courses of study completed at the educational facility in the state; and

(iii) Will return to the foreign degree-granting institution in its country of domicile for completion of their degree-granting program or receipt of their degree.

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

[1993 c 181 § 2.]

RCW 28B.90.020 Approval of foreign degree-granting institution as branch campus.

A foreign degree-granting institution that submits evidence satisfactory to the board of its authorized status in its country of domicile and its intent to establish an educational facility in the state is entitled to operate a branch campus as defined in RCW 28B.90.010. Upon receipt of the satisfactory evidence, the board may certify that the branch campus of the foreign degree-granting institution is approved to operate in the state under this chapter, for as long as the foreign degree-granting institution retains its authorized status in its country of domicile.

[1999 c 85 § 1; 1993 c 181 § 3.]

RCW 28B.90.030 Branch campuses exempt under chapter 28B.85 RCW.

A branch campus of a foreign degree-granting institution previously found by the board to be exempt from chapter 28B.85 RCW may continue to operate in the state. However, within one year of July 25, 1993, the institution shall provide evidence of authorization as required under RCW 28B.90.020. Upon receipt of the satisfactory evidence, the board shall certify that the branch campus of the foreign degree-granting institution is approved to operate in the state under this chapter.

[1993 c 181 § 4.]

Chapter 28B.95 RCW
ADVANCED COLLEGE TUITION PAYMENT PROGRAM

Sections

28B.95.010 Washington advanced college tuition payment program--Established.
28B.95.020 Definitions.
28B.95.025 Offices and personnel.
28B.95.030 Administration of program--Tuition units--Promotion of program--Authority of governing body.
28B.95.035 Committee members--Liability.
28B.95.040 Purchase of tuition units by organizations--Rules--Scholarship fund.
28B.95.050 Contractual obligation--Legally binding--Use of state appropriations.
28B.95.060 Washington advanced college tuition payment program account.

28B.95.070 Washington advanced college tuition payment program account--Powers and duties of the investment board.
28B.95.080 Washington advanced college tuition payment program account--Actuarial soundness--Adjustment of tuition credit purchases.
28B.95.090 Discontinuation of program--Use of units--Refunds.
28B.95.100 Program planning--Consultation with public and private entities--Cooperation.
28B.95.110 Refunds.
28B.95.150 College savings program.
28B.95.900 Construction of chapter--Limitations.

RCW 28B.95.010 Washington advanced college tuition payment program--Established.

The Washington advanced college tuition payment program is established to help make higher education affordable and accessible to all citizens of the state of Washington by offering a savings incentive that will protect purchasers and beneficiaries against rising tuition costs. The program is designed to encourage savings and enhance the ability of Washington citizens to obtain financial access to institutions of higher education. In addition, the program encourages elementary and secondary school students to do well in school as a means of preparing for and aspiring to higher education attendance. This program is intended to promote a well-educated and financially secure population to the ultimate benefit of all citizens of the state of Washington.

[1997 c 289 § 1.]

RCW 28B.95.020 Definitions.

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

(1) "Academic year" means the regular nine-month, three-quarter, or two-semester period annually occurring between July 1st and June 30th.

(2) "Account" means the Washington advanced college tuition payment program account established for the deposit of all money received by the board from eligible purchasers and interest earnings on investments of funds in the account, as well as for all expenditures on behalf of eligible beneficiaries for the redemption of tuition units and for the development of any authorized college savings program pursuant to RCW 28B.95.150.

(3) "Board" means the higher education coordinating board as defined in chapter 28B.80 RCW.

(4) "Committee on advanced tuition payment" or "committee" means a committee of the following members: The state treasurer, the director of the office of financial management, the executive director of the higher education coordinating board, or their designees, and two members to be appointed by the governor, one representing program participants and one private business representative with marketing, public relations, or financial expertise.

(5) "Governing body" means the committee empowered by the legislature to administer the Washington advanced college tuition payment program.

(6) "Contractual obligation" means a legally binding contract of the state with the

purchaser and the beneficiary establishing that purchases of tuition units will be worth the same number of tuition units at the time of redemption as they were worth at the time of the purchase.

(7) "Eligible beneficiary" means the person for whom the tuition unit will be redeemed for attendance at an institution of higher education. The beneficiary is that person named by the purchaser at the time that a tuition unit contract is accepted by the governing body. With the exception of tuition unit contracts purchased by qualified organizations as future scholarships, the beneficiary must reside in the state of Washington or otherwise be a resident of the state of Washington at the time the tuition unit contract is accepted by the governing body.

(8) "Eligible purchaser" means an individual or organization that has entered into a tuition unit contract with the governing body for the purchase of tuition units for an eligible beneficiary.

(9) "Full-time tuition charges" means resident tuition charges at a state institution of higher education for enrollments between ten credits and eighteen credit hours per academic term.

(10) "Institution of higher education" means an institution that offers education beyond the secondary level and is recognized by the internal revenue service under chapter 529 of the internal revenue code.

(11) "Investment board" means the state investment board as defined in chapter 43.33A RCW.

(12) "State institution of higher education" means institutions of higher education as defined in RCW 28B.10.016.

(13) "Tuition and fees" means undergraduate tuition and services and activities fees as defined in RCW 28B.15.020 and 28B.15.041 rounded to the nearest whole dollar. The maximum tuition and fees charges recognized for beneficiaries enrolled in a state technical college shall be equal to the tuition and fees for the community college system.

(14) "Tuition unit contract" means a contract between an eligible purchaser and the governing body, or a successor agency appointed for administration of this chapter, for the purchase of tuition units for a specified beneficiary that may be redeemed at a later date for an equal number of tuition units.

(15) "Unit purchase price" means the minimum cost to purchase one tuition unit for an eligible beneficiary. Generally, the minimum purchase price is one percent of the undergraduate weighted average tuition and fees for the current year, rounded to the nearest whole dollar, adjusted for the costs of administration and adjusted to ensure the actuarial soundness of the account. The analysis for price setting shall also include, but not be limited to consideration of past and projected patterns of tuition increases, program liability, past and projected investment returns, and the need for a prudent stabilization reserve.

(16) "Weighted average tuition" shall be calculated as the sum of the undergraduate tuition and services and activities fees for each four-year state institution of higher education, multiplied by the respective full-time equivalent student enrollment at each institution divided by the sum total of undergraduate full-time equivalent student enrollments of all four-year state institutions of higher education, rounded to the nearest whole dollar.

(17) "Weighted average tuition unit" is the value of the weighted average tuition and fees

divided by one hundred. The weighted average is the basis upon which tuition benefits may be calculated as the basis for any refunds provided from the program.

[2001 c 184 § 1; 2000 c 14 § 1; 1997 c 289 § 2.]

RCW 28B.95.025 Offices and personnel.

The board shall maintain appropriate offices and employ and fix compensation of such personnel as may be necessary to perform the advanced college tuition payment program duties. The board shall consult with the governing body on the selection, compensation, and other issues relating to the employment of the program director. The positions are exempt from classified service under chapter 41.06 RCW. The employees shall be employees of the higher education coordinating board.

[2000 c 14 § 2; 1998 c 69 § 2.]

Notes:

Effective date--1998 c 69: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 20, 1998]." [1998 c 69 § 6.]

RCW 28B.95.030 Administration of program--Tuition units--Promotion of program--Authority of governing body.

(1) The Washington advanced college tuition payment program shall be administered by the committee on advanced tuition payment which shall be chaired by the executive director of the board. The committee shall be supported by staff of the board.

(2)(a) The Washington advanced college tuition payment program shall consist of the sale of tuition units, which may be redeemed by the beneficiary at a future date for an equal number of tuition units regardless of any increase in the price of tuition, that may have occurred in the interval.

(b) Each purchase shall be worth a specific number of or fraction of tuition units at each state institution of higher education as determined by the governing body.

(c) The number of tuition units necessary to pay for a full year's, full-time undergraduate tuition and fee charges at a state institution of higher education shall be set by the governing body at the time a purchaser enters into a tuition unit contract.

(d) The governing body may limit the number of tuition units purchased by any one purchaser or on behalf of any one beneficiary, however, no limit may be imposed that is less than that necessary to achieve four years of full-time, undergraduate tuition charges at a state institution of higher education. The governing body also may, at its discretion, limit the number of participants, if needed, to ensure the actuarial soundness and integrity of the program.

(3)(a) No tuition unit may be redeemed until two years after the purchase of the unit. Units may be redeemed for enrollment at any institution of higher education that is recognized by the internal revenue service under chapter 529 of the internal revenue code.

(b) Units redeemed at a nonstate institution of higher education or for graduate enrollment shall be redeemed at the rate for state public institutions in effect at the time of

redemption.

(4) The governing body shall determine the conditions under which the tuition benefit may be transferred to another family member. In permitting such transfers, the governing body may not allow the tuition benefit to be bought, sold, bartered, or otherwise exchanged for goods and services by either the beneficiary or the purchaser.

(5) The governing body shall administer the Washington advanced college tuition payment program in a manner reasonably designed to be actuarially sound, such that the assets of the trust will be sufficient to defray the obligations of the trust including the costs of administration. The governing body may, at its discretion, discount the minimum purchase price for certain kinds of purchases such as those from families with young children, as long as the actuarial soundness of the account is not jeopardized.

(6) The governing body shall annually determine current value of a tuition unit and the value of the weighted average tuition unit.

(7) The governing body shall promote, advertise, and publicize the Washington advanced college tuition payment program.

(8) In addition to any other powers conferred by this chapter, the governing body may:

(a) Impose reasonable limits on the number of tuition units or units that may be used in any one year;

(b) Determine and set any time limits, if necessary, for the use of benefits under this chapter;

(c) Impose and collect administrative fees and charges in connection with any transaction under this chapter;

(d) Appoint and use advisory committees as needed to provide program direction and guidance;

(e) Formulate and adopt all other policies and rules necessary for the efficient administration of the program;

(f) Consider the addition of an advanced payment program for room and board contracts and also consider a college savings program;

(g) Purchase insurance from insurers licensed to do business in the state, to provide for coverage against any loss in connection with the account's property, assets, or activities or to further insure the value of the tuition units;

(h) Make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise and discharge of its powers and duties under this chapter;

(i) Contract for the provision for all or part of the services necessary for the management and operation of the program with other state or nonstate entities authorized to do business in the state;

(j) Contract for other services or for goods needed by the governing body in the conduct of its business under this chapter;

(k) Contract with financial consultants, actuaries, auditors, and other consultants as necessary to carry out its responsibilities under this chapter;

(l) Solicit and accept cash donations and grants from any person, governmental agency, private business, or organization; and

(m) Perform all acts necessary and proper to carry out the duties and responsibilities of this program under this chapter.

[2000 c 14 § 3; 1997 c 289 § 3.]

RCW 28B.95.035 Committee members--Liability.

No member of the committee is liable for the negligence, default, or failure of any other person or members of the committee to perform the duties of office and no member may be considered or held to be an insurer of the funds or assets of any of the advanced college tuition payment program.

[1998 c 69 § 3.]

Notes:

Effective date--1998 c 69: See note following RCW 28B.95.025.

RCW 28B.95.040 Purchase of tuition units by organizations--Rules--Scholarship fund.

The governing body may, at its discretion, allow an organization to purchase tuition units for future use as scholarships. Such organizations electing to purchase tuition units for this purpose must enter into a contract with the governing body which, at a minimum, ensures that the scholarship shall be freely given by the purchaser to a scholarship recipient. For such purchases, the purchaser need not name a beneficiary until four months before the date when the tuition units are first expected to be used.

The governing body shall formulate and adopt such rules as are necessary to determine which organizations may qualify to purchase tuition units for scholarships under this section. The governing body also may consider additional rules for the use of tuition units if purchased as scholarships.

The governing body may establish a scholarship fund with moneys from the Washington advanced college tuition payment program account. A scholarship fund established under this authority shall be administered by the higher education coordinating board and shall be provided to students who demonstrate financial need. Financial need is not a criterion that any other organization need consider when using tuition units as scholarships. The board also may establish its own corporate-sponsored scholarship fund under this chapter.

[1997 c 289 § 4.]

RCW 28B.95.050 Contractual obligation--Legally binding--Use of state appropriations.

The Washington advanced college tuition payment program is an essential state governmental function. Contracts with eligible participants shall be contractual obligations legally binding on the state as set forth in this chapter. If, and only if, the moneys in the account are projected to be insufficient to cover the state's contracted expenses for a given biennium, then the legislature shall appropriate to the account the amount necessary to cover such expenses.

The tuition and fees charged by an eligible institution of higher education to an eligible

beneficiary for a current enrollment shall be paid by the account to the extent the beneficiary has remaining unused tuition units for the appropriate school.

[2000 c 14 § 4; 1997 c 289 § 5.]

RCW 28B.95.060 Washington advanced college tuition payment program account.

(1) The Washington advanced college tuition payment program account is created in the custody of the state treasurer. The account shall be a discrete nontreasury account retaining its interest earnings in accordance with RCW 43.79A.040.

(2) The governing body shall deposit in the account all money received for the program. The account shall be self-sustaining and consist of payments received from purchasers of tuition units and funds received from other sources, public or private. With the exception of investment and operating costs associated with the investment of money by the investment board paid under RCW 43.33A.160 and 43.84.160, the account shall be credited with all investment income earned by the account. Disbursements from the account are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. Money used for program administration is subject to the allotment of all expenditures. However, an appropriation is not required for such expenditures. Program administration shall include, but not be limited to: The salaries and expenses of the program personnel including lease payments, travel, and goods and services necessary for program operation; contracts for program promotion and advertisement, audits, and account management; and other general costs of conducting the business of the program.

(3) The assets of the account may be spent without appropriation for the purpose of making payments to institutions of higher education on behalf of the qualified beneficiaries, making refunds, transfers, or direct payments upon the termination of the Washington advanced college tuition payment program. Disbursements from the account shall be made only on the authorization of the governing body.

(4) With regard to the assets of the account, the state acts in a fiduciary, not ownership, capacity. Therefore the assets of the program are not considered state money, common cash, or revenue to the state.

[2000 c 14 § 5; 1998 c 69 § 4; 1997 c 289 § 6.]

Notes:

Effective date--1998 c 69: See note following RCW 28B.95.025.

RCW 28B.95.070 Washington advanced college tuition payment program account--Powers and duties of the investment board.

(1) The investment board has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in the account. All investment and operating costs associated with the investment of money shall be paid pursuant to RCW 43.33A.160 and 43.84.160. With the exception of these expenses, the earnings from the investment of the money shall be retained by the account.

(2) All investments made by the investment board shall be made with the exercise of that

degree of judgment and care pursuant to RCW 43.33A.140 and the investment policy established by the state investment board.

(3) As deemed appropriate by the investment board, money in the account may be commingled for investment with other funds subject to investment by the board.

(4) The authority to establish all policies relating to the account, other than the investment policies as set forth in subsections (1) through (3) of this section, resides with the governing body. With the exception of expenses of the investment board set forth in subsection (1) of this section, disbursements from the account shall be made only on the authorization of the governing body, and money in the account may be spent only for the purposes of the program as specified in this chapter.

(5) The investment board shall routinely consult and communicate with the governing body on the investment policy, earnings of the trust, and related needs of the program.

[2000 c 14 § 6; 1997 c 289 § 7.]

RCW 28B.95.080 Washington advanced college tuition payment program account--Actuarial soundness--Adjustment of tuition credit purchases.

The governing body shall annually evaluate, and cause to be evaluated by a nationally recognized actuary, the soundness of the account and determine the additional assets needed, if any, to defray the obligations of the account.

If funds are not sufficient to ensure the actuarial soundness of the account, the governing body shall adjust the price of subsequent tuition credit purchases to ensure its soundness.

If there are insufficient numbers of new purchases to ensure the actuarial soundness of the account, the governing body shall request such funds from the legislature as are required to ensure the integrity of the program. Funds may be appropriated directly to the account or appropriated under the condition that they be repaid at a later date. The repayment shall be made at such time that the account is again determined to be actuarially sound.

[1997 c 289 § 8.]

RCW 28B.95.090 Discontinuation of program--Use of units--Refunds.

(1) In the event that the state determines that the program is not financially feasible, or for any other reason, the state may declare the discontinuance of the program. At the time of such declaration, the governing body will cease to accept any further tuition unit contracts or purchases.

(2) The remaining tuition units for all beneficiaries who have either enrolled in higher education or who are within four years of graduation from a secondary school shall be honored until such tuition units have been exhausted, or for ten fiscal years from the date that the program has been discontinued, whichever comes first. All other contract holders shall receive a refund equal to the value of the current weighted average tuition units in effect at the time that the program was declared discontinued.

(3) At the end of the ten-year period, any tuition units remaining unused by currently

active beneficiaries enrolled in higher education shall be refunded at the value of the current weighted average tuition unit in effect at the end of that ten-year period.

(4) At the end of the ten-year period, all other funds remaining in the account not needed to make refunds or to pay for administrative costs shall be deposited to the state general fund.

(5) The governing body may make refunds under other exceptional circumstances as it deems fit, however, no tuition units may be honored after the end of the tenth fiscal year following the declaration of discontinuance of the program.

[1997 c 289 § 9.]

RCW 28B.95.100 Program planning--Consultation with public and private entities--Cooperation.

(1) The governing body, in planning and devising the program, shall consult with the investment board, the state treasurer, the office of financial management, and the institutions of higher education.

(2) The governing body may seek the assistance of the state agencies named in subsection (1) of this section, private financial institutions, and any other qualified party with experience in the areas of accounting, actuary, risk management, or investment management to assist with preparing an accounting of the program and ensuring the fiscal soundness of the account.

(3) State agencies and public institutions of higher education shall fully cooperate with the governing body in matters relating to the program in order to ensure the solvency of the account and ability of the governing body to meet outstanding commitments.

[2000 c 14 § 7; 1997 c 289 § 10.]

RCW 28B.95.110 Refunds.

(1) The intent of the Washington advanced college tuition payment program is to redeem tuition units for attendance at an institution of higher education. Refunds shall be issued under specific conditions that may include the following:

(a) Certification that the beneficiary, who is eighteen years of age or older, will not attend an institution of higher education, will result in a refund not to exceed the current weighted average tuition and fees in effect at the time of such certification minus a penalty at the rate established by the internal revenue service under chapter [section] 529 of the internal revenue code. No more than one hundred tuition units may be refunded per year to any individual making this certification. The refund shall be made no sooner than ninety days after such certification, less any administrative processing fees assessed by the governing body;

(b) If there is certification of the death or disability of the beneficiary, the refund shall be equal to one hundred percent of any remaining unused tuition units at the current value, as determined by the governing body, at the time that such certification is submitted to the governing body, less any administrative processing fees assessed by the governing body;

(c) If there is certification by the student of graduation or program completion, the refund

shall be as great as one hundred percent of any remaining unused tuition units at the current value, as determined by the governing body, at the time that such certification is submitted to the governing body, less any administrative processing fees assessed by the governing body. The governing body may, at its discretion, impose a penalty if needed to comply with federal tax rules;

(d) If there is certification of other tuition and fee scholarships, which will cover the cost of tuition for the eligible beneficiary. The refund shall be equal to one hundred percent of the current value of tuition units, as determined by the governing body, in effect at the time of the refund request, less any administrative processing fees assessed by the governing body. The refund under this subsection may not exceed the value of the scholarship;

(e) Incorrect or misleading information provided by the purchaser or beneficiaries may result in a refund of the purchaser's investment, less any administrative processing fees assessed by the governing body. The value of the refund will not exceed the actual dollar value of the purchaser's contributions; and

(f) The governing body may determine other circumstances qualifying for refunds of remaining unused tuition units and may determine the value of that refund.

(2) With the exception of subsection (1)(b), (e), and (f) of this section no refunds may be made before the units have been held for two years.

[2001 c 184 § 3; 2000 c 14 § 8; 1997 c 289 § 12.]

NOTES:

Effective date--2001 c 184 § 3: "Section 3 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2001." [2001 c 184 § 5.]

RCW 28B.95.150 College savings program.

(1) The committee may establish a college savings program. If such a program is established, the college savings program shall be established, in such form as may be determined by the committee, to be a qualified state tuition program as defined by the internal revenue service under section 529 of the internal revenue code, and shall be administered in a manner consistent with the Washington advanced college tuition payment program. The committee, in planning and devising the program, shall consult with the state investment board, the state treasurer, a qualified actuarial consulting firm with appropriate expertise to evaluate such plans, the legislative fiscal and higher education committees, and the institutions of higher education.

(2) Up to two hundred thousand dollars of administrative fees collected from guaranteed education tuition program participants may be applied as a loan to fund the development of a college savings program. This loan must be repaid with interest before the conclusion of the biennium in which the committee draws funds for this purpose from the advanced college tuition payment program account.

(3) If such a college savings program is established, the college savings program account is created in the custody of the state treasurer for the purpose of administering the college savings program. If created, the account shall be a discrete nontreasury account in the custody of the state treasurer. Interest earnings shall be retained in accordance with RCW 43.79A.040.

Disbursements from the account, except for program administration, are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. Money used for program administration is subject to the allotment provisions, but without appropriation.

(4) The committee, after consultation with the state investment board, shall determine the investment policies for the college savings program. Program contributions may be invested by the state investment board or the committee may contract with an investment company licensed to conduct business in this state to do the investing. The committee shall keep or cause to be kept full and adequate accounts and records of the assets of each individual participant in the college savings program.

(5) Neither the state nor any eligible educational institution may be considered or held to be an insurer of the funds or assets of the individual participant accounts in the college savings program created under this section nor may any such entity be held liable for any shortage of funds in the event that balances in the individual participant accounts are insufficient to meet the educational expenses of the institution chosen by the student for which the individual participant account was intended.

(6) The committee shall adopt rules to implement this section. Such rules shall include but not be limited to administration, investment management, promotion, and marketing; compliance with internal revenue service standards; application procedures and fees; start-up costs; phasing in the savings program and withdrawals therefrom; deterrents to early withdrawals and provisions for hardship withdrawals; and reenrollment in the savings program after withdrawal.

(7) The committee may, at its discretion, determine to cease operation of the college savings program if it determines the continuation is not in the best interest of the state. The committee shall adopt rules to implement this section addressing the orderly distribution of assets.

[2001 c 184 § 2.]

RCW 28B.95.900 Construction of chapter--Limitations.

This chapter shall not be construed as a promise that any beneficiary shall be granted admission to any institution of higher education, will earn any specific or minimum number of academic credits, or will graduate from any such institution. In addition, this chapter shall not be construed as a promise of either course or program availability.

Participation in this program does not guarantee an eligible beneficiary the right to resident tuition and fees. To qualify for resident and respective tuition subsidies, the eligible beneficiary must meet the applicable provisions of RCW 28B.15.011 through 28B.15.015.

This chapter shall not be construed to imply that the redemption of tuition units shall be equal to any value greater than the undergraduate tuition and services and activities fees at a state institution of higher education as computed under this chapter. Eligible beneficiaries will be responsible for payment of any other fee that does not qualify as a services and activities fee including, but not limited to, any expenses for tuition surcharges, tuition overload fees, laboratory fees, equipment fees, book fees, rental fees, room and board charges, or fines.

[1997 c 289 § 11.]

Chapter 28B.101 RCW
EDUCATIONAL OPPORTUNITY GRANT PROGRAM--PLACEBOUND STUDENTS

Sections

28B.101.005 Finding--Intent.
28B.101.010 Program created.
28B.101.020 Definition--Eligibility.
28B.101.030 Administration of program--Payments to participants.
28B.101.040 Use of grants.

RCW 28B.101.005 Finding--Intent.

The legislature finds that many individuals in the state of Washington have attended college and received an associate of arts degree, or its equivalent, but are placebound.

The legislature intends to establish an educational opportunity grant program for placebound students who have completed an associate of arts degree, or its equivalent, in an effort to increase their participation in and completion of upper-division programs.

[1990 c 288 § 2.]

RCW 28B.101.010 Program created.

The educational opportunity grant program is hereby created as a demonstration project to serve placebound financially needy students by assisting them to obtain a baccalaureate degree at public and private institutions of higher education which have the capacity to accommodate such students within existing educational programs and facilities.

[1990 c 288 § 3.]

RCW 28B.101.020 Definition--Eligibility.

(1) For the purposes of this chapter, "placebound" means unable to relocate to complete a college program because of family or employment commitments, health concerns, monetary inability, or other similar factors.

(2) To be eligible for an educational opportunity grant, applicants must be placebound residents of the state of Washington who are needy students as defined in RCW 28B.10.802(3) and who have completed the associate of arts degree or its equivalent. A placebound resident is one who may be influenced by the receipt of an enhanced student financial aid award to attend an institution that has existing unused capacity rather than attend a branch campus established pursuant to chapter 28B.45 RCW. An eligible placebound applicant is further defined as a person

whose residence is located in an area served by a branch campus who, because of family or employment commitments, health concerns, monetary need, or other similar factors, would be unable to complete an upper-division course of study but for receipt of an educational opportunity grant.

[1990 c 288 § 4.]

RCW 28B.101.030 Administration of program--Payments to participants.

The higher education coordinating board shall develop and administer the educational opportunity grant program. The board shall adopt necessary rules and guidelines and develop criteria and procedures to select eligible participants in the program. Payment shall be made directly to the eligible participant periodically upon verification of enrollment and satisfactory progress towards degree completion.

[1990 c 288 § 5.]

RCW 28B.101.040 Use of grants.

Grants may be used by eligible participants to attend any public or private college or university in the state of Washington that is accredited by an accrediting association recognized by rule of the higher education coordinating board and that has an existing unused capacity. Grants shall not be used to attend any branch campus or educational program established under chapter 28B.45 RCW. The participant shall not be eligible for a grant if it will be used for any programs that include religious worship, exercise, or instruction or to pursue a degree in theology. Each participating student may receive up to two thousand five hundred dollars per academic year, not to exceed the student's demonstrated financial need for the course of study. Resident students as defined in *RCW 28B.15.012(2)(e) are not eligible for grants under this chapter.

[1993 sp.s. c 18 § 35; 1993 c 385 § 2; 1990 c 288 § 6.]

Notes:

Reviser's note: *(1) RCW 28B.15.012 was amended by 2000 c 117 § 1, changing subsection (2)(e) to subsection (2)(f).

(2) This section was amended by 1993 c 385 § 2 and by 1993 sp.s. c 18 § 35, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

Chapter 28B.102 RCW
FUTURE TEACHERS CONDITIONAL SCHOLARSHIP PROGRAM

Sections

28B.102.010 Intent--Legislative findings.
28B.102.020 Definitions.

28B.102.030 Program created--Powers and duties of board.
28B.102.040 Planning committee--Development of criteria for selecting scholarship recipients.
28B.102.045 Waivers of grade point requirements.
28B.102.050 Award of conditional scholarships--Amount--Duration.
28B.102.060 Repayment obligation.
28B.102.070 Transfer of administration of program.
28B.102.905 Severability--1987 c 437.

RCW 28B.102.010 Intent--Legislative findings.

The legislature finds that encouraging outstanding students to enter the teaching profession is of paramount importance to the state of Washington. By creating the future teachers conditional scholarship program, the legislature intends to assist in the effort to recruit as future teachers students who have distinguished themselves through outstanding academic achievement and students who can act as role models for children including those from targeted ethnic minorities. The legislature urges business, industry, and philanthropic community organizations to join with state government in making this program successful.

[1987 c 437 § 1.]

RCW 28B.102.020 Definitions.

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

(1) "Conditional scholarship" means a loan that is forgiven in whole or in part if the recipient renders service as a teacher in an approved education program in this state.

(2) "Institution of higher education" or "institution" means a college or university in the state of Washington which is accredited by an accrediting association recognized as such by rule of the higher education coordinating board.

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

(4) "Eligible student" means a student who is registered for at least ten credit hours or the equivalent, demonstrates achievement of at least a 3.30 grade point average for students entering an institution of higher education directly from high school or maintains at least a 3.00 grade point average or the equivalent for each academic year in an institution of higher education, is a resident student as defined by RCW 28B.15.012 and 28B.15.013, and has a declared intention to complete an approved preparation program leading to initial teacher certification or required for earning an additional endorsement, or a college or university graduate who meets the same credit hour requirements and is seeking an additional teaching endorsement or initial teacher certification. Resident students defined in *RCW 28B.15.012(2)(e) are not eligible students under this chapter.

(5) "Public school" means an elementary school, a middle school, junior high school, or high school within the public school system referred to in Article IX of the state Constitution.

(6) "Forgiven" or "to forgive" or "forgiveness" means to render service as a teacher in an

approved education program in the state of Washington in lieu of monetary repayment.

(7) "Satisfied" means paid-in-full.

(8) "Participant" means an eligible student who has received a conditional scholarship under this chapter.

(9) "Targeted ethnic minority" means a group of Americans with a common ethnic or racial heritage selected by the board for program consideration due to societal concerns such as high dropout rates or low rates of college participation by members of the group.

(10) "Approved education program" means an education program in the state of Washington for knowledge and skills generally learned in preschool through twelfth grade. Approved education programs may include but are not limited to:

(a) K-12 schools under Title 28A RCW;

(b) Early childhood education and assistance programs under RCW 28A.215.100 through 28A.215.200 or the federal head start program;

(c) An approved school under chapter 28A.195 RCW;

(d) Education centers under chapter 28A.205 RCW;

(e) English as a second language programs and programs leading to high school graduation or the equivalency operated by community or technical colleges; and

(f) Tribal schools in Washington approved by the federal bureau of Indian affairs.

[1996 c 53 § 1; 1993 sp.s. c 18 § 36; 1987 c 437 § 2.]

Notes:

***Reviser's note:** RCW 28B.15.012 was amended by 2000 c 117 § 1, changing subsection (2)(e) to subsection (2)(f).

Effective date--1996 c 53: "This act shall take effect July 1, 1996." [1996 c 53 § 3.]

Effective date--1993 sp.s. c 18: See note following RCW 28B.10.265.

RCW 28B.102.030 Program created--Powers and duties of board.

The future teachers conditional scholarship program is established. The program shall be administered by the higher education coordinating board. In administering the program, the board shall have the following powers and duties:

(1) Select students to receive conditional scholarships, with the assistance of a screening committee composed of teachers and leaders in government, business, and education;

(2) Adopt necessary rules and guidelines;

(3) Publicize the program;

(4) Collect and manage repayments from students who do not meet their teaching obligations under this chapter; and

(5) Solicit and accept grants and donations from public and private sources for the program.

[1987 c 437 § 3.]

RCW 28B.102.040 Planning committee--Development of criteria for selecting scholarship recipients.

The higher education coordinating board shall establish a planning committee to develop criteria for the screening and selection of recipients of the conditional scholarships. These criteria shall emphasize factors demonstrating excellence including but not limited to superior scholastic achievement, leadership ability, community contributions, and an ability to act as a role model for targeted ethnic minority students. These criteria also may include, for approximately half of the recipients, requirements that those recipients meet the definition of "needy student" under RCW 28B.10.802.

[1987 c 437 § 4.]

RCW 28B.102.045 Waivers of grade point requirements.

The board may waive grade point requirements for an otherwise eligible individual student under special circumstances.

[1988 c 125 § 7.]

Notes:

Severability--1988 c 125: See RCW 28B.106.902.

RCW 28B.102.050 Award of conditional scholarships--Amount--Duration.

The board may award conditional scholarships to eligible students from the funds appropriated to the board for this purpose, or from any private donations, or any other funds given to the board for this program. The amount of the conditional scholarship awarded an individual shall not exceed three thousand dollars per academic year. Students are eligible to receive conditional scholarships for a maximum of five years.

[1987 c 437 § 5.]

RCW 28B.102.060 Repayment obligation.

(1) Participants in the conditional scholarship program incur an obligation to repay the conditional scholarship, with interest, unless they teach for two years in an approved education program for each year of scholarship received, under rules adopted by the board.

(2) The interest rate shall be eight percent for the first four years of repayment and ten percent beginning with the fifth year of repayment.

(3) The period for repayment shall be ten years, with payments of principal and interest accruing quarterly commencing nine months from the date the participant completes or discontinues the course of study. Provisions for deferral of payment shall be determined by the board.

(4) The entire principal and interest of each payment shall be forgiven for each payment period in which the participant teaches in an approved education program until the entire repayment obligation is satisfied. Should the participant cease to teach in an approved education program in this state before the participant's repayment obligation is completed, payments on the

unsatisfied portion of the principal and interest shall begin the next payment period and continue until the remainder of the participant's repayment obligation is satisfied.

(5) The board is responsible for collection of repayments made under this section and shall exercise due diligence in such collection, maintaining all necessary records to insure that maximum repayments are made. Collection and servicing of repayments under this section shall be pursued using the full extent of the law, including wage garnishment if necessary. The board is responsible to forgive all or parts of such repayments under the criteria established in this section and shall maintain all necessary records of forgiven payments.

(6) Receipts from the payment of principal or interest or any other subsidies to which the board as administrator is entitled, which are paid by or on behalf of participants under this section, shall be deposited with the higher education coordinating board and shall be used to cover the costs of granting the conditional scholarships, maintaining necessary records, and making collections under subsection (5) of this section. The board shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant conditional scholarships to eligible students.

(7) The board shall temporarily or, in special circumstances, permanently defer the requirements of this section for eligible students as defined in RCW 28B.10.017.

(8) The board may cancel a recipient's repayment obligation due to the recipient's total and permanent disability or death, subject to documentation as required by the board.

(9) This section applies to recipients of conditional scholarships awarded before or after July 1, 1996.

[1996 c 53 § 2; 1993 c 423 § 1; 1991 c 164 § 6; 1987 c 437 § 6.]

Notes:

Effective date--1996 c 53: See note following RCW 28B.102.020.

RCW 28B.102.070 Transfer of administration of program.

After consulting with the higher education coordinating board, the governor may transfer the administration of this program to another agency with an appropriate educational mission.

[1987 c 437 § 7.]

RCW 28B.102.905 Severability--1987 c 437.

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

[1987 c 437 § 10.]

Chapter 28B.103 RCW
NATIONAL GUARD CONDITIONAL SCHOLARSHIP PROGRAM

Sections

28B.103.010 Definitions.
28B.103.020 Program established--Powers and duties of office.
28B.103.030 Repayment obligation.

RCW 28B.103.010 Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this section and RCW 28B.103.020 and 28B.103.030.

(1) "Eligible student" means an enlisted member or an officer of the rank of captain or below in the Washington national guard who attends an institution of higher education that is located in this state and accredited by the Northwest Association of Schools and Colleges, and who meets any additional selection criteria adopted by the office.

(2) "Conditional scholarship" means a loan that is forgiven in whole or in part if the recipient renders service as a member of the Washington national guard under rules adopted by the office.

(3) "Forgiven" or "to forgive" or "forgiveness" means either to render service in the Washington national guard in lieu of monetary repayment, or to be relieved of the service obligation under rules adopted by the office.

(4) "Office" means the office of the adjutant general of the state military department.

(5) "Participant" means an eligible student who has received a conditional scholarship under this chapter.

(6) "Service obligation" means serving in the Washington national guard for one additional year for each year of conditional scholarship received under this program.

[2000 c 159 § 1; 1994 c 234 § 5.]

RCW 28B.103.020 Program established--Powers and duties of office.

The Washington state national guard conditional scholarship program is established. The program shall be administered by the office. In administering the program, the powers and duties of the office shall include, but need not be limited to:

(1) The selection of eligible students to receive conditional scholarships;

(2) The award of conditional scholarships funded by federal and state funds, private donations, or repayments from any participant who does not complete the participant's service obligation. Use of state funds is subject to available funds. The annual amount of each conditional scholarship may vary, but shall not exceed the annual cost of undergraduate tuition fees and services and activities fees at the University of Washington, plus an allowance for books and supplies;

(3) The adoption of necessary rules and guidelines;

(4) The adoption of participant selection criteria. The criteria may include but need not be limited to requirements for: Satisfactory progress, minimum grade point averages, enrollment in

courses or programs that lead to a baccalaureate degree or an associate degree or a certificate, and satisfactory participation as a member of the Washington national guard;

(5) The notification of participants of their additional service obligation or required repayment of the conditional scholarship; and

(6) The collection of repayments from participants who do not meet the eligibility criteria or service obligations.

[1994 c 234 § 6.]

RCW 28B.103.030 Repayment obligation.

(1) Participants in the conditional scholarship program incur an obligation to repay the conditional scholarship, with interest, unless they serve in the Washington national guard for one additional year for each year of conditional scholarship received, under rules adopted by the office.

(2) The entire principal and interest of each yearly repayment shall be forgiven for each additional year in which a participant serves in the Washington national guard, under rules adopted by the office.

(3) If a participant elects to repay the conditional scholarship, the period of repayment shall be four years, with payments accruing quarterly commencing nine months from the date that the participant leaves the Washington national guard or withdraws from the institution of higher education, whichever comes first. The interest rate on the repayments shall be eight percent per year. Provisions for deferral and forgiveness shall be determined by the office.

(4) The office is responsible for collection of repayments made under this section. The office shall exercise due diligence in such collection, maintaining all necessary records to ensure that maximum repayments are made. Collection and servicing of repayments under this section shall be pursued using the full extent of law, including wage garnishment if necessary. The office is responsible to forgive all or parts of such repayments under the criteria established in this section, and shall maintain all necessary records of forgiven payments. The office may contract with the higher education coordinating board for collection of repayments under this section.

(5) Receipts from the payment of principal or interest paid by or on behalf of participants shall be deposited with the office and shall be used to cover the costs of granting the conditional scholarships, maintaining necessary records, and making collections under subsection (4) of this section. The office shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant conditional scholarships to eligible students.

[1994 c 234 § 7.]

Chapter 28B.106 RCW
COLLEGE SAVINGS BOND PROGRAM

Sections

28B.106.005 Findings--Purpose.

28B.106.010 Definitions.
28B.106.020 Bond authorization--Issuance--Requirements.
28B.106.030 Bond sale proceeds--Deposit--Use.
28B.106.040 Higher education bond retirement fund of 1988--Creation--Use--Use of debt-limit general fund bond retirement account.
28B.106.050 Additional means to raise money for bond retirement.
28B.106.060 Bonds to be legal investment.
28B.106.070 Publicity--Marketing strategies and educational programs.
28B.106.080 Interest on bonds exempt from any state income tax.
28B.106.901 Short title.
28B.106.902 Severability--1988 c 125.

RCW 28B.106.005 Findings--Purpose.

The legislature finds it essential that this and future generations of children be allowed the fullest opportunity to learn and to develop their intellectual and mental capacities and skills at the postsecondary level. The legislature is greatly concerned about the ever-increasing costs of obtaining higher education. The purpose of this chapter is to assist Washington residents in their quest for higher education and to encourage financial planning to meet higher education costs by creating a college savings bond program.

[1988 c 125 § 8.]

RCW 28B.106.010 Definitions.

The following definitions shall apply throughout this chapter, unless the context clearly indicates otherwise:

(1) "College savings bonds" or "bonds" are Washington state general obligation bonds, issued under the authority of and in accordance with this chapter.

(2) "Board" means the higher education coordinating board, or any successor thereto.

[1988 c 125 § 9.]

RCW 28B.106.020 Bond authorization--Issuance--Requirements.

For the purpose of providing funds for the acquisition, construction, remodeling, furnishing, and equipping of state buildings and facilities for the state institutions of higher education, including facilities for the *state community college system, and to provide for the administrative costs of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of credit enhancement agreements, and other expenses incidental to the administration of capital projects, the state finance committee is authorized to issue college savings bonds of the state of Washington in the sum of fifty million dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto.

Bonds authorized in this section shall be sold in such a manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. The bonds shall not be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance or letters of credit and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of college savings bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal of or interest on the bonds with respect to which the same relate.

If, and to the extent that the state finance committee determines it is economically feasible and in the best interest of the state, the bonds shall be sold at a deep discount from their par value.

College savings bonds authorized under this section shall be sold in accordance with chapter 39.42 RCW.

[1988 c 125 § 10.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

RCW 28B.106.030 Bond sale proceeds--Deposit--Use.

The proceeds from the sale of the bonds authorized in RCW 28B.106.020 shall be deposited in the state building construction account of the general fund in the state treasury, and shall be used exclusively for the purposes specified in RCW 28B.106.020 and for the payment of expenses incurred in the issuance and sale of the college savings bonds.

[1988 c 125 § 11.]

RCW 28B.106.040 Higher education bond retirement fund of 1988--Creation--Use--Use of debt-limit general fund bond retirement account.

The state higher education bond retirement fund of 1988 is hereby created in the state treasury, and shall be used for the payment of principal and interest on the college savings bonds.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state higher education bond retirement fund of 1988, such amounts and at such times as are required by the bond proceedings. If directed by the state finance committee by resolution, the state higher education bond retirement fund of 1988, or any portion thereof, may be deposited in trust with any qualified public depository.

The owner and holder of each of the college savings bonds or the trustee for the owner

and holder of any of the college savings bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

If a debt-limit general fund bond retirement account is created in the state treasury by chapter 456, Laws of 1997 and becomes effective prior to the issuance of any of the bonds authorized by this chapter, the debt-limit general fund bond retirement account shall be used for the purposes of this chapter in lieu of the state higher education bond retirement fund of 1988.

[1997 c 456 § 11; 1988 c 125 § 12.]

Notes:

Severability--1997 c 456: See RCW 43.99L.900.
Effective date--1997 c 456 §§ 9-43: See RCW 43.99M.901.

RCW 28B.106.050 Additional means to raise money for bond retirement.

The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the college savings bonds. RCW 28B.106.040 shall not be deemed to provide an exclusive method for the payment thereof.

[1988 c 125 § 13.]

RCW 28B.106.060 Bonds to be legal investment.

The college savings bonds shall be a legal investment for all state funds or funds under state control and for all funds of any other public body.

[1988 c 125 § 14.]

RCW 28B.106.070 Publicity--Marketing strategies and educational programs.

The board and the state finance committee shall create and implement marketing strategies and educational programs designed to publicize the college savings bond program to Washington residents.

[1988 c 125 § 16.]

RCW 28B.106.080 Interest on bonds exempt from any state income tax.

Any interest earned on the bonds shall not be income for the purposes of any state income tax.

[1988 c 125 § 17.]

RCW 28B.106.901 Short title.

This chapter may be known and cited as the college savings bond act of 1988.

[1988 c 125 § 18.]

RCW 28B.106.902 Severability--1988 c 125.

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

[1988 c 125 § 20.]

Chapter 28B.108 RCW
AMERICAN INDIAN ENDOWED SCHOLARSHIP PROGRAM

Sections

28B.108.005 Findings.
28B.108.010 Definitions.
28B.108.020 Program created--Duties of the higher education coordinating board--Screening committee.
28B.108.030 Advisory committee.
28B.108.040 Award of scholarships--Amount--Duration.
28B.108.050 Scholarship trust fund established.
28B.108.060 Scholarship endowment fund established.
28B.108.070 State matching funds.

RCW 28B.108.005 Findings.

The legislature recognizes the benefit to our state and nation of providing equal educational opportunities for all races and nationalities. The legislature finds that American Indian students are underrepresented in Washington's colleges and universities. The legislature also finds that past discriminatory practices have resulted in this underrepresentation. Creating an endowed scholarship program to help American Indian students obtain a higher education will help to rectify past discrimination by providing a means and an incentive for American Indian students to pursue a higher education. The state will benefit from contributions made by American Indians who participate in a program of higher education.

[1990 c 287 § 1.]

RCW 28B.108.010 Definitions.

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

(1) "Institution of higher education" or "institution" means a college or university in the state of Washington which is accredited by an accrediting association recognized as such by rule of the higher education coordinating board.

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

(3) "Eligible student" or "student" means an American Indian who is a financially needy

student, as defined in RCW 28B.10.802, who is a resident student, as defined by RCW 28B.15.012(2), who is a full-time student at an institution of higher education, and who promises to use his or her education to benefit other American Indians.

[1991 c 228 § 10; 1990 c 287 § 2.]

RCW 28B.108.020 Program created--Duties of the higher education coordinating board--Screening committee.

The American Indian endowed scholarship program is created. The program shall be administered by the higher education coordinating board. In administering the program, the board's powers and duties shall include but not be limited to:

(1) Selecting students to receive scholarships, with the assistance of a screening committee composed of persons involved in helping American Indian students to obtain a higher education. The membership of the committee may include, but is not limited to representatives of: Indian tribes, urban Indians, the governor's office of Indian affairs, the Washington state Indian education association, and institutions of higher education;

(2) Adopting necessary rules and guidelines;

(3) Publicizing the program;

(4) Accepting and depositing donations into the endowment fund created in RCW 28B.108.060;

(5) Requesting and accepting from the state treasurer moneys earned from the trust fund and the endowment fund created in RCW 28B.108.050 and 28B.108.060;

(6) Soliciting and accepting grants and donations from public and private sources for the program; and

(7) Naming scholarships in honor of those American Indians from Washington who have acted as role models.

[1990 c 287 § 3.]

RCW 28B.108.030 Advisory committee.

The higher education coordinating board shall establish an advisory committee to assist in program design and to develop criteria for the screening and selection of scholarship recipients. The committee shall be composed of representatives of the same groups as the screening committee described in RCW 28B.108.020. The criteria shall assess the student's social and cultural ties to an American Indian community within the state. The criteria shall include a priority for upper-division or graduate students. The criteria may include a priority for students who are majoring in program areas in which expertise is needed by the state's American Indians.

[1991 c 228 § 11; 1990 c 287 § 4.]

RCW 28B.108.040 Award of scholarships--Amount--Duration.

The board may award scholarships to eligible students from moneys earned from the endowment fund created in RCW 28B.108.060, or from funds appropriated to the board for this purpose, or from any private donations, or from any other funds given to the board for this program. For an undergraduate student, the amount of the scholarship shall not exceed the student's demonstrated financial need. For a graduate student, the amount of the scholarship shall not exceed the student's demonstrated need; or the stipend of a teaching assistant, including tuition, at the University of Washington; whichever is higher. In calculating a student's need, the board shall consider the student's costs for tuition, fees, books, supplies, transportation, room, board, personal expenses, and child care. The student's scholarship awarded under this chapter shall not exceed the amount received by a student attending a state research university. A student is eligible to receive a scholarship for a maximum of five years. However, the length of the scholarship shall be determined at the discretion of the board.

[1990 c 287 § 5.]

RCW 28B.108.050 Scholarship trust fund established.

The American Indian endowed scholarship trust fund is established. The trust fund shall be administered by the state treasurer. Funds appropriated by the legislature for the trust fund shall be deposited into the fund. At the request of the higher education coordinating board, and when conditions set forth in RCW 28B.108.070 are met, the treasurer shall deposit state matching moneys in the trust fund into the American Indian endowment fund. No appropriation is required for expenditures from the trust fund.

[1991 sp.s. c 13 § 107; 1990 c 287 § 6.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

RCW 28B.108.060 Scholarship endowment fund established.

The American Indian scholarship endowment fund is established. The endowment fund shall be administered by the state treasurer.

(1) Moneys received from the higher education coordinating board, private donations, state matching moneys, and funds received from any other source may be deposited into the endowment fund. Private moneys received as a gift subject to conditions may be deposited into the fund.

(2) At the request of the higher education coordinating board, the treasurer shall release earnings from the endowment fund to the board for scholarships. No appropriation is required for expenditures from the endowment fund.

(3) When notified by the higher education coordinating board or by court order that a condition attached to a gift of private moneys in the fund has failed, the treasurer shall release those moneys to the donors according to the terms of the conditional gift.

(4) The principal of the endowment fund shall not be invaded. The release of moneys

under subsection (3) of this section shall not constitute an invasion of corpus.

(5) The earnings on the fund shall be used solely for the purposes set forth in RCW 28B.108.040, except when the terms of a conditional gift of private moneys in the fund require that a portion of earnings on such moneys be reinvested in the fund.

[1993 c 372 § 1; 1991 sp.s. c 13 § 110; 1990 c 287 § 7.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

RCW 28B.108.070 State matching funds.

The higher education coordinating board may request that the treasurer deposit fifty thousand dollars of state matching funds into the American Indian scholarship endowment fund when the board can match the state funds with an equal amount of private cash donations, including conditional gifts. Private cash donations means moneys from nonstate sources that include, but are not limited to, federal moneys, tribal moneys, and assessments by commodity commissions authorized to conduct research activities, including but not limited to research studies authorized under RCW 15.66.030 and 15.65.040.

[1993 c 372 § 2; 1991 c 228 § 12; 1990 c 287 § 8.]

Chapter 28B.109 RCW
WASHINGTON INTERNATIONAL EXCHANGE SCHOLARSHIP PROGRAM

Sections

28B.109.010 Definitions.
28B.109.020 Washington international exchange scholarship program--Administration by higher education coordinating board.
28B.109.030 Reciprocal agreements to attend foreign institutions.
28B.109.040 Washington international exchange student scholarships.
28B.109.050 Washington international exchange trust fund.
28B.109.060 Washington international exchange scholarship endowment fund.
28B.109.070 Washington international exchange scholarship endowment fund--State matching funds.
28B.109.080 Scholarship recipients--Service obligation.

RCW 28B.109.010 Definitions.

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

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

(2) "Eligible participant" means an international student whose country of residence has a trade relationship with the state of Washington.

(3) "Institution of higher education" or "institution" means a college or university in the state of Washington that is accredited by an accrediting association recognized as such by rule of

the board.

(4) "Service obligation" means volunteering for a minimum number of hours as established by the board based on the amount of scholarship award, to speak to or teach groups of Washington citizens, including but not limited to elementary, middle, and high schools, service clubs, and universities.

(5) "Washington international exchange scholarship program" means a scholarship award for a period not to exceed one academic year to attend a Washington institution of higher education made to an international student whose country has an established trade relationship with Washington.

[1996 c 253 § 401.]

NOTES:

Findings--Purpose--1996 c 253: "(1) The legislature finds that:

(a) Educational, cultural, and business exchange programs are important in developing mutually beneficial relationships between Washington state and other countries;

(b) Enhanced international trade, cultural, and educational opportunities are developed when cities, counties, ports, and others establish sister relationships with their counterparts in other countries;

(c) It is important to the economic future of the state to promote international awareness and understanding; and

(d) The state's economy and economic well-being depend heavily on foreign trade and international exchanges.

(2) The legislature declares that the purpose of chapter 253, Laws of 1996 is to:

(a) Enhance Washington state's ability to develop relationships and contacts throughout the world enabling us to expand international education and trade opportunities for all citizens of the state;

(b) Develop and maintain an international data base of contacts in international trade markets;

(c) Encourage outstanding international students who reside in countries with existing trade relationships to attend Washington state's institutions of higher education; and

(d) Encourage Washington students to attend institutions of higher education located in countries with existing trading relationships with Washington state." [1996 c 253 § 1.]

Severability--1996 c 253: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1996 c 253 § 504.]

Part headings not law--1996 c 253: "Part headings as used in this act constitute no part of the law." [1996 c 253 § 505.]

RCW 28B.109.020 Washington international exchange scholarship program--Administration by higher education coordinating board.

The Washington international exchange scholarship program is created subject to funding under RCW 28B.109.060. The program shall be administered by the board. In administering the program, the board may:

(1) Convene an advisory committee that may include but need not be limited to representatives of the office of the superintendent of public instruction, the department of community, trade, and economic development, the secretary of state, private business, and institutions of higher education;

(2) Select students to receive the scholarship with the assistance of a screening committee composed of leaders in business, international trade, and education;

(3) Adopt necessary rules and guidelines including rules for disbursing scholarship funds to participants;

(4) Publicize the program;

(5) Solicit and accept grants and donations from public and private sources for the program;

(6) Establish and notify participants of service obligations; and

(7) Establish a formula for selecting the countries from which participants may be selected in consultation with the department of community, trade, and economic development.

[1996 c 253 § 402.]

NOTES:

Findings--Purpose--Severability--Part headings not law--1996 c 253: See notes following RCW 28B.109.010.

RCW 28B.109.030 Reciprocal agreements to attend foreign institutions.

The board may negotiate and enter into a reciprocal agreement with foreign countries that have international students attending institutions in Washington. The goal of the reciprocal agreements shall be to allow Washington students enrolled in an institution of higher education to attend an international institution under similar terms and conditions.

[1996 c 253 § 403.]

NOTES:

Findings--Purpose--Severability--Part headings not law--1996 c 253: See notes following RCW 28B.109.010.

RCW 28B.109.040 Washington international exchange student scholarships.

If funds are available, the board shall select students yearly to receive a Washington international exchange student scholarship from moneys earned from the Washington international exchange scholarship endowment fund created in RCW 28B.109.060, from funds appropriated to the board for this purpose, or from any private donations, or from any other funds given to the board for this program.

[1996 c 253 § 404.]

NOTES:

Findings--Purpose--Severability--Part headings not law--1996 c 253: See notes following RCW 28B.109.010.

RCW 28B.109.050 Washington international exchange trust fund.

The Washington international exchange trust fund is established in the custody of the state treasurer. Any funds appropriated by the legislature for the trust fund shall be deposited into the fund. At the request of the board, and when conditions set forth in RCW 28B.109.070 are met, the treasurer shall deposit state matching moneys from the Washington international exchange trust fund into the Washington international exchange scholarship endowment fund. No appropriation is required for expenditures from the trust fund.

[1996 c 253 § 405.]

NOTES:

Findings--Purpose--Severability--Part headings not law--1996 c 253: See notes following RCW 28B.109.010.

RCW 28B.109.060 Washington international exchange scholarship endowment fund.

The Washington international exchange scholarship endowment fund is established in the custody of the state treasurer. Moneys received from the private donations and funds received from any other source may be deposited into the endowment fund. At the request of the board, the treasurer shall release earnings from the endowment fund to the board for scholarships. No appropriation is required for expenditures from the endowment fund. The principal of the endowment fund shall not be invaded. The earnings on the fund shall be used solely for the purposes in this chapter.

[1996 c 253 § 406.]

NOTES:

Findings--Purpose--Severability--Part headings not law--1996 c 253: See notes following RCW 28B.109.010.

RCW 28B.109.070 Washington international exchange scholarship endowment fund--State matching funds.

The board may request that the treasurer deposit state matching funds into the Washington international exchange scholarship endowment fund when the board can match the state funds with an equal amount of private cash donations, including conditional gifts.

[1996 c 253 § 407.]

NOTES:

Findings--Purpose--Severability--Part headings not law--1996 c 253: See notes following RCW 28B.109.010.

RCW 28B.109.080 Scholarship recipients--Service obligation.

Each Washington international exchange scholarship recipient shall agree to complete the service obligation as defined by the board.

[1996 c 253 § 408.]

NOTES:

Findings--Purpose--Severability--Part headings not law--1996 c 253: See notes following RCW 28B.109.010.

Chapter 28B.110 RCW
GENDER EQUALITY IN HIGHER EDUCATION

Sections

28B.110.010 Discrimination prohibited.

28B.110.020 Definitions.
28B.110.030 Rules and guidelines.
28B.110.040 Compliance--Reports--Community colleges.
28B.110.050 Violation of chapter.
28B.110.060 Existing law and procedures.
28B.110.070 Distribution to students.
28B.110.900 Severability--1989 c 341.

RCW 28B.110.010 Discrimination prohibited.

Article XXXI, section 1, Amendment 61 of the Washington state Constitution requires equal treatment of all citizens, regardless of gender. Recognizing the benefit to our state and nation of equal educational opportunities for all students, discrimination on the basis of gender against any student in the institutions of higher education of Washington state is prohibited.

[1989 c 341 § 1.]

RCW 28B.110.020 Definitions.

For purposes of this chapter, "institutions of higher education" or "institutions" include the state universities, regional universities, The Evergreen State College, and the community colleges.

[1989 c 341 § 2.]

RCW 28B.110.030 Rules and guidelines.

In consultation with institutions of higher education, the higher education coordinating board shall develop rules and guidelines to eliminate possible gender discrimination to students, including sexual harassment, at institutions of higher education as defined in RCW 28B.10.016. The rules and guidelines shall include but not be limited to access to academic programs, student employment, counseling and guidance services, financial aid, recreational activities including club sports, and intercollegiate athletics.

(1) With respect to higher education student employment, all institutions shall be required to:

(a) Make no differentiation in pay scales on the basis of gender;

(b) Assign duties without regard to gender except where there is a bona fide occupational qualification as approved by the Washington human rights commission;

(c) Provide the same opportunities for advancement to males and females; and

(d) Make no difference in the conditions of employment on the basis of gender in areas including, but not limited to, hiring practices, leaves of absence, and hours of employment.

(2) With respect to admission standards, admissions to academic programs shall be made without regard to gender.

(3) Counseling and guidance services for students shall be made available to all students

without regard to gender. All academic and counseling personnel shall be required to stress access to all career and vocational opportunities to students without regard to gender.

(4) All academic programs shall be available to students without regard to gender.

(5) With respect to recreational activities, recreational activities shall be offered to meet the interests of students. Institutions which provide the following shall do so with no disparities based on gender: Equipment and supplies; medical care; services and insurance; transportation and per diem allowances; opportunities to receive coaching and instruction; laundry services; assignment of game officials; opportunities for competition, publicity, and awards; and scheduling of games and practice times, including use of courts, gyms, and pools. Each institution which provides showers, toilets, lockers, or training room facilities for recreational purposes shall provide comparable facilities for both males and females.

(6) With respect to financial aid, financial aid shall be equitably awarded by type of aid, with no disparities based on gender.

(7) With respect to intercollegiate athletics, institutions that provide the following shall do so with no disparities based on gender:

(a) Benefits and services including, but not limited to, equipment and supplies; medical services; services and insurance; transportation and per diem allowances; opportunities to receive coaching and instruction; scholarships and other forms of financial aid; conditioning programs; laundry services; assignment of game officials; opportunities for competition, publicity, and awards; and scheduling of games and practice times, including use of courts, gyms, and pools. Each institution which provides showers, toilets, lockers, or training room facilities for athletic purposes shall provide comparable facilities for both males and females.

(b) Opportunities to participate in intercollegiate athletics. Institutions shall provide equitable opportunities to male and female students.

(c) Male and female coaches and administrators. Institutions shall attempt to provide some coaches and administrators of each gender to act as role models for male and female athletes.

(8) Each institution shall develop and distribute policies and procedures for handling complaints of sexual harassment.

[1989 c 341 § 3.]

RCW 28B.110.040 Compliance--Reports--Community colleges.

The executive director of the higher education coordinating board, in consultation with the council of presidents and the state board for community and technical colleges, shall monitor the compliance by institutions of higher education with this chapter.

(1) The board shall establish a timetable and guidelines for compliance with this chapter.

(2) By November 30, 1990, each institution shall submit to the board for approval a plan to comply with the requirements of RCW 28B.110.030. The plan shall contain measures to ensure institutional compliance with the provisions of this chapter by September 30, 1994. If participation in activities, such as intercollegiate athletics and matriculation in academic programs is not proportionate to the percentages of male and female enrollment, the plan should

outline efforts to identify barriers to equal participation and to encourage gender equity in all aspects of college and university life.

(3) The board shall report every four years, beginning December 31, 1998, to the governor and the higher education committees of the house of representatives and the senate on institutional efforts to comply with this chapter. The report shall include recommendations on measures to assist institutions with compliance. This report may be combined with the report required in RCW 28B.15.465.

(4) The board may delegate to the state board for community and technical colleges any or all responsibility for community college compliance with the provisions of this chapter.

[1997 c 5 § 5; 1989 c 341 § 4.]

Notes:

Effective date--1997 c 5: See note following RCW 28B.15.455.

RCW 28B.110.050 Violation of chapter.

A violation of this chapter shall constitute an unfair practice under chapter 49.60 RCW, the law against discrimination. All rights and remedies under chapter 49.60 RCW, including the right to file a complaint with the human rights commission and to bring a civil action, shall apply.

[1989 c 341 § 5.]

RCW 28B.110.060 Existing law and procedures.

This chapter shall supplement, and shall not supersede, existing law and procedures relating to unlawful discrimination based on gender.

[1989 c 341 § 6.]

RCW 28B.110.070 Distribution to students.

Institutions of higher education shall distribute copies of the provisions of this chapter to all students.

[1989 c 341 § 7.]

RCW 28B.110.900 Severability--1989 c 341.

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

[1989 c 341 § 8.]

Chapter 28B.115 RCW
HEALTH PROFESSIONAL CONDITIONAL SCHOLARSHIP PROGRAM

Sections

28B.115.010 Legislative findings.
28B.115.020 Definitions.
28B.115.030 Program established--Duties of board.
28B.115.040 Technical assistance for rural communities.
28B.115.050 Planning committee--Criteria for selecting participants.
28B.115.060 Eligible credentialed health care professions--Required service obligations.
28B.115.070 Eligible credentialed health care professions--Health professional shortage areas.
28B.115.080 Annual award amount--Scholarship preferences--Required service obligations.
28B.115.090 Loan repayment and scholarship awards.
28B.115.100 Discrimination by participants prohibited--Violation.
28B.115.110 Participant obligation--Repayment obligation.
28B.115.120 Participant obligation--Scholarships.
28B.115.130 Health professional loan repayment and scholarship program fund.
28B.115.140 Transfer of program administration.
28B.115.900 Effective date--1989 1st ex.s. c 9.
28B.115.901 Severability--1989 1st ex.s. c 9.
28B.115.902 Application to scope of chapter--Captions not law--1991 c 332.

Notes:
Maternity care provider loan repayment: RCW 74.09.820.
Rural health access account: RCW 43.70.325.

RCW 28B.115.010 Legislative findings.

The legislature finds that changes in demographics, the delivery of health care services, and an escalation in the cost of educating health professionals has resulted in shortages of health professionals. A poor distribution of health care professionals has resulted in a surplus of some professionals in some areas of the state and a shortage of others in other parts of the state such as in the more rural areas. The high cost of health professional education requires that health care practitioners command higher incomes to repay the financial obligations incurred to obtain the required training. Health professional shortage areas are often areas that have troubled economies and lower per capita incomes. These areas often require more services because the health care needs are greater due to poverty or because the areas are difficult to service due to geographic circumstances. The salary potentials for shortage areas are often not as favorable when compared to nonshortage areas and practitioners are unable to serve. The legislature further finds that encouraging health professionals to serve in shortage areas is essential to assure continued access to health care for persons living in these parts of the state.

[1989 1st ex.s. c 9 § 716. Formerly RCW 18.150.010.]

RCW 28B.115.020 Definitions.

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

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

(2) "Department" means the state department of health.

(3) "Eligible education and training programs" means education and training programs approved by the department that lead to eligibility for a credential as a credentialed health care professional.

(4) "Eligible expenses" means reasonable expenses associated with the costs of acquiring an education such as tuition, books, equipment, fees, room and board, and other expenses determined by the board.

(5) "Eligible student" means a student who has been accepted into an eligible education or training program and has a declared intention to serve in a health professional shortage area upon completion of the education or training program.

(6) "Forgiven" or "to forgive" or "forgiveness" means to render health care services in a health professional shortage area in the state of Washington in lieu of monetary repayment.

(7) "Health professional shortage areas" means those areas where credentialed health care professionals are in short supply as a result of geographic maldistribution or as the result of a short supply of credentialed health care professionals in specialty health care areas and where vacancies exist in serious numbers that jeopardize patient care and pose a threat to the public health and safety. The department shall determine health professional shortage areas as provided for in RCW 28B.115.070, or until June 1, 1992, as provided for in RCW 28B.115.060. In making health professional shortage area designations in the state the department may be guided by applicable federal standards for "health manpower shortage areas," and "medically underserved areas," and "medically underserved populations."

(8) "Credentialed health care profession" means a health care profession regulated by a disciplining authority in the state of Washington under RCW 18.130.040 or by the state board of pharmacy under chapter 18.64 RCW and designated by the department in RCW 28B.115.070, or until June 1, 1992, as established in RCW 28B.115.060 as a profession having shortages of credentialed health care professionals in the state.

(9) "Credentialed health care professional" means a person regulated by a disciplining authority in the state of Washington to practice a health care profession under RCW 18.130.040 or by the state board of pharmacy under chapter 18.64 RCW.

(10) "Loan repayment" means a loan that is paid in full or in part if the participant renders health care services in a health professional shortage area as defined by the department.

(11) "Nonshortage rural area" means a nonurban area of the state of Washington that has not been designated as a rural physician shortage area. The department shall identify the nonshortage rural areas of the state.

(12) "Participant" means a credentialed health care professional who has received a loan repayment award and has commenced practice as a credentialed health care provider in a designated health professional shortage area or an eligible student who has received a

scholarship under this program.

(13) "Program" means the health professional loan repayment and scholarship program.

(14) "Required service obligation" means an obligation by the participant to provide health care services in a health professional shortage area for a period to be established as provided for in this chapter.

(15) "Rural physician shortage area" means rural geographic areas where primary care physicians are in short supply as a result of geographic maldistributions and where their limited numbers jeopardize patient care and pose a threat to public health and safety. The department shall designate rural physician shortage areas.

(16) "Satisfied" means paid-in-full.

(17) "Scholarship" means a loan that is forgiven in whole or in part if the recipient renders health care services in a health professional shortage area.

(18) "Sponsoring community" means a rural hospital or hospitals as authorized in chapter 70.41 RCW, a rural health care facility or facilities as authorized in chapter 70.175 RCW, or a city or county government or governments.

[1991 c 332 § 15; 1989 1st ex.s. c 9 § 717. Formerly RCW 18.150.020.]

RCW 28B.115.030 Program established--Duties of board.

The health professional loan repayment and scholarship program is established for credentialed health professionals serving in health professional shortage areas. The program shall be administered by the higher education coordinating board. In administrating this program, the board shall:

(1) Select credentialed health care professionals to participate in the loan repayment portion of the loan repayment and scholarship program and select eligible students to participate in the scholarship portion of the loan repayment and scholarship program;

(2) Adopt rules and develop guidelines to administer the program;

(3) Collect and manage repayments from participants who do not meet their service obligations under this chapter;

(4) Publicize the program, particularly to maximize participation among individuals in shortage areas and among populations expected to experience the greatest growth in the work force;

(5) Solicit and accept grants and donations from public and private sources for the program; and

(6) Develop criteria for a contract for service in lieu of the service obligation where appropriate, that may be a combination of service and payment.

[1991 c 332 § 16; 1989 1st ex.s. c 9 § 718. Formerly RCW 18.150.030.]

RCW 28B.115.040 Technical assistance for rural communities.

The department may provide technical assistance to rural communities desiring to become sponsoring communities for the purposes of identification of prospective students for the

program, assisting prospective students to apply to an eligible education and training program, making formal agreements with prospective students to provide credentialed health care services in the community, forming agreements between rural communities in a service area to share credentialed health care professionals, and fulfilling any matching requirements.

[1991 c 332 § 17.]

RCW 28B.115.050 Planning committee--Criteria for selecting participants.

The board shall establish a planning committee to assist it in developing criteria for the selection of participants. The board shall include on the planning committee representatives of the department, the department of social and health services, appropriate representatives from health care facilities, provider groups, consumers, the *state board of community college education, the superintendent of public instruction, and other appropriate public and private agencies and organizations. The criteria may require that some of the participants meet the definition of "needy student" under RCW 28B.10.802.

[1991 c 332 § 18; 1989 1st ex.s. c 9 § 719. Formerly RCW 18.150.040.]

Notes:

***Reviser's note:** The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

RCW 28B.115.060 Eligible credentialed health care professions--Required service obligations.

Until June 1, 1992, the board, in consultation with the department, shall:

(1) Establish loan repayments for persons authorized to practice one of the following credentialed health care professions: Medicine pursuant to chapter 18.57, 18.57A, 18.71 or 18.71A RCW, nursing pursuant to *chapter 18.78 or 18.88 RCW, or dentistry pursuant to chapter 18.32 RCW. The amount of the loan repayment shall not exceed fifteen thousand dollars per year for a maximum of five years per individual. The required service obligation in a health professional shortage area for loan repayment shall be three years;

(2) Establish a scholarship program for eligible students who have been accepted into an eligible education or training program leading to a credential in one of the following credentialed health care professions: Nursing pursuant to *chapter 18.78 or 18.88 RCW who declare the intent to serve in a nurse shortage area as defined by the department upon completion of an education or training program and agree to a five-year service obligation. The amount of the scholarship shall not exceed three thousand dollars per year for a maximum of five years;

(3) Establish a scholarship program for eligible students who have been accepted into an eligible education or training program leading to a credential in one of the following credentialed health care professions: Medicine pursuant to chapter 18.57 or 18.71 RCW who declare an intent to serve as a primary care physician in a rural area in the state of Washington upon completion of the education program and agree to a five-year service obligation and who may receive a scholarship of no more than fifteen thousand dollars per year for five years.

In determining scholarship awards for prospective physicians, the selection criteria shall include requirements that recipients declare an interest in serving in rural areas of the state of Washington. Preference for scholarships shall be given to students who reside in a rural physician shortage area or a nonshortage rural area of the state prior to admission to the eligible education and training program in medicine. Highest preference shall be given to students seeking admission who are recommended by sponsoring communities and who declare the intent of serving as a physician in a rural area. The board may require the sponsoring community located in a nonshortage rural area to financially contribute to the eligible expenses of a medical student if the student will serve in the nonshortage rural area;

(4) Establish a scholarship program for eligible students who have been accepted into an eligible education or training program leading to a credential in one of the following credentialed health care professions: Midwifery pursuant to chapter 18.50 RCW or advanced registered nurse practitioner certified nurse midwifery under *chapter 18.88 RCW who declare an intent to serve as a midwife in a midwifery shortage area in the state of Washington, as defined by the department, upon completion of the education program and agree to a five-year service obligation and who may receive a scholarship of no more than four thousand dollars per year for three years;

(5) Establish a scholarship program for eligible students who have been accepted into an eligible education or training program leading to a credential in the following credentialed health care profession: Pharmacy pursuant to chapter 18.64 RCW who declare an intent to serve as a pharmacist in a pharmacy shortage area in the state of Washington, as defined by the department, upon completion of the education program and agree to a five-year service obligation and who may receive a scholarship of no more than four thousand dollars per year for three years;

(6) Honor loan repayment and scholarship contract terms negotiated between the board and participants prior to May 21, 1991, concerning loan repayment and scholarship award amounts and service obligations authorized under chapter **18.150, ***28B.104, or 70.180 RCW.

[1991 c 332 § 19.]

Notes:

Reviser's note: *(1) Chapters 18.78 and 18.88 RCW were repealed by 1994 sp.s. c 9 § 433, effective July 1, 1994.

**(2) Chapter 18.150 RCW was recodified as chapter 28B.115 RCW by 1991 c 332 § 36.

***(3) Chapter 28B.104 RCW was repealed by 1991 sp.s. c 27 § 2.

RCW 28B.115.070 Eligible credentialed health care professions--Health professional shortage areas.

After June 1, 1992, the department, in consultation with the board and the department of social and health services, shall:

(1) Determine eligible credentialed health care professions for the purposes of the loan repayment and scholarship program authorized by this chapter. Eligibility shall be based upon an assessment that determines that there is a shortage or insufficient availability of a credentialed profession so as to jeopardize patient care and pose a threat to the public health and safety. The

department shall consider the relative degree of shortages among professions when determining eligibility. This determination shall be based upon health professional shortage needs identified in the health personnel resource plan authorized by RCW 28B.125.010. The department may add or remove professions from eligibility based upon the determination that a profession is no longer in shortage as determined by the health personnel resource plan. Should a profession no longer be eligible, participants or eligible students who have received scholarships shall be eligible to continue to receive scholarships or loan repayments until they are no longer eligible or until their service obligation has been completed;

(2) Determine health professional shortage areas for each of the eligible credentialed health care professions.

[1991 c 332 § 20.]

RCW 28B.115.080 Annual award amount--Scholarship preferences--Required service obligations.

After June 1, 1992, the board, in consultation with the department and the department of social and health services, shall:

(1) Establish the annual award amount for each credentialed health care profession which shall be based upon an assessment of reasonable annual eligible expenses involved in training and education for each credentialed health care profession. The annual award amount may be established at a level less than annual eligible expenses. The annual award amount shall be established by the board for each eligible health profession. The awards shall not be paid for more than a maximum of five years per individual;

(2) Determine any scholarship awards for prospective physicians in such a manner to require the recipients declare an interest in serving in rural areas of the state of Washington. Preference for scholarships shall be given to students who reside in a rural physician shortage area or a nonshortage rural area of the state prior to admission to the eligible education and training program in medicine. Highest preference shall be given to students seeking admission who are recommended by sponsoring communities and who declare the intent of serving as a physician in a rural area. The board may require the sponsoring community located in a nonshortage rural area to financially contribute to the eligible expenses of a medical student if the student will serve in the nonshortage rural area;

(3) Establish the required service obligation for each credentialed health care profession, which shall be no less than three years or no more than five years. The required service obligation may be based upon the amount of the scholarship or loan repayment award such that higher awards involve longer service obligations on behalf of the participant;

(4) Determine eligible education and training programs for purposes of the scholarship portion of the program;

(5) Honor loan repayment and scholarship contract terms negotiated between the board and participants prior to May 21, 1991, concerning loan repayment and scholarship award amounts and service obligations authorized under chapter 28B.115, *28B.104, or 70.180 RCW.

[1993 c 492 § 271; 1991 c 332 § 21.]

Notes:

***Reviser's note:** Chapter 28B.104 RCW was repealed by 1991 sp.s. c 27 § 2.

Finding--1993 c 492: See note following RCW 28B.125.010.

Findings--Intent--1993 c 492: See notes following RCW 43.20.050.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

RCW 28B.115.090 Loan repayment and scholarship awards.

(1) The board may grant loan repayment and scholarship awards to eligible participants from the funds appropriated for this purpose, or from any private or public funds given to the board for this purpose. Participants are ineligible to receive loan repayment if they have received a scholarship from programs authorized under this chapter or chapter *28B.104 or 70.180 RCW or are ineligible to receive a scholarship if they have received loan repayment authorized under this chapter or **chapter 18.150 RCW.

(2) Funds appropriated for the program, including reasonable administrative costs, may be used by the board for the purposes of loan repayments or scholarships. The board shall annually establish the total amount of funding to be awarded for loan repayments and scholarships and such allocations shall be established based upon the best utilization of funding for that year and based upon the health personnel resource plan authorized in RCW 28B.125.010.

(3) One portion of the funding appropriated for the program shall be used by the board as a recruitment incentive for communities participating in the community-based recruitment and retention program as authorized by chapter 70.185 RCW; one portion of the funding shall be used by the board as a recruitment incentive for recruitment activities in state-operated institutions, county public health departments and districts, county human service agencies, federal and state contracted community health clinics, and other health care facilities, such as rural hospitals that have been identified by the department, as providing substantial amounts of charity care or publicly subsidized health care; one portion of the funding shall be used by the board for all other awards. The board shall determine the amount of total funding to be distributed between the three portions.

[1991 c 332 § 22; 1989 1st ex.s. c 9 § 720. Formerly RCW 18.150.050.]

Notes:

Reviser's note: *(1) Chapter 28B.104 RCW was repealed by 1991 sp.s. c 27 § 2.

**(2) Chapter 18.150 RCW was recodified as chapter 28B.115 RCW by 1991 c 332 § 36.

RCW 28B.115.100 Discrimination by participants prohibited--Violation.

In providing health care services the participant shall not discriminate against a person on the basis of the person's ability to pay for such services or because payment for the health care services provided to such persons will be made under the insurance program established under part A or B of Title XVIII of the federal social security act or under a state plan for medical assistance including Title XIX of the federal social security act or under the state medical assistance program authorized by chapter 74.09 RCW and agrees to accept assignment under

section 18.42(b)(3)(B)(ii) of the federal social security act for all services for which payment may be made under part B of Title XVIII of the federal social security act and enters into an appropriate agreement with the department of social and health services for medical assistance under Title XIX of the federal social security act to provide services to individuals entitled to medical assistance under the plan and enters into appropriate agreements with the department of social and health services for medical care services under chapter 74.09 RCW. Participants found by the board or the department in violation of this section shall be declared ineligible for receiving assistance under the program authorized by this chapter.

[1991 c 332 § 23.]

RCW 28B.115.110 Participant obligation--Repayment obligation.

Participants in the health professional loan repayment and scholarship program who are awarded loan repayments shall receive payment from the program for the purpose of repaying educational loans secured while attending a program of health professional training which led to a credential as a credentialed health professional in the state of Washington.

(1) Participants shall agree to meet the required service obligation in a designated health professional shortage area.

(2) Repayment shall be limited to eligible educational and living expenses as determined by the board and shall include principal and interest.

(3) Loans from both government and private sources may be repaid by the program. Participants shall agree to allow the board access to loan records and to acquire information from lenders necessary to verify eligibility and to determine payments. Loans may not be renegotiated with lenders to accelerate repayment.

(4) Repayment of loans established pursuant to this program shall begin no later than ninety days after the individual has become a participant. Payments shall be made quarterly, or more frequently if deemed appropriate by the board, to the participant until the loan is repaid or the participant becomes ineligible due to discontinued service in a health professional shortage area or after the required service obligation when eligibility discontinues, whichever comes first.

(5) Should the participant discontinue service in a health professional shortage area payments against the loans of the participants shall cease to be effective on the date that the participant discontinues service.

(6) Except for circumstances beyond their control, participants who serve less than the required service obligation shall be obligated to repay to the program an amount equal to twice the total amount paid by the program on their behalf in addition to any payments on the unsatisfied portion of the principal and interest. The board shall determine the applicability of this subsection.

(7) The board is responsible for the collection of payments made on behalf of participants from the participants who discontinue service before completion of the required service obligation. The board shall exercise due diligence in such collection, maintaining all necessary records to ensure that the maximum amount of payment made on behalf of the participant is recovered. Collection under this section shall be pursued using the full extent of the law,

including wage garnishment if necessary.

(8) The board shall not be held responsible for any outstanding payments on principal and interest to any lenders once a participant's eligibility expires.

(9) The board shall temporarily or, in special circumstances, permanently defer the requirements of this section for eligible students as defined in RCW 28B.10.017.

[1991 c 332 § 24; 1991 c 164 § 8; 1989 1st ex.s. c 9 § 721. Formerly RCW 18.150.060.]

Notes:

Reviser's note: This section was amended by 1991 c 164 § 8 and by 1991 c 332 § 24, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

RCW 28B.115.120 Participant obligation--Scholarships.

(1) Participants in the health professional loan repayment and scholarship program who are awarded scholarships incur an obligation to repay the scholarship, with interest, unless they serve the required service obligation in a health professional shortage area in the state of Washington.

(2) The interest rate shall be eight percent for the first four years of repayment and ten percent beginning with the fifth year of repayment.

(3) The period for repayment shall coincide with the required service obligation, with payments of principal and interest accruing quarterly commencing no later than nine months from the date the participant completes or discontinues the course of study or completes or discontinues the required residency. Provisions for deferral of payment shall be determined by the board.

(4) The entire principal and interest of each payment shall be forgiven for each payment period in which the participant serves in a health professional shortage area until the entire repayment obligation is satisfied or the borrower ceases to so serve. Should the participant cease to serve in a health professional shortage area of this state before the participant's repayment obligation is completed, payments on the unsatisfied portion of the principal and interest shall begin the next payment period and continue until the remainder of the participant's repayment obligation is satisfied. Except for circumstances beyond their control, participants who serve less than the required service obligation shall be obliged to repay to the program an amount equal to twice the total amount paid by the program on their behalf.

(5) The board is responsible for collection of repayments made under this section and shall exercise due diligence in such collection, maintaining all necessary records to ensure that maximum repayments are made. Collection and servicing of repayments under this section shall be pursued using the full extent of the law, including wage garnishment if necessary, and shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency. The board is responsible to forgive all or parts of such repayments under the criteria established in this section and shall maintain all necessary records of forgiven payments.

(6) Receipts from the payment of principal or interest or any other subsidies to which the board as administrator is entitled, which are paid by or on behalf of participants under this

section, shall be deposited with the board and shall be used to cover the costs of granting the scholarships, maintaining necessary records, and making collections under subsection (5) of this section. The board shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant scholarships to eligible students.

(7) Sponsoring communities who financially contribute to the eligible financial expenses of eligible medical students may enter into agreements with the student to require repayment should the student not serve the required service obligation in the community as a primary care physician. The board may develop criteria for the content of such agreements with respect to reasonable provisions and obligations between communities and eligible students.

(8) The board may make exceptions to the conditions for participation and repayment obligations should circumstances beyond the control of individual participants warrant such exceptions.

[1993 c 423 § 2; 1991 c 332 § 25.]

RCW 28B.115.130 Health professional loan repayment and scholarship program fund.

(1) Any funds appropriated by the legislature for the health professional loan repayment and scholarship program or any other public or private funds intended for loan repayments or scholarships under this program shall be placed in the account created by this section.

(2) The health professional loan repayment and scholarship program fund is created in custody of the state treasurer. All receipts from the program shall be deposited into the fund. Only the higher education coordinating board, or its designee, may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

[1991 c 332 § 28.]

RCW 28B.115.140 Transfer of program administration.

After consulting with the higher education coordinating board, the governor may transfer the administration of this program to another agency with an appropriate mission.

[1989 1st ex.s. c 9 § 722. Formerly RCW 18.150.070.]

RCW 28B.115.900 Effective date--1989 1st ex.s. c 9.

See RCW 43.70.910.

RCW 28B.115.901 Severability--1989 1st ex.s. c 9.

See RCW 43.70.920.

RCW 28B.115.902 Application to scope of chapter--Captions not law--1991 c 332.

See notes following RCW 18.130.010.

Chapter 28B.120 RCW
WASHINGTON FUND FOR INNOVATION AND QUALITY IN HIGHER EDUCATION PROGRAM

Sections

28B.120.005 Findings.
28B.120.010 Washington fund for innovation and quality in higher education program--Incentive grants.
28B.120.020 Program administration--Higher education coordinating board.
28B.120.025 Program administration--State board for community and technical colleges.
28B.120.030 Receipt of gifts, grants, and endowments.
28B.120.040 Higher education coordinating board fund for innovation and quality.
28B.120.050 Community and technical college fund for innovation and quality.
28B.120.900 Intent--1999 c 169.

RCW 28B.120.005 Findings.

The legislature finds that encouraging collaboration among the various educational sectors to meet state-wide needs will strengthen the entire educational system, kindergarten through twelfth grade and higher education. The legislature also recognizes that the most effective way to develop innovative and collaborative programs is to encourage institutions to develop them voluntarily, in line with established state goals. Through a system of competitive grants, the legislature shall encourage the development of innovative and collaborative solutions to issues of critical state-wide need, including:

(1) Recognizing needs of special populations of students;

(2) Furthering the development of learner-centered, technology-assisted course delivery;

(3) Furthering the development of competency-based measurements of student achievement to be used as the basis for awarding degrees and certificates; and

(4) Increasing the collaboration among both public and private sector institutions of higher education.

[1999 c 169 § 2; 1991 c 98 § 1.]

RCW 28B.120.010 Washington fund for innovation and quality in higher education program--Incentive grants.

The Washington fund for innovation and quality in higher education program is established. The higher education coordinating board shall administer the program for the purpose of awarding grants in which a four-year institution of higher education is named as the lead institution. The state board for community and technical colleges shall administer the program for the purpose of awarding grants in which a community or technical college is named

as the lead institution. Through this program the boards may award on a competitive basis incentive grants to state public institutions of higher education or consortia of institutions to encourage cooperative programs designed to address specific system problems. Grants shall not exceed a two-year period. Each institution or consortia of institutions receiving the award shall contribute some financial support, either by covering part of the costs for the program during its implementation, or by assuming continuing support at the end of the grant period. Strong priority will be given to proposals that involve more than one sector of education, and to proposals that show substantive institutional commitment. Institutions are encouraged to solicit nonstate funds to support these cooperative programs.

[1999 c 169 § 5; 1996 c 41 § 1; 1991 c 98 § 2.]

RCW 28B.120.020 Program administration--Higher education coordinating board.

The higher education coordinating board shall have the following powers and duties in administering the program for those proposals in which a four-year institution of higher education is named as the lead institution and fiscal agent:

(1) To adopt rules necessary to carry out the program;

(2) To establish one or more review committees to assist in the evaluation of proposals for funding. The review committee shall include individuals with significant experience in higher education in areas relevant to one or more of the funding period priorities and shall include representatives from both the four-year and two-year sectors of higher education;

(3) To award grants no later than September 1st in those years when funding is available by June 30th;

(4) To establish each biennium specific guidelines for submitting grant proposals consistent with the overall goals of the program and consistent with the guidelines established by the state board for community and technical colleges under RCW 28B.120.025. During the 1999-01 biennium the guidelines shall be consistent with the following desired outcomes of:

(a) Minority and diversity initiatives that encourage the participation of minorities in higher education, including students with disabilities;

(b) K-12 teacher preparation models that encourage collaboration between higher education and K-12 to improve the preparedness of teachers, including provisions for higher education faculty involved with teacher preparation to spend time teaching in K-12 schools;

(c) Collaborative instructional programs involving K-12, community and technical colleges, and four-year institutions of higher education to develop a three-year degree program, or reduce the time to degree;

(d) Contracts with public or private institutions or businesses to provide services or the development of collaborative programs;

(e) Articulation and transfer activities to smooth the transfer of students from K-12 to higher education, or from the community colleges and technical colleges to four-year institutions;

(f) Projects that further the development of learner-centered, technology-assisted course delivery; and

(g) Projects that further the development of competency-based measurements of student achievement to be used as the basis for awarding degrees and certificates.

After June 30, 2001, and each biennium thereafter, the board shall determine funding priorities for collaborative proposals for the biennium in consultation with the governor, the legislature, the office of the superintendent of public instruction, the state board for community and technical colleges, the work force training and education coordinating board, higher education institutions, educational associations, and business and community groups consistent with state-wide needs;

(5) To solicit grant proposals and provide information to the institutions of higher education about the program; and

(6) To establish reporting, evaluation, accountability, monitoring, and dissemination requirements for the recipients of the grants awarded by the higher education coordinating board.

[1999 c 169 § 3; 1996 c 41 § 2; 1991 c 98 § 3.]

RCW 28B.120.025 Program administration--State board for community and technical colleges.

The state board for community and technical colleges has the following powers and duties in administering the program for those proposals in which a community or technical college is named as the lead institution and fiscal agent:

(1) To adopt rules necessary to carry out the program;

(2) To establish one or more review committees to assist in the evaluation of proposals for funding. The review committee shall include individuals with significant experience in higher education in areas relevant to one or more of the funding period priorities and shall include representatives from both the four-year and two-year sectors of higher education;

(3) To award grants no later than September 1st in those years when funding is available by June 30th;

(4) To establish each biennium specific guidelines for submitting grant proposals consistent with the overall goals of the program and consistent with the guidelines established by the higher education coordinating board under RCW 28B.120.020. During the 1999-01 biennium the guidelines shall be consistent with the following desired outcomes of:

(a) Minority and diversity initiatives that encourage the participation of minorities in higher education, including students with disabilities;

(b) K-12 teacher preparation models that encourage collaboration between higher education and K-12 to improve the preparedness of teachers, including provisions for higher education faculty involved with teacher preparation to spend time teaching in K-12 schools;

(c) Collaborative instructional programs involving K-12, community and technical colleges, and four-year institutions of higher education to develop a three-year degree program, or reduce the time to degree;

(d) Contracts with public or private institutions or businesses to provide services or the development of collaborative programs;

(e) Articulation and transfer activities to smooth the transfer of students from K-12 to

higher education, or from the community colleges and technical colleges to four-year institutions;

(f) Projects that further the development of learner-centered, technology-assisted course delivery; and

(g) Projects that further the development of competency-based measurements of student achievement to be used as the basis for awarding degrees and certificates;

(5) To solicit grant proposals and provide information to the community and technical colleges and private career schools; and

(6) To establish reporting, evaluation, accountability, monitoring, and dissemination requirements for the recipients of the grants awarded by the state board for community and technical colleges.

[1999 c 169 § 4.]

RCW 28B.120.030 Receipt of gifts, grants, and endowments.

The higher education coordinating board and the state board for community and technical colleges may solicit and receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the program and may expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

[1999 c 169 § 6; 1991 c 98 § 4.]

RCW 28B.120.040 Higher education coordinating board fund for innovation and quality.

The higher education coordinating board fund for innovation and quality is hereby established in the custody of the state treasurer. The higher education coordinating board shall deposit in the fund all moneys received under RCW 28B.120.030. Moneys in the fund may be spent only for the purposes of RCW 28B.120.010 and 28B.120.020. Disbursements from the fund shall be on the authorization of the higher education coordinating board. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements.

[1999 c 169 § 7; 1996 c 41 § 3; 1991 c 98 § 5.]

RCW 28B.120.050 Community and technical college fund for innovation and quality.

The community and technical college fund for innovation and quality is hereby established in the custody of the state treasurer. The state board for community and technical colleges shall deposit in the fund all moneys received under RCW 28B.120.030. Moneys in the fund may be spent only for the purposes of RCW 28B.120.010 and 28B.120.025. Disbursements from the fund shall be on the authorization of the state board for community and technical colleges. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but

no appropriation is required for disbursements.

[1999 c 169 § 8.]

RCW 28B.120.900 Intent--1999 c 169.

It is the intent of the legislature to update and fund the higher education competitive grant program established by the 1991 legislature, known as the Washington fund for innovation and quality in higher education. Changes are needed so that the goals and priorities set forth for awarding grants reflect the 1999-01 goals and priorities. The legislature also intends to improve the administration of the program by separating responsibilities between the higher education coordinating board and the state board for community and technical colleges.

[1999 c 169 § 1.]

Chapter 28B.125 RCW
HEALTH PERSONNEL RESOURCES

Sections

28B.125.005 Intent.
28B.125.010 State-wide health personnel resource plan--Committee.
28B.125.020 Institutional plans--Implementation.
28B.125.030 New training programs.
28B.125.900 Application to scope of practice--Captions not law--1991 c 332.

RCW 28B.125.005 Intent.

The legislature finds that certain health care professional shortages exist and result in entire communities or specific populations within communities not having access to basic health care services.

The legislature further finds that the state currently does not have a state-wide comprehensive and systematic policy for the purpose of identifying shortages and designing and implementing activities to address shortages.

The legislature declares that the establishment of higher educational programming and other activities necessary to address health professional shortages should be a state policy concern and that a means to accomplish this should be established.

The legislature further declares that the development of state policy on professional shortages should involve close coordination and consultation between state government, institutions of higher education that conduct health care research and train health care professionals, health care service providers, consumers, and others.

The legislature further declares that the health care needs of the people of this state should be the primary factor determining state policymaking designed to address health

professional shortages.

[1991 c 332 § 4.]

RCW 28B.125.010 State-wide health personnel resource plan--Committee.

(1) The higher education coordinating board, the state board for community and technical colleges, the superintendent of public instruction, the state department of health, the Washington health services commission, and the state department of social and health services, to be known for the purposes of this section as the committee, shall establish a state-wide health personnel resource plan. The governor shall appoint a lead agency from one of the agencies on the committee.

In preparing the state-wide plan the committee shall consult with the training and education institutions affected by this chapter, health care providers, employers of health care providers, insurers, consumers of health care, and other appropriate entities.

Should a successor agency or agencies be authorized or created by the legislature with planning, coordination, or administrative authority over vocational-technical schools, community colleges, or four-year higher education institutions, the governor shall grant membership on the committee to such agency or agencies and remove the member or members it replaces.

The committee shall appoint subcommittees for the purpose of assisting in the development of the institutional plans required under this chapter. Such subcommittees shall at least include those committee members that have statutory responsibility for planning, coordination, or administration of the training and education institutions for which the institutional plans are being developed. In preparing the institutional plans for four-year institutes of higher education, the subcommittee shall be composed of at least the higher education coordinating board and the state's four-year higher education institutions. The appointment of subcommittees to develop portions of the state-wide plan shall not relinquish the committee's responsibility for assuring overall coordination, integration, and consistency of the state-wide plan.

In establishing and implementing the state-wide health personnel resource plan the committee shall, to the extent possible, utilize existing data and information, personnel, equipment, and facilities and shall minimize travel and take such other steps necessary to reduce the administrative costs associated with the preparation and implementation of the plan.

(2) The state-wide health resource plan shall include at least the following:

(a)(i) Identification of the type, number, and location of the health care professional work force necessary to meet health care needs of the state.

(ii) A description and analysis of the composition and numbers of the potential work force available for meeting health care service needs of the population to be used for recruitment purposes. This should include a description of the data, methodology, and process used to make such determinations.

(b) A centralized inventory of the numbers of student applications to higher education and vocational-technical training and education programs, yearly enrollments, yearly degrees awarded, and numbers on waiting lists for all the state's publicly funded health care training and

education programs. The committee shall request similar information for incorporation into the inventory from private higher education and vocational-technical training and education programs.

(c) A description of state-wide and local specialized provider training needs to meet the health care needs of target populations and a plan to meet such needs in a cost-effective and accessible manner.

(d) A description of how innovative, cost-effective technologies such as telecommunications can and will be used to provide higher education, vocational-technical, continued competency, and skill maintenance and enhancement education and training to placebound students who need flexible programs and who are unable to attend institutions for training.

(e) A strategy for assuring higher education and vocational-technical educational and training programming is sensitive to the changing work force such as reentry workers, women, minorities, and the disabled.

(f) Strategies to increase the number of persons of color in the health professions. Such strategies shall incorporate, to the extent possible, federal and state assistance programs for health career development, including those for American Indians, economically disadvantaged persons, physically challenged persons, and persons of color.

(g) A strategy and coordinated state-wide policy developed by the subcommittees authorized in subsection (1) of this section for increasing the number of graduates intending to serve in shortage areas after graduation, including such strategies as the establishment of preferential admissions and designated enrollment slots.

(h) Guidelines and policies developed by the subcommittees authorized in subsection (1) of this section for allowing academic credit for on-the-job experience such as internships, volunteer experience, apprenticeships, and community service programs.

(i) A strategy developed by the subcommittees authorized in subsection (1) of this section for making required internships and residency programs available that are geographically accessible and sufficiently diverse to meet both general and specialized training needs as identified in the plan when such programs are required.

(j) A description of the need for multiskilled health care professionals and an implementation plan to restructure educational and training programming to meet these needs.

(k) An analysis of the types and estimated numbers of health care personnel that will need to be recruited from out-of-state to meet the health professional needs not met by in-state trained personnel.

(l) An analysis of the need for educational articulation within the various health care disciplines and a plan for addressing the need.

(m) An analysis of the training needs of those members of the long-term care profession that are not regulated and that have no formal training requirements. Programs to meet these needs should be developed in a cost-effective and a state-wide accessible manner that provide for the basic training needs of these individuals.

(n) A designation of the professions and geographic locations in which loan repayment and scholarships should be available based upon objective data-based forecasts of health

professional shortages. A description of the criteria used to select professions and geographic locations shall be included. Designations of professions and geographic locations may be amended by the department of health when circumstances warrant as provided for in RCW 28B.115.070.

(o) A description of needed changes in regulatory laws governing the credentialing of health professionals.

(p) A description of linguistic and cultural training needs of foreign-trained health care professionals to assure safe and effective practice of their health care profession.

(q) A plan to implement the recommendations of the state-wide nursing plan authorized by *RCW 74.39.040.

(r) A description of criteria and standards that institutional plans provided for in this section must address in order to meet the requirements of the state-wide health personnel resource plan, including funding requirements to implement the plans. The committee shall also when practical identify specific outcome measures to measure progress in meeting the requirements of this plan. The criteria and standards shall be established in a manner as to provide flexibility to the institutions in meeting state-wide plan requirements. The committee shall establish required submission dates for the institutional plans that permit inclusion of funding requests into the institutions budget requests to the state.

(s) A description of how the higher education coordinating board, state board for community and technical colleges, superintendent of public instruction, department of health, and department of social and health services coordinated in the creation and implementation of the state plan including the areas of responsibility each agency shall assume. The plan should also include a description of the steps taken to assure participation by the groups that are to be consulted with.

(t) A description of the estimated fiscal requirements for implementation of the state-wide health resource plan that include a description of cost saving activities that reduce potential costs by avoiding administrative duplication, coordinating programming activities, and other such actions to control costs.

(3) The committee may call upon other agencies of the state to provide available information to assist the committee in meeting the responsibilities under this chapter. This information shall be supplied as promptly as circumstances permit.

(4) State agencies involved in the development and implementation of the plan shall to the extent possible utilize existing personnel and financial resources in the development and implementation of the state-wide health personnel resource plan.

(5) Implementation of the state-wide plan shall begin by July 1, 1993.

(6) Each publicly funded two-year and four-year institute of higher education authorized under Title 28B RCW and vocational-technical institution authorized under Title 28A RCW that offers health training and education programs shall biennially prepare and submit an institutional plan to the committee. The institutional plan shall identify specific programming and activities of the institution that meet the requirements of the state-wide health professional resource plan.

The committee shall review and assess whether the institutional plans meet the requirements of the state-wide health personnel resource plan and shall prepare a report with its

determination. The report shall become part of the institutional plan and shall be submitted to the governor and the legislature.

The institutional plan shall be included with the institution's biennial budget submission. The institution's budget shall identify proposed spending to meet the requirements of the institutional plan. Each vocational-technical institution, college, or university shall be responsible for implementing its institutional plan.

[1998 c 245 § 15; 1993 c 492 § 270; 1991 c 332 § 5.]

Notes:

***Reviser's note:** RCW 74.39.040 was repealed by 1997 c 392 § 530.

Finding--1993 c 492: "The legislature finds that the successful implementation of health care reform will depend on a sufficient supply of primary health care providers throughout the state. Many rural and medically underserved urban areas lack primary health care providers and because of this, basic health care services are limited or unavailable to populations living in these areas. The legislature has in recent years initiated new programs to address these provider shortages but funding has been insufficient and additional specific provider shortages remain." [1993 c 492 § 269.]

Findings--Intent--1993 c 492: See notes following RCW 43.20.050.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

RCW 28B.125.020 Institutional plans--Implementation.

The institutional plans provided for in this chapter are to be implemented by each institution consistent with the biennial appropriation of the legislature. Whenever feasible, each institution shall make a good faith effort to implement the plan utilizing existing financial resources.

If there is a conflict between portions of the institutional plans proposing changes in curriculum and the accreditation standards of health training and education programs, the institution may deviate from the plan. However, the institution shall provide to the committee established in this chapter confirmation from the accrediting body indicating that the proposed changes will jeopardize accreditation and that the institution has made a good faith effort to obtain approval for such changes. If the institution is unable to obtain approval from the accrediting agency, it shall present to the committee an alternative proposal with changes that meet the objectives of the state-wide and institutional plans and has the approval of the accrediting agency.

Implementation of the institutional plans with respect to changes in admission requirements or curriculum are subject to the approval of the board of regents or the board of trustees as specified in Title 28B RCW. If the board believes that implementation of portions of the institutional plan may not be consistent with standards and practices of the institution, the board shall conduct a public hearing in accordance with chapter 34.05 RCW. At such time, the committee shall present an explanation of the need for such changes. In addition, the institution shall present alternative recommended changes to the institutional plan that meet the requirements of this chapter for the state-wide and institutional plans. After deliberation the board shall prepare a summary of the proceedings together with recommendations for modifications of the institutional plan.

[1991 sp.s. c 27 § 1.]

RCW 28B.125.030 New training programs.

(1) The state board for community and technical colleges, in coordination with the committee under this chapter, shall identify health professional training needs not currently met by community and technical colleges in the state. It shall recommend creation of new training programs necessary to meet the shortages and identify where such programs shall be located within the state's community and technical college system.

(2) Every publicly funded community and technical college identified by the board in subsection (1) of this section shall include in their biennial budget, and institutional plan, a description of the training programs that will be created by the college or institute to alleviate the shortages.

(3) Health personnel shortages shall be determined in accordance with the health personnel resource plan required by this chapter.

[1993 c 323 § 5.]

RCW 28B.125.900 Application to scope of practice--Captions not law--1991 c 332.

See notes following RCW 18.130.010.

Chapter 28B.130 RCW
TRANSPORTATION DEMAND MANAGEMENT PROGRAMS

Sections

28B.130.005 Findings--Intent.
28B.130.010 Definitions.
28B.130.020 Transportation fee.
28B.130.030 Use of transportation fees.
28B.130.040 Adoption of guidelines for establishing and funding transportation demand management programs.

RCW 28B.130.005 Findings--Intent.

Transportation demand management strategies that reduce the number of vehicles on Washington state's highways, roads, and streets, and provide attractive and effective alternatives to single-occupancy travel, can improve ambient air quality, conserve fossil fuels, and forestall the need for capital improvements to the state's transportation system. The legislature has required many public and private employers in the state's largest counties to implement transportation demand management programs to reduce the number of single-occupant vehicle travelers during the morning and evening rush hours, and has provided substantial funding for

the University of Washington's UPASS program, which has been immensely successful in its first two years of implementation. The legislature finds that additional transportation demand management strategies are required to mitigate the adverse social, environmental, and economic effects of auto dependency and traffic congestion. While expensive capital improvements, including dedicated busways and commuter rail systems, may be necessary to improve the region's mobility, they are only part of the solution. All public and private entities that attract single-occupant vehicle drivers must develop imaginative and cost-effective ways to encourage walking, bicycling, carpooling, vanpooling, bus riding, and telecommuting. It is the intent of the legislature to revise those portions of state law that inhibit the application of imaginative solutions to the state's transportation mobility problems, and to encourage many more public and private institutions of higher learning to adopt effective transportation demand management strategies.

The legislature finds further that many of the institutions of higher education in the state's largest counties are responsible for significant numbers of single-occupant vehicle trips to and from their campuses. These single-occupant vehicle trips are not only contributing to the degradation of the state's environment and deterioration of its transportation system, but are also usurping parking spaces from surrounding residential communities because existing parking facilities cannot accommodate students' current demand. Therefore, it is the intent of the legislature to permit these institutions to develop and fund transportation demand management programs that reduce single-occupant vehicle travel and promote alternatives to single-occupant vehicle driving. The legislature encourages institutions of higher education to include faculty and staff in their transportation demand management programs.

[1993 c 447 § 1.]

RCW 28B.130.010 Definitions.

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

(1) "Transportation fee" means the fee charged to employees and students at institutions of higher education for the purposes provided in RCW 28B.130.020.

(2) "Transportation demand management program" means the set of strategies adopted by an institution of higher education to reduce the number of single-occupant vehicles traveling to its campus. These strategies may include but are not limited to those identified in RCW 70.94.531.

[1993 c 447 § 2.]

RCW 28B.130.020 Transportation fee.

(1) The governing board of an institution of higher education as defined in RCW 28B.10.016 may impose either a voluntary or a mandatory transportation fee on employees and on students at the institution. The board of regents of Washington State University may impose either a voluntary or a mandatory transportation fee on faculty and staff working at the

Riverpoint higher education park and on students attending classes there. The transportation fee shall be used solely to fund transportation demand management programs that reduce the demand for campus and neighborhood parking, and promote alternatives to single-occupant vehicle driving. If the board charges a mandatory transportation fee to students, it shall charge a mandatory transportation fee to employees. The transportation fee for employees may exceed, but shall not be lower than the transportation fee charged to students. The transportation fee for employees may be deducted from the employees' paychecks. The transportation fee for students may be imposed annually, or each academic term. For students attending community colleges and technical colleges, the mandatory transportation fee shall not exceed sixty percent of the maximum rate permitted for services and activities fees at community colleges, unless, through a vote, a majority of students consent to increase the transportation fee. For students attending four-year institutions of higher education or classes at the Riverpoint higher education park, the mandatory transportation fee shall not exceed thirty-five percent of the maximum rate permitted for services and activities fees at the institution where the student is enrolled unless, through a vote, a majority of students consents to increase the transportation fee. The board may make a limited number of exceptions to the fee based on a policy adopted by the board.

(2) The board of regents of Washington State University shall not impose a transportation fee on any student who is already paying a transportation fee to the institution of higher education in which the student is enrolled.

[1998 c 344 § 7; 1997 c 273 § 2; 1993 c 447 § 3.]

Notes:

Intent--Findings--1998 c 344: See note following RCW 28B.38.010.

RCW 28B.130.030 Use of transportation fees.

Transportation fees shall be spent only on activities directly related to the institution of higher education's transportation demand management program. These may include, but are not limited to the following activities: Transit, carpool, and vanpool subsidies; ridesharing programs, and program advertising for carpools, vanpools, and transit service; guaranteed ride-home and telecommuting programs; and bicycle storage facilities. Funds may be spent on capital or operating costs incurred in the implementation of any of these strategies, and may be also used to contract with local or regional transit agencies for transportation services. Funds may be used for existing programs if they are incorporated into the campus transportation demand management program.

[1993 c 447 § 4.]

RCW 28B.130.040 Adoption of guidelines for establishing and funding transportation demand management programs.

The board of trustees or board of regents of each institution of higher education imposing a transportation fee shall adopt guidelines governing the establishment and funding of

transportation demand management programs supported by transportation fees. These guidelines shall establish procedures for budgeting and expending transportation fee revenue.

[1993 c 447 § 5.]

Chapter 28B.135 RCW
CHILD CARE FOR HIGHER EDUCATION STUDENTS

Sections

28B.135.010 Washington accounts for student child care in higher education--Program established.
28B.135.020 Grants--Eligibility--Grant period.
28B.135.030 Program administration--Duties of higher education coordinating board--Duties of state board for community and technical colleges.
28B.135.040 Accounts created.

RCW 28B.135.010 Washington accounts for student child care in higher education--Program established.

Two Washington accounts for student child care in higher education are established. The higher education coordinating board and the state board for community and technical colleges shall administer the programs. Through these programs the boards may award on a competitive basis child care grants to state institutions of higher education to encourage programs to address the need for high quality, accessible, and affordable child care for students at higher education institutions. The university or college administration and student government association, or its equivalent, of each institution receiving the award shall contribute financial support in an amount equal to the child care grant received by the institution.

[1999 c 375 § 1.]

RCW 28B.135.020 Grants--Eligibility--Grant period.

The institution of higher education shall be eligible to receive the grant for a period not exceeding two years. After the expiration of any two-year grant, the institution may reapply to receive subsequent grant awards or a continuation of the grant awarded the prior two years.

[1999 c 375 § 2.]

RCW 28B.135.030 Program administration--Duties of higher education coordinating board--Duties of state board for community and technical colleges.

The higher education coordinating board shall administer the program for four-year institutions of higher education. The state board for community and technical colleges shall administer the program for community and technical colleges. The higher education coordinating

board and the state board for community and technical colleges shall have the following powers and duties in administering each program:

(1) To adopt rules necessary to carry out the program;

(2) To establish one or more review committees to assist in the evaluation of proposals for funding. The review committee shall include but not be limited to individuals from the Washington association for the education of young children, the child care coordinating committee, and the child care resource and referral network;

(3) To establish each biennium specific guidelines for submitting grant proposals consistent with the overall goals of the program. During the 1999-2001 biennium the guidelines shall be consistent with the following desired outcomes of increasing access to child care for students, addressing the demand for infant and toddler care, providing affordable child care alternatives, creating more cooperative preschool programs, creating models that can be replicated at other institutions, creating a partnership between university or college administrations and student government, or its equivalent and increasing efficiency and innovation at campus child care centers;

(4) To establish guidelines for an allocation system based on factors that include but are not limited to: The amount of money available in the trust fund; characteristics of the institutions including the size of the faculty and student body; and the number of child care grants received;

(5) To solicit grant proposals and provide information to the institutions of higher education about the program; and

(6) To establish reporting, evaluation, accountability, monitoring, and dissemination requirements for the recipients of the grants.

[1999 c 375 § 3.]

RCW 28B.135.040 Accounts created.

Two accounts for student child care in higher education are established in the custody of the state treasurer. Moneys in the accounts may be spent only for the purposes of RCW 28B.135.010. Disbursements from one of the accounts shall be on the authorization of the higher education coordinating board and disbursements from the other account shall be on the authorization of the state board for community and technical colleges. The accounts are subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for disbursements.

[1999 c 375 § 4.]

Chapter 28B.900 RCW
CONSTRUCTION

Sections

28B.900.010 Repeals and savings--1969 ex.s. c 223.

28B.900.020 Moneys transferred.
28B.900.030 Continuation of existing law.
28B.900.040 Provisions to be construed in pari materia.
28B.900.050 Title, chapter, section headings not part of law.
28B.900.060 Invalidity of part of title not to affect remainder.
28B.900.070 This code defined.
28B.900.080 Effective date--1969 ex.s. c 223.

RCW 28B.900.010 Repeals and savings--1969 ex.s. c 223.

See 1969 ex.s. c 223 § 28B.98.010. Formerly RCW 28B.98.010.

RCW 28B.900.020 Moneys transferred.

All moneys in the Southwestern Washington State College bond retirement fund and the Southwestern Washington State College capital projects account are hereby transferred to The Evergreen State College bond retirement fund and The Evergreen State College capital projects account respectively, which latter fund and account are created in RCW 28B.35.370.

[1969 ex.s. c 223 § 28B.98.020. Formerly RCW 28B.98.020.]

RCW 28B.900.030 Continuation of existing law.

The provisions of this title, Title 28B RCW, insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. Nothing in this 1969 code revision of Title 28 RCW shall be construed as authorizing any new bond issues or new or additional appropriations of moneys but the bond issue authorizations herein contained shall be construed only as continuations of bond issues authorized by prior laws herein repealed and reenacted, and the appropriations of moneys herein contained are continued herein for historical purposes only and this 1969 act shall not be construed as a reappropriation thereof and no appropriation contained herein shall be deemed to be extended or revived hereby and such appropriation shall lapse or shall have lapsed in accordance with the original enactment: PROVIDED, That this 1969 act shall not operate to terminate, extend, or otherwise affect any appropriation for the biennium commencing July 1, 1967 and ending June 30, 1969.

[1969 ex.s. c 223 § 28B.98.030. Formerly RCW 28B.98.030.]

RCW 28B.900.040 Provisions to be construed in pari materia.

The provisions of this title, Title 28B RCW, shall be construed in pari materia even though as a matter of prior legislative history they were not originally enacted in the same statute. The provisions of this title shall also be construed in pari materia with the provisions of Title 28A RCW, and with other laws relating to education. This section shall not operate

retroactively.

[1969 ex.s. c 223 § 28B.98.040. Formerly RCW 28B.98.040.]

RCW 28B.900.050 Title, chapter, section headings not part of law.

Title headings, chapter headings, and section or subsection headings, as used in this title, Title 28B RCW, do not constitute any part of the law.

[1969 ex.s. c 223 § 28B.98.050. Formerly RCW 28B.98.050.]

RCW 28B.900.060 Invalidity of part of title not to affect remainder.

If any provision of this title, Title 28B RCW, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected.

[1969 ex.s. c 223 § 28B.98.060. Formerly RCW 28B.98.060.]

RCW 28B.900.070 This code defined.

As used in this title, Title 28B RCW, "this code" means Titles 28A and 28B of this 1969 act.

[1969 ex.s. c 223 § 28B.98.070. Formerly RCW 28B.98.070.]

RCW 28B.900.080 Effective date--1969 ex.s. c 223.

This act shall take effect on July 1, 1970.

[1969 ex.s. c 223 § 28B.98.080. Formerly RCW 28B.98.080.]

Title 28C RCW
VOCATIONAL EDUCATION

Chapters

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28C.10 Private vocational schools.
28C.18 Work force training and education.
28C.22 Skill centers.

Notes:

Displaced homemaker act: Chapter 28B.04 RCW.
Public bodies may retain collection agencies to collect public debts--Fees: RCW 19.16.500.
Vocational agriculture education--Service areas--Programs in local school districts: RCW 28A.300.090.

Chapter 28C.04 RCW
VOCATIONAL EDUCATION

Sections

28C.04.100 Career and technical education--Plans--Standards--Technical assistance--Leadership development.
28C.04.390 Worker retraining program funds--Work force training customer advisory committee.
28C.04.400 Job skills program--Legislative declaration and policy.
28C.04.410 Job skills program--Definitions.
28C.04.420 Job skills program--Grants--Reports.
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28C.04.525 Washington award for vocational excellence--Establishment--Purposes.
28C.04.530 Washington award for vocational excellence--Board's duties.
28C.04.535 Washington award for vocational excellence--Granted annually--Notice--Presentation.
28C.04.540 Washington award for vocational excellence--Contributions.
28C.04.545 Washington award for vocational excellence--Fee waivers--Grants.
28C.04.550 Washington award for vocational excellence--When effective.
28C.04.600 AIDS information--Vocational schools.

NOTES:
AIDS information: Chapter 70.24 RCW.
Vocational agriculture education--Service areas--Programs in local school districts: RCW 28A.300.090.

RCW 28C.04.100 Career and technical education--Plans--Standards--Technical assistance--Leadership development.

(1) To ensure high quality career and technical programs, the office of the superintendent of public instruction shall review and approve the plans of local districts for the delivery of career and technical education. Standards for career and technical programs shall be established by the office of the superintendent of public instruction. These standards should:

(a) Demonstrate how career and technical education programs will ensure academic rigor; align with the state's education reform requirements; help address the skills gap of Washington's economy; and maintain strong relationships with local career and technical education advisory councils for the design and delivery of career and technical education; and

(b) Demonstrate a strategy to align the five-year planning requirement under the federal Carl Perkins act with the state and district vocational program planning requirements that include:

(i) An assessment of equipment and technology needs to support the skills training of technical students;

(ii) An assessment of industry internships required for teachers to ensure the ability to prepare students for industry-defined standards or certifications, or both;

(iii) An assessment of the costs of supporting job shadows, mentors, community service and industry internships, and other activities for student learning in the community; and

(iv) A description of the leadership activities to be provided for technical education students.

(2) To ensure high quality career education programs and services in secondary schools,

the office of the superintendent of public instruction may provide technical assistance to local districts and develop state guidelines for the delivery of career guidance in secondary schools.

(3) To ensure leadership development, the staff of the office of the superintendent of public instruction may serve as the state advisors to Washington state FFA, Washington future business leaders of America, Washington DECA, Washington SkillsUSA-VICA, Washington family, career and community leaders, and Washington technology students association, and any additional career or technical student organizations that are formed. Working with the directors or executive secretaries of these organizations, the office of the superintendent of public instruction may develop tools for the coordination of leadership activities with the curriculum of technical education programs.

(4) As used in this section, "career and technical education" means a planned program of courses and learning experiences that begins with exploration of career options; supports basic academic and life skills; and enables achievement of high academic standards, leadership, options for high skill, high wage employment preparation, and advanced and continuing education.

[2001 c 336 § 2.]

RCW 28C.04.390 Worker retraining program funds--Work force training customer advisory committee.

(1) The college board worker retraining program funds shall be used for training programs and related support services, including financial aid, counseling, referral to training resources, job referral, and job development that:

(a) Are consistent with the unified plan for work force development;

(b) Provide increased enrollments for dislocated workers;

(c) Provide customized training opportunities for dislocated workers; and

(d) Provide increased enrollments and support services, including financial aid for those students not receiving unemployment insurance benefits, that do not replace or supplant any existing enrollments, programs, support services, or funding sources.

(2) The college board shall develop a plan for use of the worker retraining program funds in conjunction with the work force training customer advisory committee established in subsection (3) of this section. In developing the plan the college board shall:

(a) Provide that applicants for worker retraining program funds shall solicit financial support for training programs and give priority in receipt of funds to those applicants which are most successful in matching public dollars with financial support;

(b) Provide that applicants for worker retraining program funds shall develop training programs in partnership with local businesses, industry associations, labor, and other partners as appropriate and give priority in receipt of funds to those applicants who develop customized training programs in partnership with local businesses, industry associations, and labor organizations;

(c) Give priority in receipt of funds to those applicants serving rural areas;

(d) Ensure that applicants receiving worker retraining program funds gather information from local work force development councils on employer work force needs, including the needs

of businesses with less than twenty-five employees; and

(e) Provide for specialized vocational training at a private career school or college at the request of a recipient eligible under subsection (1)(b) of this section. Available tuition for the training is limited to the amount that would otherwise be payable per enrolled quarter to a public institution.

(3) The executive director of the college board shall appoint a work force training customer advisory committee by July 1, 1999, to:

(a) Assist in the development of the plan for the use of the college board worker retraining program funds and recommend guidelines to the college board for the operation of worker retraining programs;

(b) Recommend selection criteria for worker retraining programs and grant applicants for receipt of worker retraining program grants;

(c) Provide advice to the college board on other work force development activities of the community and technical colleges;

(d) Recommend selection criteria for job skills grants, consistent with criteria established in this chapter and chapter 121, Laws of 1999. Such criteria shall include a prioritization of job skills applicants in rural areas;

(e) Recommend guidelines to the college board for the operation of the job skills program; and

(f) Recommend grant applicants for receipt of job skills program grants.

(4) Members of the work force training customer advisory committee shall consist of three college system representatives selected by the executive director of the college board, three representatives of business selected from nominations provided by state-wide business organizations, and three representatives of labor selected from nominations provided by a state-wide labor organization representing a cross-section of workers in the state.

[1999 c 121 § 1.]

RCW 28C.04.400 Job skills program--Legislative declaration and policy.

The legislature declares that it is an important function of government to increase opportunities for gainful employment, to assist in promoting a productive and expanding economy, and to encourage the flow of business and industry support to educational institutions. Therefore, the legislature finds that it is in the public interest of the state to encourage and facilitate the formation of cooperative relationships between business and industry and educational institutions which provide for the development and significant expansion of programs of skills training and education consistent with employment needs and to make interested individuals aware of the employment opportunities presented thereby. It is the policy of the state of Washington to ensure that programs of skill training are available on a regional basis and are utilized by a variety of businesses and industries.

[1983 1st ex.s. c 21 § 1.]

Notes:

Severability--1983 1st ex.s. c 21: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 1st ex.s. c 21 § 12.]

RCW 28C.04.410 Job skills program--Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28C.04.390 and 28C.04.420.

(1) "Applicant" means an educational institution which has made application for a job skills grant under RCW 28C.04.390 and 28C.04.420.

(2) "Business and industry" means a private corporation, institution, firm, person, group, or association concerned with commerce, trades, manufacturing, or the provision of services within the state, or a public or nonprofit hospital licensed by the department of social and health services.

(3) "Dislocated worker" means an individual who meets the definition of dislocated worker contained in P.L. 105-220, Sec. 101 on July 25, 1999.

(4) "Educational institution" means a public secondary or postsecondary institution, an independent institution, or a private career school or college within the state authorized by law to provide a program of skills training or education beyond the secondary school level. Any educational institution receiving a job skills grant under RCW 28C.04.420 through *28C.04.480 shall be free of sectarian control or influence as set forth in Article IX, section 4 of the state Constitution.

(5) "Equipment" means tangible personal property which will further the objectives of the supported program and for which a definite value and evidence in support of the value have been provided by the donor.

(6) "Financial support" means any thing of value which is contributed by business, industry, and others to an educational institution which is reasonably calculated to support directly the development and expansion of a particular program under RCW 28C.04.390 and 28C.04.420 and represents an addition to any financial support previously or customarily provided to such educational institutions by the donor. "Financial support" includes, but is not limited to, funds, equipment, facilities, faculty, and scholarships for matriculating students and trainees.

(7) "Job skills grant" means funding that is provided to an educational institution by the commission for the development or significant expansion of a program under RCW 28C.04.390 and 28C.04.420.

(8) "Job skills program" means a program of skills training or education separate from and in addition to existing vocational education programs and which:

(a) Provides short-term training which has been designated for specific industries;

(b) Provides training for prospective employees before a new plant opens or when existing industry expands;

(c) Includes training and retraining for workers already employed by an existing industry or business where necessary to avoid dislocation or where upgrading of existing employees would create new vacancies for unemployed persons;

(d) Serves areas with high concentrations of economically disadvantaged persons and high unemployment;

(e) Serves areas with new and growing industries;

(f) Serves areas where there is a shortage of skilled labor to meet job demands; or

(g) Promotes the location of new industry in areas affected by economic dislocation.

(9) "Technical assistance" means professional and any other assistance provided by business and industry to an educational institution, which is reasonably calculated to support directly the development and expansion of a particular program and which represents an addition to any technical assistance previously or customarily provided to the educational institutions by the donor.

(10) "College board" means the state board for community and technical colleges under chapter 28B.50 RCW.

[1999 c 121 § 2; 1983 1st ex.s. c 21 § 2.]

Notes:

***Reviser's note:** RCW 28C.04.480 was repealed by 1999 c 121 § 4.

Severability--1983 1st ex.s. c 21: See note following RCW 28C.04.400.

RCW 28C.04.420 Job skills program--Grants--Reports.

The college board may, subject to appropriation from the legislature or from funds made available from any other public or private source and pursuant to rules adopted by the college board with the advice of the work force training customer advisory committee established in RCW 28C.04.390, provide job skills grants to educational institutions. The job skills grants shall be used exclusively for programs which are consistent with the job skills program. The college board shall work in collaboration with the work force training customer advisory committee established in RCW 28C.04.390 to assure that:

(1) The program is within the scope of the job skills program under this chapter and may reasonably be expected to succeed and thereby increase employment within the state;

(2) Provision has been made to use any available alternative funding from local, state, and federal sources;

(3) The job skills grant will only be used to cover the costs associated with the program;

(4) The program will not unnecessarily duplicate existing programs and could not be provided by another educational institution more effectively or efficiently;

(5) The program involves an area of skills training and education for which there is a demonstrable need;

(6) The applicant has made provisions for the use of existing federal and state resources for student financial assistance;

(7) The job skills grant is essential to the success of the program as the resources of the applicant are inadequate to attract the technical assistance and financial support necessary for the program from business and industry;

(8) The program represents a collaborative partnership between business, industry, labor,

educational institutions, and other partners, as appropriate;

(9) The commitment of financial support from business and industry shall be equal to or greater than the amount of the requested job skills grant;

(10) Binding commitments have been made to the commission by the applicant for adequate reporting of information and data regarding the program to the commission, particularly information concerning the recruitment and employment of trainees and students, and including a requirement for an annual or other periodic audit of the books of the applicant directly related to the program, and for such control on the part of the commission as it considers prudent over the management of the program, so as to protect the use of public funds, including, in the discretion of the commission and without limitation, right of access to financial and other records of the applicant directly related to the programs; and

(11) A provision has been made by the applicant to work, in cooperation with the employment security department, to identify and screen potential trainees, and that provision has been made by the applicant for the participation as trainees of low-income persons including temporary assistance for needy families recipients, dislocated workers, and persons from minority and economically disadvantaged groups to participate in the program.

Beginning October 1, 1999, and every two years thereafter, the college board shall provide the legislature and the governor with a report describing the activities and outcomes of the state job skills program.

[1999 c 121 § 3; 1983 1st ex.s. c 21 § 4.]

Notes:

Severability--1983 1st ex.s. c 21: See note following RCW 28C.04.400.

RCW 28C.04.520 Washington award for vocational excellence--Intent.

Every year community colleges, technical colleges, and high schools graduate students who have distinguished themselves by their outstanding performance in their occupational training programs. The legislature intends to recognize and honor these students by establishing a Washington award for vocational excellence.

[1995 1st sp.s. c 7 § 1; 1984 c 267 § 1.]

Notes:

Severability--1995 1st sp.s. c 7: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 1st sp.s. c 7 § 9.]

RCW 28C.04.525 Washington award for vocational excellence--Establishment--Purposes.

The Washington award for vocational excellence program is established. The purposes of this annual program are to:

(1) Maximize public awareness of the achievements, leadership ability, and community

contributions of the students enrolled in occupational training programs in high schools, community colleges, and technical colleges;

(2) Emphasize the dignity of work in our society;

(3) Instill respect for those who become skilled in crafts and technology;

(4) Recognize the value of vocational education and its contribution to the economy of this state;

(5) Foster business, labor, and community involvement in vocational-technical training programs and in this award program; and

(6) Recognize the outstanding achievements of up to three vocational or technical students, at least two of whom should be graduating high school students, in each legislative district. Students who have completed at least one year of a vocational-technical program in a community college or public technical college may also be recognized.

[1995 1st sp.s. c 7 § 2; 1987 c 231 § 3; 1984 c 267 § 2.]

Notes:

Severability--1995 1st sp.s. c 7: See note following RCW 28C.04.520.

Effective date--1987 c 231 § 3: "Section 3 of this act shall take effect January 1, 1988." [1987 c 231 § 6.]

RCW 28C.04.530 Washington award for vocational excellence--Board's duties.

(1) The work force training and education coordinating board shall have the responsibility for the development and administration of the Washington award for vocational excellence program. The work force training and education coordinating board shall develop the program in consultation with other state agencies and private organizations having interest and responsibility in vocational education, including but not limited to: The state board for community and technical colleges, the office of the superintendent of public instruction, a voluntary professional association of vocational educators, and representatives from business, labor, and industry.

(2) The work force training and education coordinating board shall establish a planning committee to develop the criteria for screening and selecting the students who will receive the award. This criteria shall include but not be limited to the following characteristics: Proficiency in their chosen fields, attendance, attitude, character, leadership, and civic contributions.

[1995 1st sp.s. c 7 § 3; 1987 c 231 § 2; 1984 c 267 § 3.]

Notes:

Severability--1995 1st sp.s. c 7: See note following RCW 28C.04.520.

RCW 28C.04.535 Washington award for vocational excellence--Granted annually--Notice--Presentation.

The Washington award for vocational excellence shall be granted annually. The work force training and education coordinating board shall notify the students receiving the award, their vocational instructors, local chambers of commerce, the legislators of their respective districts, and the governor, after final selections have been made. The work force training and

education coordinating board, in conjunction with the governor's office, shall prepare appropriate certificates to be presented to the selected students. Awards shall be presented in public ceremonies at times and places determined by the work force training and education coordinating board in cooperation with the office of the governor.

[1995 1st sp.s. c 7 § 4; 1984 c 267 § 4.]

Notes:

Severability--1995 1st sp.s. c 7: See note following RCW 28C.04.520.

RCW 28C.04.540 Washington award for vocational excellence--Contributions.

The work force training and education coordinating board may accept any and all donations, grants, bequests, and devices, conditional or otherwise, or money, property, service, or other things of value which may be received from any federal, state, or local agency, any institution, person, firm, or corporation, public and private, to be held, used, or applied for the purposes of the Washington award for vocational excellence program. The work force training and education coordinating board shall encourage maximum participation from business, labor, and community groups. The work force training and education coordinating board shall also coordinate, where feasible, the contribution activities of the various participants.

The work force training and education coordinating board shall not make expenditures from funds collected under this section until February 15, 1985.

[1995 1st sp.s. c 7 § 5; 1984 c 267 § 5.]

Notes:

Severability--1995 1st sp.s. c 7: See note following RCW 28C.04.520.

RCW 28C.04.545 Washington award for vocational excellence--Fee waivers--Grants.

(1) The respective governing boards of the public technical colleges shall provide fee waivers for a maximum of two years for those recipients of the Washington award for vocational excellence established under RCW 28C.04.520 through 28C.04.540 who received the award before June 30, 1994. To qualify for the waiver, recipients shall enter the public technical college within three years of receiving the award. An above average rating at the technical college in the first year shall be required to qualify for the second-year waiver.

(2) Students named by the work force training and education coordinating board after June 30, 1994, as recipients of the Washington award for vocational excellence under RCW 28C.04.520 through 28C.04.550 shall be eligible to receive a grant for undergraduate course work as authorized under RCW 28B.80.272.

(3)(a) Beginning with awards made during the 1998-99 academic year, recipients must complete using the award before the fall term in the sixth year following the date of the award. For these recipients, eligibility for the award is forfeited after this period.

(b) All persons awarded a Washington award for vocational excellence before the 1995-96 academic year and who have remaining eligibility on April 19, 1999, must complete

using the award before September 2002. For these recipients, eligibility for the award is forfeited after this period.

(c) All persons awarded a Washington award for vocational excellence during the 1995-96, 1996-97, and 1997-98 academic years must complete using the award before September 2005. For these recipients, eligibility for the award is forfeited after this period.

[1999 c 28 § 1; 1995 1st sp.s. c 7 § 6; 1987 c 231 § 4; 1984 c 267 § 7.]

Notes:

Effective date--1999 c 28: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 19, 1999]." [1999 c 28 § 2.]

Severability--1995 1st sp.s. c 7: See note following RCW 28C.04.520.

RCW 28C.04.550 Washington award for vocational excellence--When effective.

The Washington award for vocational excellence shall be effective commencing with the 1984-85 academic year.

[1987 c 505 § 16; 1984 c 267 § 8.]

RCW 28C.04.600 AIDS information--Vocational schools.

Each publicly operated vocational school shall make information available to all newly matriculated students on methods of transmission of the human immunodeficiency virus and prevention of acquired immunodeficiency syndrome. The curricula and materials shall be reviewed for medical accuracy by the office on AIDS in coordination with the appropriate regional AIDS service network.

[1988 c 206 § 503.]

Notes:

Severability--1988 c 206: See RCW 70.24.900.

Chapter 28C.10 RCW
PRIVATE VOCATIONAL SCHOOLS

Sections

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28C.10.220 Remedies and penalties in chapter nonexclusive and cumulative.
28C.10.900 Severability--1986 c 299.
28C.10.902 Effective date--1986 c 299.

RCW 28C.10.010 Intent.

It is the intent of this chapter to protect against practices by private vocational schools which are false, deceptive, misleading, or unfair, and to help ensure adequate educational quality at private vocational schools.

[1986 c 299 § 1.]

RCW 28C.10.020 Definitions.

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

(1) "Agency" means the work force training and education coordinating board.

(2) "Agent" means a person owning an interest in, employed by, or representing for remuneration a private vocational school within or without this state, who enrolls or personally attempts to secure the enrollment in a private vocational school of a resident of this state, offers to award educational credentials for remuneration on behalf of a private vocational school, or holds himself or herself out to residents of this state as representing a private vocational school for any of these purposes.

(3) "Degree" means any designation, appellation, letters, or words including but not limited to "associate," "bachelor," "master," "doctor," or "fellow" which signify or purport to signify satisfactory completion of an academic program of study beyond the secondary school level.

(4) "Education" includes but is not limited to, any class, course, or program of training, instruction, or study.

(5) "Educational credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify or appear to signify enrollment, attendance, progress, or satisfactory completion of the requirements or prerequisites for any educational program.

(6) "Entity" includes, but is not limited to, a person, company, firm, society, association, partnership, corporation, or trust.

(7) "Private vocational school" means any location where an entity is offering postsecondary education in any form or manner for the purpose of instructing, training, or preparing persons for any vocation or profession.

(8) "To grant" includes to award, issue, sell, confer, bestow, or give.

(9) "To offer" includes, in addition to its usual meanings, to advertise or publicize. "To offer" also means to solicit or encourage any person, directly or indirectly, to perform the act described.

(10) "To operate" means to establish, keep, or maintain any facility or location where, from, or through which education is offered or educational credentials are offered or granted to residents of this state, and includes contracting for the performance of any such act.

[1993 c 445 § 1; 1991 c 238 § 81; 1990 c 188 § 5; 1986 c 299 § 2.]

Notes:

Effective dates--Severability--1991 c 238: See RCW 28B.50.917 and 28B.50.918.

Severability--1990 c 188: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 188 § 14.]

RCW 28C.10.030 Application of chapter.

This chapter does not apply to:

(1) Bona fide trade, business, professional, or fraternal organizations sponsoring educational programs primarily for that organization's membership or offered by that organization on a no-fee basis;

(2) Entities offering education that is exclusively avocational or recreational;

(3) Education not requiring payment of money or other consideration if this education is not advertised or promoted as leading toward educational credentials;

(4) Entities that are established, operated, and governed by this state or its political subdivisions under Title 28A, 28B, or 28C RCW;

(5) Degree-granting programs in compliance with the rules of the higher education coordinating board;

(6) Any other entity to the extent that it has been exempted from some or all of the provisions of this chapter under RCW 28C.10.100;

(7) Entities not otherwise exempt that are of a religious character, but only as to those educational programs exclusively devoted to religious or theological objectives and represented accurately in institutional catalogs or other official publications;

(8) Entities offering only courses certified by the federal aviation administration;

(9) Barber and cosmetology schools licensed under chapter 18.16 RCW;

(10) Entities which only offer courses approved to meet the continuing education requirements for licensure under chapter 18.04, 18.79, or 48.17 RCW; and

(11) Entities not otherwise exempt offering only workshops or seminars lasting no longer

than three calendar days.

[1994 sp.s. c 9 § 723; 1990 c 188 § 6; 1986 c 299 § 3.]

Notes:

Severability--Headings and captions not law--Effective date--1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

Severability--1990 c 188: See note following RCW 28C.10.020.

RCW 28C.10.040 Agency's duties--Rules--Investigations--Interagency agreements about degree and nondegree programs.

The agency:

(1) Shall maintain a list of private vocational schools licensed under this chapter;

(2) Shall adopt rules in accordance with chapter 34.05 RCW to carry out this chapter;

(3) May investigate any entity the agency reasonably believes to be subject to the jurisdiction of this chapter. In connection with the investigation, the agency may administer oaths and affirmations, issue subpoenas and compel attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the agency deems relevant or material to the investigation. The agency, including its staff and any other authorized persons, may conduct site inspections and examine records of all schools subject to this chapter;

(4) Shall develop an interagency agreement with the higher education coordinating board to regulate degree-granting private vocational schools with respect to degree and nondegree programs.

[1994 c 38 § 5; 1986 c 299 § 4.]

RCW 28C.10.050 Minimum standards--Denial, revocation, or suspension of licenses.

(1) The agency shall adopt by rule minimum standards for entities operating private vocational schools. The minimum standards shall include, but not be limited to, requirements for each school to:

(a) Disclose to the agency information about its ownership and financial position and to demonstrate that it has sufficient financial resources to fulfill its commitments to students. Financial disclosures provided to the agency shall not be subject to public disclosure under chapter 42.17 RCW;

(b) Follow a uniform statewide cancellation and refund policy as specified by the agency;

(c) Disclose through use of a school catalog, brochure, or other written material, necessary information to students so that students may make informed enrollment decisions. The agency shall specify what information is required;

(d) Use an enrollment contract or agreement that includes: (i) The cancellation and refund policy, (ii) a brief statement that the school is licensed under this chapter and that inquiries may be made to the agency, and (iii) other necessary information as determined by the

agency;

(e) Describe accurately and completely in writing to students before their enrollment prerequisites and requirements for (i) completing successfully the programs of study in which they are interested and (ii) qualifying for the fields of employment for which their education is designed;

(f) Comply with the requirements of RCW 28C.10.084;

(g) Assess the basic skills and relevant aptitudes of each potential student to determine that a potential student has the basic skills and relevant aptitudes necessary to complete and benefit from the program in which the student plans to enroll. Guidelines for such assessments shall be developed by the agency, in consultation with the schools. The method of assessment shall be reported to the agency. Assessment records shall be maintained in the student's file;

(h) Discuss with each potential student the potential student's obligations in signing any enrollment contract and/or incurring any debt for educational purposes. The discussion shall include the inadvisability of acquiring an excessive educational debt burden that will be difficult to repay given employment opportunities and average starting salaries in the potential student's chosen occupation.

(2) Any enrollment contract shall have an attachment in a format provided by the agency. The attachment shall be signed by both the school and the student. The attachment shall stipulate that the school has complied with subsection (1)(h) of this section and that the student understands and accepts his or her responsibilities in signing any enrollment contract or debt application. The attachment shall also stipulate that the enrollment contract shall not be binding for at least five days, excluding Sundays and holidays, following signature of the enrollment contract by both parties.

(3) The agency shall deny, revoke, or suspend the license of any school that does not meet or maintain the minimum standards.

[2001 c 23 § 1; 1990 c 188 § 7; 1987 c 459 § 3; 1986 c 299 § 5.]

NOTES:

Severability--1990 c 188: See note following RCW 28C.10.020.

RCW 28C.10.060 Licenses--Requirements--Renewal.

Any entity desiring to operate a private vocational school shall apply for a license to the agency on a form provided by the agency. The agency shall issue a license if the school:

(1) Files a completed application with information satisfactory to the agency. Misrepresentation by an applicant shall be grounds for the agency, at its discretion, to deny or revoke a license.

(2) Complies with the requirements for the *tuition recovery fund under RCW 28C.10.084.

(3) Pays the required fees.

(4) Meets the minimum standards adopted by the agency under RCW 28C.10.050.

Licenses shall be valid for one year from the date of issue unless revoked or suspended. If a school fails to file a completed renewal application at least thirty days before the expiration

date of its current license the school shall be subject to payment of a late filing fee fixed by the agency.

[1987 c 459 § 4; 1986 c 299 § 6.]

Notes:

***Reviser's note:** The "tuition recovery fund" was renamed the "tuition recovery trust fund" by 1993 c 445.

RCW 28C.10.070 Fees.

The agency shall establish fees by rule at a level necessary to approximately recover the staffing costs incurred in administering this chapter. All fees collected under this section shall be deposited in the state general fund.

[1986 c 299 § 7.]

RCW 28C.10.082 *Tuition recovery fund--Created--State treasurer custodian.

The *tuition recovery fund is hereby established in the custody of the state treasurer. The agency shall deposit in the fund all moneys received under RCW 28C.10.084. Moneys in the fund may be spent only for the purposes under RCW 28C.10.084. Disbursements from the fund shall be on authorization of the agency. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements.

[1991 sp.s. c 13 § 85; 1987 c 459 § 2.]

Notes:

***Reviser's note:** The "tuition recovery fund" was renamed the "tuition recovery trust fund" by 1993 c 445.

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

RCW 28C.10.084 Tuition recovery trust fund--Deposits--Operation--Claims.

(1) The agency shall establish, maintain, and administer a tuition recovery trust fund. All funds collected for the tuition recovery trust fund are payable to the state for the benefit and protection of any student or enrollee of a private vocational school licensed under this chapter, or, in the case of a minor, his or her parents or guardian, for purposes including but not limited to the settlement of claims related to school closures under subsection (10) of this section and the settlement of claims under RCW 28C.10.120. The fund shall be liable for settlement of claims and costs of administration but shall not be liable to pay out or recover penalties assessed under RCW 28C.10.130 or 28C.10.140. No liability accrues to the state of Washington from claims made against the fund.

(2) By June 30, 1998, a minimum operating balance of one million dollars shall be achieved in the fund and maintained thereafter. If disbursements reduce the operating balance below two hundred thousand dollars at any time before June 30, 1998, or below one million dollars thereafter, each participating owner shall be assessed a pro rata share of the deficiency created, based upon the incremental scale created under subsection (6) of this section for each

private vocational school. The agency shall adopt schedules of times and amounts for effecting payments of assessment.

(3) In order for a private vocational school to be and remain licensed under this chapter each owner shall, in addition to other requirements under this chapter, make cash deposits on behalf of the school into a tuition recovery trust fund as a means to assure payment of claims brought under this chapter.

(4) The amount of liability that can be satisfied by this fund on behalf of each private vocational school licensed under this chapter shall be the amount of unearned prepaid tuition in possession of the owner.

(5) The fund's liability with respect to each participating private vocational school commences on the date of the initial deposit into the fund made on its behalf and ceases one year from the date the school is no longer licensed under this chapter.

(6) The agency shall adopt by rule a matrix for calculating the deposits into the fund on behalf of each vocational school. Proration shall be determined by factoring the school's share of liability in proportion to the aggregated liability of all participants under the fund by grouping such prorations under the incremental scale created by subsection (4) of this section. Expressed as a percentage of the total liability, that figure determines the amount to be contributed when factored into a fund containing one million dollars. The total amount of its prorated share, minus the amount paid for initial capitalization, shall be payable in up to twenty increments over a ten-year period, commencing with the sixth month after the initial capitalization deposit has been made on behalf of the school. Additionally, the agency shall require deposits for initial capitalization, under which the amount each owner deposits is proportionate to the school's share of two hundred thousand dollars, employing the matrix developed under this subsection.

(7) No vested right or interests in deposited funds is created or implied for the depositor, either at any time during the operation of the fund or at any such future time that the fund may be dissolved. All funds deposited are payable to the state for the purposes described under this section. The agency shall maintain the fund, serve appropriate notices to affected owners when scheduled deposits are due, collect deposits, and make disbursements to settle claims against the fund. When the aggregated deposits total five million dollars and the history of disbursements justifies such modifications, the agency may at its own option reduce the schedule of deposits whether as to time, amount, or both and the agency may also entertain proposals from among the licensees with regard to disbursing surplus funds for such purposes as vocational scholarships.

(8) Based on annual financial data supplied by the owner, the agency shall determine whether the increment assigned to that private vocational school on the incremental scale established under subsection (6) of this section has changed. If an increase or decrease in gross annual tuition income has occurred, a corresponding change in the school's incremental position and contribution schedule shall be made before the date of the owner's next scheduled deposit into the fund. Such adjustments shall only be calculated and applied annually.

(9) If the majority ownership interest in a private vocational school is conveyed through sale or other means into different ownership, all contributions made to the date of transfer remain in the fund. The new owner shall continue to make contributions to the fund until the original ten-year cycle is completed. All tuition recovery trust fund contributions shall remain with the

private vocational school transferred, and no additional cash deposits may be required beyond the original ten-year contribution cycle.

(10) To settle claims adjudicated under RCW 28C.10.120 and claims resulting when a private vocational school ceases to provide educational services, the agency may make disbursements from the fund. Students enrolled under a training contract executed between a school and a public or private agency or business are not eligible to make a claim against the fund. In addition to the processes described for making reimbursements related to claims under RCW 28C.10.120, the following procedures are established to deal with reimbursements related to school closures:

(a) The agency shall attempt to notify all potential claimants. The unavailability of records and other circumstances surrounding a school closure may make it impossible or unreasonable for the agency to ascertain the names and whereabouts of each potential claimant but the agency shall make reasonable inquiries to secure that information from all likely sources. The agency shall then proceed to settle the claims on the basis of information in its possession. The agency is not responsible or liable for claims or for handling claims that may subsequently appear or be discovered.

(b) Thirty days after identified potential claimants have been notified, if a claimant refuses or neglects to file a claim verification as requested in such notice, the agency shall be relieved of further duty or action on behalf of the claimant under this chapter.

(c) After verification and review, the agency may disburse funds from the tuition recovery trust fund to settle or compromise the claims. However, the liability of the fund for claims against the closed school shall not exceed the amount of unearned prepaid tuition in the possession of the owner.

(d) In the instance of claims against a closed school, the agency shall seek to recover such disbursed funds from the assets of the defaulted owner, including but not limited to asserting claims as a creditor in bankruptcy proceedings.

(11) When funds are disbursed to settle claims against a licensed private vocational school, the agency shall make demand upon the owner for recovery. The agency shall adopt schedules of times and amounts for effecting recoveries. An owner's failure to perform subjects the school's license to suspension or revocation under RCW 28C.10.050 in addition to any other available remedies.

(12) For purposes of this section, "owner" includes, but is not limited to, a person, company, firm, society, association, partnership, corporation, or trust having a controlling ownership interest in a private vocational school.

[2001 c 23 § 2; 1999 c 321 § 3; 1993 c 445 § 2; 1990 c 188 § 8; 1987 c 459 § 1.]

NOTES:

Intent--1999 c 321: See note following RCW 28B.15.100.

Severability--1990 c 188: See note following RCW 28C.10.020.

RCW 28C.10.090 Actions prohibited without license.

A private vocational school, whether located in this state or outside of this state, shall not

conduct business of any kind, make any offers, advertise or solicit, or enter into any contracts unless the private vocational school is licensed under this chapter.

[1986 c 299 § 9.]

RCW 28C.10.100 Suspension or modification of requirements of chapter.

The executive director of the agency may suspend or modify any of the requirements under this chapter in a particular case if the agency finds that:

(1) The suspension or modification is consistent with the purposes of this chapter; and

(2) The education to be offered addresses a substantial, demonstrated need among residents of the state or that literal application of this chapter would cause a manifestly unreasonable hardship.

[1986 c 299 § 10.]

RCW 28C.10.110 Unfair business practices.

It is an unfair business practice for an entity operating a private vocational school or an agent employed by a private vocational school to:

(1) Fail to comply with the terms of a student enrollment contract or agreement;

(2) Use an enrollment contract form, catalog, brochure, or similar written material affecting the terms and conditions of student enrollment other than that previously submitted to the agency and authorized for use;

(3) Advertise in the help wanted section of a newspaper or otherwise represent falsely, directly or by implication, that the school is an employment agency, is making an offer of employment or otherwise is attempting to conceal the fact that what is being represented are course offerings of a school;

(4) Represent falsely, directly or by implication, that an educational program is approved by a particular industry or that successful completion of the program qualifies a student for admission to a labor union or similar organization or for the receipt of a state license in any business, occupation, or profession;

(5) Represent falsely, directly or by implication, that a student who successfully completes a course or program of instruction may transfer credit for the course or program to any institution of higher education;

(6) Represent falsely, directly or by implication, in advertising or in any other manner, the school's size, location, facilities, equipment, faculty qualifications, or the extent or nature of any approval received from an accrediting association;

(7) Represent that the school is approved, recommended, or endorsed by the state of Washington or by the agency, except the fact that the school is authorized to operate under this chapter may be stated;

(8) Provide prospective students with any testimonial, endorsement, or other information which has the tendency to mislead or deceive prospective students or the public regarding current practices of the school, current conditions for employment opportunities, or probable

earnings in the occupation for which the education was designed;

(9) Designate or refer to sales representatives as "counselors," "advisors," or similar terms which have the tendency to mislead or deceive prospective students or the public regarding the authority or qualifications of the sales representatives;

(10) Make or cause to be made any statement or representation in connection with the offering of education if the school or agent knows or reasonably should have known the statement or representation to be false, substantially inaccurate, or misleading;

(11) Engage in methods of advertising, sales, collection, credit, or other business practices which are false, deceptive, misleading, or unfair, as determined by the agency by rule; or

(12) Attempt to recruit students in or within forty feet of a building that contains a welfare or unemployment office. Recruiting includes, but is not limited to canvassing and surveying. Recruiting does not include leaving materials at or near an office for a person to pick up of his or her own accord, or handing a brochure or leaflet to a person provided that no attempt is made to obtain a name, address, telephone number, or other data, or to otherwise actively pursue the enrollment of the individual.

It is a violation of this chapter for an entity operating a private vocational school to engage in an unfair business practice. The agency may deny, revoke, or suspend the license of any entity that is found to have engaged in a substantial number of unfair business practices or that has engaged in significant unfair business practices.

[2001 c 23 § 3; 1990 c 188 § 9; 1986 c 299 § 11.]

NOTES:

Severability--1990 c 188: See note following RCW 28C.10.020.

RCW 28C.10.120 Complaints--Investigations--Hearings--Remedies.

(1) Complaints may be filed under this chapter only by a person claiming loss of tuition or fees as a result of an unfair business practice. The complaint shall set forth the alleged violation and shall contain information required by the agency on forms provided for that purpose. A complaint may also be filed with the agency by an authorized staff member of the agency or by the attorney general.

(2) The agency shall investigate any complaint under this section and shall first attempt to bring about a negotiated settlement. The agency director or the director's designee may conduct an informal hearing with the affected parties in order to determine whether a violation has occurred.

(3) If the agency finds that the private vocational school or its agent engaged in or is engaging in any unfair business practice, the agency shall issue and cause to be served upon the violator an order requiring the violator to cease and desist from the act or practice and may impose the penalties provided under RCW 28C.10.130. If the agency finds that the complainant has suffered loss as a result of the act or practice, the agency may order the violator to pay full or partial restitution of any amounts lost. The loss may include any money paid for tuition, required or recommended course materials, and any reasonable living expenses incurred by the

complainant during the time the complainant was enrolled at the school.

(4) The complainant is not bound by the agency's determination of restitution. The complainant may reject that determination and may pursue any other legal remedy.

(5) The violator may, within twenty days of being served any order described under subsection (3) of this section, file an appeal under the administrative procedure act, chapter 34.05 RCW. Timely filing stays the agency's order during the pendency of the appeal. If the agency prevails, the appellant shall pay the costs of the administrative hearing.

[1993 c 445 § 3; 1990 c 188 § 10; 1989 c 175 § 83; 1986 c 299 § 12.]

Notes:

Severability--1990 c 188: See note following RCW 28C.10.020.

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 28C.10.130 Violations--Civil penalties.

Any private vocational school or agent violating RCW 28C.10.060, 28C.10.090, or 28C.10.110 or the applicable agency rules is subject to a civil penalty of not more than one hundred dollars for each separate violation. Each day on which a violation occurs constitutes a separate violation. Multiple violations on a single day may be considered separate violations. The fine may be imposed by the agency under RCW 28C.10.120, or in any court of competent jurisdiction.

[1986 c 299 § 13.]

RCW 28C.10.140 Violations--Criminal sanctions.

Any entity or any owner, officer, agent, or employee of such entity who wilfully violates RCW 28C.10.060 or 28C.10.090 is guilty of a gross misdemeanor and, upon conviction, shall be punished by a fine of not to exceed one thousand dollars or by imprisonment in the county jail for not to exceed one year, or by both such fine and imprisonment.

Each day on which a violation occurs constitutes a separate violation. The criminal sanctions may be imposed by a court of competent jurisdiction in an action brought by the attorney general of this state.

[1986 c 299 § 14.]

RCW 28C.10.150 Actions resulting in jurisdiction of courts.

A private vocational school, whether located in this state or outside of this state, that conducts business of any kind, makes any offers, advertises, solicits, or enters into any contracts in this state or with a resident of this state is subject to the jurisdiction of the courts of this state for any cause of action arising from the acts.

[1986 c 299 § 15.]

RCW 28C.10.160 Educational records--Permanent file--Protection.

If any private vocational school discontinues its operation, the chief administrative officer of the school shall file with the agency the original or legible true copies of all educational records required by the agency. If the agency determines that any educational records are in danger of being made unavailable to the agency, the agency may seek a court order to protect and if necessary take possession of the records. The agency shall cause to be maintained a permanent file of educational records coming into its possession.

[1986 c 299 § 16.]

RCW 28C.10.170 Contracts voidable--When.

If a student or prospective student is a resident of this state at the time any contract relating to payment for education or any note, instrument, or other evidence of indebtedness relating thereto is entered into, RCW 28C.10.180 shall govern the rights of the parties to the contract or evidence of indebtedness. If a contract or evidence of indebtedness contains any of the following agreements, the contract is voidable at the option of the student or prospective student:

(1) That the law of another state shall apply;

(2) That the maker or any person liable on the contract or evidence of indebtedness consents to the jurisdiction of another state;

(3) That another person is authorized to confess judgment on the contract or evidence of indebtedness; or

(4) That fixes venue.

[1986 c 299 § 17.]

RCW 28C.10.180 Enforceability of debts--Authority to offer degree required.

A note, instrument, or other evidence of indebtedness or contract relating to payment for education is not enforceable in the courts of this state by a private vocational school or holder of the instrument unless the private vocational school was licensed under this chapter at the time the note, instrument, or other evidence of indebtedness or contract was entered into.

[1986 c 299 § 18.]

RCW 28C.10.190 Actions to enforce chapter--Who may bring--Relief.

The attorney general or the prosecuting attorney of any county in which a private vocational school or agent of the school is found may bring an action in any court of competent jurisdiction for the enforcement of this chapter. The court may issue an injunction or grant any other appropriate form of relief.

[1986 c 299 § 19.]

RCW 28C.10.200 Injunctive relief--Agency may seek.

The agency may seek injunctive relief, after giving notice to the affected party, in a court of competent jurisdiction for a violation of this chapter or the rules adopted under this chapter. The agency need not allege or prove that the agency has no adequate remedy at law. The right of injunction provided in this section is in addition to any other legal remedy which the agency has and is in addition to any right of criminal prosecution provided by law. The existence of agency action with respect to alleged violations of this chapter and rules adopted under this chapter does not operate as a bar to an action for injunctive relief under this section.

[1986 c 299 § 20.]

RCW 28C.10.210 Violation of chapter unfair or deceptive practice under RCW 19.86.020.

A violation of this chapter or the rules adopted under this chapter affects the public interest and is an unfair or deceptive act or practice in violation of RCW 19.86.020 of the consumer protection act. The remedies and sanctions provided by this section shall not preclude application of other remedies and sanctions.

[1986 c 299 § 21.]

RCW 28C.10.220 Remedies and penalties in chapter nonexclusive and cumulative.

The remedies and penalties provided for in this chapter are nonexclusive and cumulative and do not affect any other actions or proceedings.

[1986 c 299 § 22.]

RCW 28C.10.900 Severability--1986 c 299.

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

[1986 c 299 § 27.]

RCW 28C.10.902 Effective date--1986 c 299.

This act shall take effect July 1, 1986.

[1986 c 299 § 31.]

Chapter 28C.18 RCW

WORK FORCE TRAINING AND EDUCATION

Sections

28C.18.005 Findings.
28C.18.010 Definitions.
28C.18.020 Work force training and education coordinating board.
28C.18.030 Purpose of the board.
28C.18.040 Director's duties.
28C.18.050 Board designation and functions for federal purposes--Monitoring state plans for consistency.
28C.18.060 Board's duties.
28C.18.070 Intent--"Program" clarified.
28C.18.080 Comprehensive plan--Contents--Updates--Agency operating plans--Reports to the legislature.
28C.18.090 Additional board duties--Program evaluation by operating agencies.
28C.18.100 Assessments by board--Biennial report to legislature and governor.
28C.18.110 Identification of policies and methods to promote efficiency and sharing of resources--Report to governor and legislature.
28C.18.900 Effective dates--Severability--1991 c 238.

RCW 28C.18.005 Findings.

The legislature finds that the state's system of work force training and education is inadequate for meeting the needs of the state's workers, employers, and economy. A growing shortage of skilled workers is already hurting the state's economy. There is a shortage of available workers and too often prospective employees lack the skills and training needed by employers. Moreover, with demographic changes in the state's population employers will need to employ a more culturally diverse work force in the future.

The legislature further finds that the state's current work force training and education system is fragmented among numerous agencies, councils, boards, and committees, with inadequate overall coordination. No comprehensive strategic plan guides the different parts of the system. There is no single point of leadership and responsibility. There is insufficient guidance from employers and workers built into the system to ensure that the system is responsive to the needs of its customers. Adult work force education lacks a uniform system of governance, with an inefficient division in governance between community colleges and vocational technical institutes, and inadequate local authority. The parts of the system providing adult basic skills and literacy education are especially uncoordinated and lack sufficient visibility to adequately address the needs of the large number of adults in the state who are functionally illiterate. The work force training and education system's data and evaluation methods are inconsistent and unable to provide adequate information for determining how well the system is performing on a regular basis so that the system may be held accountable for the outcomes it produces. Much of the work force training and education system provides inadequate opportunities to meet the needs of people from culturally diverse backgrounds. Finally, our public and private educational institutions are not producing the number of people educated in vocational/technical skills needed by employers.

The legislature recognizes that we must make certain that our public and private institutions of education place appropriate emphasis on the needs of employers and on the needs of the approximately eighty percent of our young people who enter the world of work without

completing a four-year program of higher education. We must make our work force education and training system better coordinated, more efficient, more responsive to the needs of business and workers and local communities, more accountable for its performance, and more open to the needs of a culturally diverse population.

[1996 c 99 § 1; 1991 c 238 § 1.]

RCW 28C.18.010 Definitions.

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

(1) "Board" means the work force training and education coordinating board.

(2) "Director" means the director of the work force training and education coordinating board.

(3) "Training system" means programs and courses of secondary vocational education, technical college programs and courses, community college vocational programs and courses, private career school and college programs and courses, employer-sponsored training, adult basic education programs and courses, programs and courses funded by the job training partnership act, programs and courses funded by the federal vocational act, programs and courses funded under the federal adult education act, publicly funded programs and courses for adult literacy education, and apprenticeships, and programs and courses offered by private and public nonprofit organizations that are representative of communities or significant segments of communities and provide job training or adult literacy services.

(4) "Work force skills" means skills developed through applied learning that strengthen and reinforce an individual's academic knowledge, critical thinking, problem solving, and work ethic and, thereby, develop the employability, occupational skills, and management of home and work responsibilities necessary for economic independence.

(5) "Vocational education" means organized educational programs offering a sequence of courses which are directly related to the preparation or retraining of individuals in paid or unpaid employment in current or emerging occupations requiring other than a baccalaureate or advanced degree. Such programs shall include competency-based applied learning which contributes to an individual's academic knowledge, higher-order reasoning, and problem-solving skills, work attitudes, general employability skills, and the occupational-specific skills necessary for economic independence as a productive and contributing member of society. Such term also includes applied technology education.

(6) "Adult basic education" means instruction designed to achieve mastery of skills in reading, writing, oral communication, and computation at a level sufficient to allow the individual to function effectively as a parent, worker, and citizen in the United States, commensurate with that individual's actual ability level, and includes English as a second language and preparation and testing service for the general education development exam.

[1996 c 99 § 2; 1991 c 238 § 2.]

RCW 28C.18.020 Work force training and education coordinating board.

(1) There is hereby created the work force training and education coordinating board as a state agency and as the successor agency to the state board for vocational education. Once the coordinating board has convened, all references to the state board for vocational education in the Revised Code of Washington shall be construed to mean the work force training and education coordinating board, except that reference to the state board for vocational education in RCW 49.04.030 shall mean the state board for community and technical colleges.

(2)(a) The board shall consist of nine voting members appointed by the governor with the consent of the senate, as follows: Three representatives of business, three representatives of labor, and, serving as ex officio members, the superintendent of public instruction, the executive director of the state board for community and technical colleges, and the commissioner of the employment security department. The chair of the board shall be a nonvoting member selected by the governor with the consent of the senate, and shall serve at the pleasure of the governor. In selecting the chair, the governor shall seek a person who understands the future economic needs of the state and nation and the role that the state's training system has in meeting those needs. Each voting member of the board may appoint a designee to function in his or her place with the right to vote. In making appointments to the board, the governor shall seek to ensure geographic, ethnic, and gender diversity and balance. The governor shall also seek to ensure diversity and balance by the appointment of persons with disabilities.

(b) The business representatives shall be selected from among nominations provided by a state-wide business organization representing a cross-section of industries. However, the governor may request, and the organization shall provide, an additional list or lists from which the governor shall select the business representatives. The nominations and selections shall reflect the cultural diversity of the state, including women, people with disabilities, and racial and ethnic minorities, and diversity in sizes of businesses.

(c) The labor representatives shall be selected from among nominations provided by state-wide labor organizations. However, the governor may request, and the organizations shall provide, an additional list or lists from which the governor shall select the labor representatives. The nominations and selections shall reflect the cultural diversity of the state, including women, people with disabilities, and racial and ethnic minorities.

(d) Each business member may cast a proxy vote or votes for any business member who is not present and who authorizes in writing the present member to cast such vote.

(e) Each labor member may cast a proxy vote for any labor member who is not present and who authorizes in writing the present member to cast such vote.

(f) The chair shall appoint to the board one nonvoting member to represent racial and ethnic minorities, women, and people with disabilities. The nonvoting member appointed by the chair shall serve for a term of four years with the term expiring on June 30th of the fourth year of the term.

(g) The business members of the board shall serve for terms of four years, the terms expiring on June 30th of the fourth year of the term except that in the case of initial members, one shall be appointed to a two-year term and one appointed to a three-year term.

(h) The labor members of the board shall serve for terms of four years, the terms expiring on June 30th of the fourth year of the term except that in the case of initial members, one shall be appointed to a two-year term and one appointed to a three-year term.

(i) Any vacancies among board members representing business or labor shall be filled by the governor with nominations provided by state-wide organizations representing business or labor, respectively.

(j) The board shall adopt bylaws and shall meet at least bimonthly and at such other times as determined by the chair who shall give reasonable prior notice to the members or at the request of a majority of the voting members.

(k) Members of the board shall be compensated in accordance with RCW 43.03.040 and shall receive travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(l) The board shall be formed and ready to assume its responsibilities under this chapter by October 1, 1991.

(m) The director of the board shall be appointed by the governor from a list of three names submitted by a committee made up of the business and labor members of the board. However, the governor may request, and the committee shall provide, an additional list or lists from which the governor shall select the director. The lists compiled by the committee shall not be subject to public disclosure. The governor may dismiss the director only with the approval of a majority vote of the board. The board, by a majority vote, may dismiss the director with the approval of the governor.

(3) The state board for vocational education is hereby abolished and its powers, duties, and functions are hereby transferred to the work force training and education coordinating board. All references to the director or the state board for vocational education in the Revised Code of Washington shall be construed to mean the director or the work force training and education coordinating board.

[1991 c 238 § 3.]

RCW 28C.18.030 Purpose of the board.

The purpose of the board is to provide planning, coordination, evaluation, monitoring, and policy analysis for the state training system as a whole, and advice to the governor and legislature concerning the state training system, in cooperation with the state training system and the higher education coordinating board.

[1996 c 99 § 3; 1991 c 238 § 4.]

RCW 28C.18.040 Director's duties.

(1) The director shall serve as chief executive officer of the board who shall administer the provisions of this chapter, employ such personnel as may be necessary to implement the purposes of this chapter, and utilize staff of existing operating agencies to the fullest extent possible.

(2) The director shall not be the chair of the board.

(3) Subject to the approval of the board, the director shall appoint necessary deputy and assistant directors and other staff who shall be exempt from the provisions of chapter 41.06 RCW. The director's appointees shall serve at the director's pleasure on such terms and conditions as the director determines but subject to chapter 42.52 RCW.

(4) The director shall appoint and employ such other employees as may be required for the proper discharge of the functions of the board.

(5) The director shall, as permissible under P.L. 101-392, as amended, integrate the staff of the council on vocational education, and contract with the state board for community and technical colleges for assistance for adult basic skills and literacy policy development and planning as required by P.L. 100-297, as amended.

[1994 c 154 § 307; 1991 c 238 § 5.]

Notes:

Parts and captions not law--Effective date--Severability--1994 c 154: See RCW 42.52.902, 42.52.904, and 42.52.905.

RCW 28C.18.050 Board designation and functions for federal purposes--Monitoring state plans for consistency.

(1) The board shall be designated as the state board of vocational education as provided for in P.L. 98-524, as amended, and shall perform such functions as is necessary to comply with federal directives pertaining to the provisions of such law.

(2) The board shall perform the functions of the human resource investment council as provided for in the federal job training partnership act, P.L. 97-300, as amended.

(3) The board shall provide policy advice for any federal act pertaining to work force development that is not required by state or federal law to be provided by another state body.

(4) Upon enactment of new federal initiatives relating to work force development, the board shall advise the governor and the legislature on mechanisms for integrating the federal initiatives into the state's work force development system and make recommendations on the legislative or administrative measures necessary to streamline and coordinate state efforts to meet federal guidelines.

(5) The board shall monitor for consistency with the state comprehensive plan for work force training and education the policies and plans established by the state job training coordinating council, the advisory council on adult education, and the Washington state plan for adult basic education, and provide guidance for making such policies and plans consistent with the state comprehensive plan for work force training and education.

[1995 c 130 § 3; 1991 c 238 § 6.]

RCW 28C.18.060 Board's duties.

The board, in cooperation with the operating agencies of the state training system and private career schools and colleges shall:

(1) Concentrate its major efforts on planning, coordination evaluation, policy analysis,

and recommending improvements to the state's training system.

(2) Advocate for the state training system and for meeting the needs of employers and the work force for work force education and training.

(3) Establish and maintain an inventory of the programs of the state training system, and related state programs, and perform a biennial assessment of the vocational education, training, and adult basic education and literacy needs of the state; identify ongoing and strategic education needs; and assess the extent to which employment, training, vocational and basic education, rehabilitation services, and public assistance services represent a consistent, integrated approach to meet such needs.

(4) Develop and maintain a state comprehensive plan for work force training and education, including but not limited to, goals, objectives, and priorities for the state training system, and review the state training system for consistency with the state comprehensive plan. In developing the state comprehensive plan for work force training and education, the board shall use, but shall not be limited to: Economic, labor market, and populations trends reports in office of financial management forecasts; joint office of financial management and employment security department labor force, industry employment, and occupational forecasts; the results of scientifically based outcome, net-impact and cost-benefit evaluations; the needs of employers as evidenced in formal employer surveys and other employer input; and the needs of program participants and workers as evidenced in formal surveys and other input from program participants and the labor community.

(5) In consultation with the higher education coordinating board, review and make recommendations to the office of financial management and the legislature on operating and capital facilities budget requests for operating agencies of the state training system for purposes of consistency with the state comprehensive plan for work force training and education.

(6) Provide for coordination among the different operating agencies and components of the state training system at the state level and at the regional level.

(7) Develop a consistent and reliable data base on vocational education enrollments, costs, program activities, and job placements from publicly funded vocational education programs in this state.

(8) Establish standards for data collection and maintenance for the operating agencies of the state training system in a format that is accessible to use by the board. The board shall require a minimum of common core data to be collected by each operating agency of the state training system.

The board shall develop requirements for minimum common core data in consultation with the office of financial management and the operating agencies of the training system.

(9) Establish minimum standards for program evaluation for the operating agencies of the state training system, including, but not limited to, the use of common survey instruments and procedures for measuring perceptions of program participants and employers of program participants, and monitor such program evaluation.

(10) Every two years administer scientifically based outcome evaluations of the state training system, including, but not limited to, surveys of program participants, surveys of employers of program participants, and matches with employment security department payroll

and wage files. Every five years administer scientifically based net-impact and cost-benefit evaluations of the state training system.

(11) In cooperation with the employment security department, provide for the improvement and maintenance of quality and utility in occupational information and forecasts for use in training system planning and evaluation. Improvements shall include, but not be limited to, development of state-based occupational change factors involving input by employers and employees, and delineation of skill and training requirements by education level associated with current and forecasted occupations.

(12) Provide for the development of common course description formats, common reporting requirements, and common definitions for operating agencies of the training system.

(13) Provide for effectiveness and efficiency reviews of the state training system.

(14) In cooperation with the higher education coordinating board, facilitate transfer of credit policies and agreements between institutions of the state training system, and encourage articulation agreements for programs encompassing two years of secondary work force education and two years of postsecondary work force education.

(15) In cooperation with the higher education coordinating board, facilitate transfer of credit policies and agreements between private training institutions and institutions of the state training system.

(16) Participate in the development of coordination criteria for activities under the job training partnership act with related programs and services provided by state and local education and training agencies.

(17) Make recommendations to the commission of student assessment, the state board of education, and the superintendent of public instruction, concerning basic skill competencies and essential core competencies for K-12 education. Basic skills for this purpose shall be reading, writing, computation, speaking, and critical thinking, essential core competencies for this purpose shall be English, math, science/technology, history, geography, and critical thinking. The board shall monitor the development of and provide advice concerning secondary curriculum which integrates vocational and academic education.

(18) Establish and administer programs for marketing and outreach to businesses and potential program participants.

(19) Facilitate the location of support services, including but not limited to, child care, financial aid, career counseling, and job placement services, for students and trainees at institutions in the state training system, and advocate for support services for trainees and students in the state training system.

(20) Facilitate private sector assistance for the state training system, including but not limited to: Financial assistance, rotation of private and public personnel, and vocational counseling.

(21) Facilitate programs for school-to-work transition that combine classroom education and on-the-job training in industries and occupations without a significant number of apprenticeship programs.

(22) Encourage and assess progress for the equitable representation of racial and ethnic minorities, women, and people with disabilities among the students, teachers, and administrators

of the state training system. Equitable, for this purpose, shall mean substantially proportional to their percentage of the state population in the geographic area served. This function of the board shall in no way lessen more stringent state or federal requirements for representation of racial and ethnic minorities, women, and people with disabilities.

(23) Participate in the planning and policy development of governor set-aside grants under P.L. 97-300, as amended.

(24) Administer veterans' programs, licensure of private vocational schools, the job skills program, and the Washington award for vocational excellence.

(25) Allocate funding from the state job training trust fund.

(26) Work with the director of community, trade, and economic development to ensure coordination between work force training priorities and that department's economic development efforts.

(27) Adopt rules as necessary to implement this chapter.

The board may delegate to the director any of the functions of this section.

[1996 c 99 § 4; 1993 c 280 § 17; 1991 c 238 § 7.]

Notes:

Effective date--Severability--1993 c 280: See RCW 43.330.902 and 43.330.903.

RCW 28C.18.070 Intent--"Program" clarified.

(1) The legislature continues to recognize the vital role that work force development efforts play in equipping the state's workers with the skills they need to succeed in an economy that requires higher levels of skill and knowledge. The legislature also recognizes that businesses are increasingly relying on the state's work force development programs and expect them to be responsive to their changing skill requirements. The state benefits from a work force development system that allows firms and workers to be highly competitive in global markets.

(2) The establishment of the work force training and education coordinating board was an integral step in developing a strategic approach to work force development. For the coordinating board to carry out its intended role, the board must be able to give unambiguous guidance to operating agencies, the governor, and the legislature. It is the intent of chapter 130, Laws of 1995, to clarify the preeminent role intended for the work force training and education coordinating board in coordination and policy development of the state's work force development efforts.

(3) In the event that federal work force development funds are block granted to the state, it is the intent of the legislature to seek the broadest possible input, from local and state-wide organizations concerned with work force development, on the allocation of the federal funds.

(4) For purposes of RCW 28C.18.080 through 28C.18.110, the term "program" shall not refer to the activities of individual institutions such as individual community or technical colleges, common schools, service delivery areas, or job service centers; nor shall it refer to individual fields of study or courses.

[1995 c 130 § 1.]

RCW 28C.18.080 Comprehensive plan--Contents--Updates--Agency operating plans--Reports to the legislature.

(1) The state comprehensive plan for work force training and education shall be updated every two years and presented to the governor and the appropriate legislative policy committees. Following public hearings, the legislature shall, by concurrent resolution, approve or recommend changes to the initial plan and the updates. The plan shall then become the state's work force training policy unless legislation is enacted to alter the policies set forth in the plan.

(2) The comprehensive plan shall include work force training role and mission statements for the work force development programs of operating agencies represented on the board and sufficient specificity regarding expected actions by the operating agencies to allow them to carry out actions consistent with the comprehensive plan.

(3) Operating agencies represented on the board shall have operating plans for their work force development efforts that are consistent with the comprehensive plan and that provide detail on implementation steps they will take to carry out their responsibilities under the plan. Each operating agency represented on the board shall provide an annual progress report to the board.

(4) The comprehensive plan shall include recommendations to the legislature and the governor on the modification, consolidation, initiation, or elimination of work force training and education programs in the state.

(5) The comprehensive plan shall address how the state's work force development system will meet the needs of employers hiring for industrial projects of state-wide significance.

(6) The board shall report to the appropriate legislative policy committees by December 1 of each year on its progress in implementing the comprehensive plan and on the progress of the operating agencies in meeting their obligations under the plan.

[1997 c 369 § 5; 1995 c 130 § 2.]

Notes:
Industrial project of state-wide significance--Defined: RCW 43.157.010.

RCW 28C.18.090 Additional board duties--Program evaluation by operating agencies.

(1) The board shall specify, by December 31, 1995, the common core data to be collected by the operating agencies of the state training system and the standards for data collection and maintenance required in RCW 28C.18.060(8).

(2) The minimum standards for program evaluation by operating agencies required in RCW 28C.18.060(9) shall include biennial program evaluations; the first of such evaluations shall be completed by the operating agencies July 1, 1996. The program evaluation of adult basic skills education shall be provided by the advisory council on adult education.

(3) The board shall complete, by January 1, 1996, its first outcome-based evaluation and, by September 1, 1996, its nonexperimental net-impact and cost-benefit evaluations of the training system. The outcome, net-impact, and cost-benefit evaluations shall for the first evaluations, include evaluations of each of the following programs: Secondary vocational-technical education, work-related adult basic skills education, postsecondary work

force training, job training partnership act titles II and III, as well as of the system as a whole.

(4) The board shall use the results of its outcome, net-impact, and cost-benefit evaluations to develop and make recommendations to the legislature and the governor for the modification, consolidation, initiation, or elimination of work force training and education programs in the state.

The board shall perform the requirements of this section in cooperation with the operating agencies.

[1995 c 130 § 4.]

RCW 28C.18.100 Assessments by board--Biennial report to legislature and governor.

The board shall, by January 1, 1996, and biennially thereafter: (1) Assess the total demand for training from the perspective of workers, and from the perspective of employers; (2) assess the available supply of publicly and privately provided training which workers and employers are demanding; (3) assess the costs to the state of meeting the demand; and (4) present the legislature and the governor with a strategy for bridging the gap between the supply and the demand for training services.

[1995 c 130 § 5.]

RCW 28C.18.110 Identification of policies and methods to promote efficiency and sharing of resources--Report to governor and legislature.

The board shall, in cooperation with the operating agencies, by January 1, 1996:

(1) Identify policies to reduce administrative and other barriers to efficient operation of the state's work force development system and barriers to improved coordination of work force development in the state. These policies shall include waivers of statutory requirements and administrative rules, as well as implementation of one-stop access to work force development services and school-to-work transition;

(2) Identify ways for operating agencies to share resources, instructors, and curricula through collaboration with other public and private entities to increase training opportunities and reduce costs; and

(3) Report to the governor and the appropriate legislative committees its recommendations for any statutory changes necessary to enhance operational efficiencies or improve coordination. The board shall work with the operating agencies of the state's work force development system to reduce administrative barriers that do not require statutory changes.

[1995 c 130 § 6.]

RCW 28C.18.900 Effective dates--Severability--1991 c 238.

See RCW 28B.50.917 and 28B.50.918.

Chapter 28C.22 RCW
SKILL CENTERS

Sections

28C.22.005 Findings.
28C.22.010 Skill center program operation.
28C.22.020 Contracts with community colleges--Enrollment lid--Fees.

RCW 28C.22.005 Findings.

As retraining becomes a common part of adult work life, it is important that all vocational education opportunities be used to the maximum extent possible. Skill centers established to provide vocational training for high school students are used during the morning and early afternoon. These facilities are idle during the late afternoon and evening hours. At the same time, community colleges have more students applying than they can accommodate. To assure that we meet the needs of our citizens in seeking training or retraining, all vocational training facilities should be used to the maximum extent possible.

[1993 c 380 § 1.]

RCW 28C.22.010 Skill center program operation.

Skill centers, to the extent funds are available, are encouraged to operate afternoon and evening programs.

[1993 c 380 § 2.]

RCW 28C.22.020 Contracts with community colleges--Enrollment lid--Fees.

The community colleges are encouraged to contract with skill centers to use the skill center facilities. The community colleges shall not be required to count the enrollments under these agreements toward the community college enrollment lid. Skill centers may charge fees to adult students under RCW 28A.225.220.

[1993 c 380 § 3.]

Title 29 RCW
ELECTIONS

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Chapter 29.01 RCW
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RCW 29.01.005 Scope of definitions.

Words and phrases as defined in this chapter, wherever used in Title 29 RCW, shall have the meaning as in this chapter ascribed to them, unless where used the context thereof shall clearly indicate to the contrary or unless otherwise defined in the chapter of which they are a part.

[1965 c 9 § 29.01.005. For like prior law see 1907 c 209 § 1, part; RRS § 5177, part.]

RCW 29.01.006 Ballot and related terms.

As used in this title:

(1) "Ballot" means, as the context implies, either:

(a) The issues and offices to be voted upon in a jurisdiction or portion of a jurisdiction at a particular primary, general election, or special election;

(b) A facsimile of the contents of a particular ballot whether printed on a paper ballot or ballot card or as part of a voting machine or voting device;

(c) A physical or electronic record of the choices of an individual voter in a particular primary, general election, or special election; or

(d) The physical document on which the voter's choices are to be recorded;

(2) "Paper ballot" means a piece of paper on which the ballot for a particular election or primary has been printed, on which a voter may record his or her choices for any candidate or for or against any measure, and that is to be tabulated manually;

(3) "Ballot card" means any type of card or piece of paper of any size on which a voter may record his or her choices for any candidate and for or against any measure and that is to be tabulated on a vote tallying system;

(4) "Sample ballot" means a printed facsimile of all the issues and offices on the ballot in a jurisdiction and is intended to give voters notice of the issues, offices, and candidates that are to be voted on at a particular primary, general election, or special election;

(5) "Special ballot" means a ballot issued to a voter at the polling place on election day by the precinct election board, for one of the following reasons:

(a) The voter's name does not appear in the poll book;

(b) There is an indication in the poll book that the voter has requested an absentee ballot, but the voter wishes to vote at the polling place;

(c) There is a question on the part of the voter concerning the issues or candidates on which the voter is qualified to vote.

[1994 c 57 § 2; 1990 c 59 § 2; 1977 ex.s. c 361 § 1.]

Notes:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

Intent--1990 c 59: "By this act the legislature intends to unify and simplify the laws and procedures governing filing for elective office, ballot layout, ballot format, voting equipment, and canvassing." [1990 c 59 § 1.]

Effective date--1990 c 59: "Sections 1 through 6, 8 through 96, and 98 through 112 of this act shall take effect July 1, 1992." [1990 c 59 § 113.]

Effective date--1977 ex.s. c 361: "This 1977 amendatory act shall take effect January 1, 1978." [1977 ex.s. c 361 § 113.]

Severability--1977 ex.s. c 361: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 361 § 112.]

RCW 29.01.008 Canvassing.

"Canvassing" means the process of examining ballots or groups of ballots, subtotals, and cumulative totals in order to determine the official returns of and prepare the certification for a primary or general election and includes the tabulation of any votes for that primary or election that were not tabulated at the precinct or in a counting center on the day of the primary or election.

[1990 c 59 § 3.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.01.010 City clerk.

"City clerk" includes every officer, by whatever name designated, who performs the functions usually performed by a city or town clerk.

[1965 c 9 § 29.01.010.]

RCW 29.01.020 City council.

"City council" includes the governing body of any city or town, by whatever name it may be designated.

[1965 c 9 § 29.01.020.]

RCW 29.01.030 City precinct.

A "city precinct" is a voting precinct lying wholly or partly within a city or town.

[1965 c 9 § 29.01.030. Prior: 1957 c 251 § 2; prior: 1939 c 15 § 1, part; 1933 c 1 § 3, part; RRS § 5114-3, part; prior: 1891 c 104 §§ 1, part, 2, part; RRS §§ 5116, part, 5117, part.]

RCW 29.01.040 Constituency.

A "constituency" is a body of voters having the right to take part in the election of a specific public officer or group of public officers.

[1965 c 9 § 29.01.040.]

RCW 29.01.042 Counting center.

"Counting center" means the facility or facilities designated by the county auditor to count and canvass mail ballots, absentee ballots, and polling place ballots that are transferred to a central site to be counted, rather than being counted by a poll-site ballot counting device, on the day of a primary or election.

[1999 c 158 § 1; 1990 c 59 § 4.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.01.043 County auditor.

"County auditor" includes the county auditor in a noncharter county or the officer, irrespective of title, having the overall responsibility to maintain voter registration and to conduct state and local elections in a charter county.

[1984 c 106 § 1.]

Notes:

Effective date--Severability--1984 c 106: See RCW 29.81A.900 and 29.81A.901.

RCW 29.01.045 Date of mailing.

For registered voters voting by absentee or voting by mail, "date of mailing" means the date of the postal cancellation on the envelope in which the ballot is returned to the election official by whom it was issued. For all other absentee voters, "date of mailing" means the date stated by the voter on the envelope in which the ballot is returned to the election official by whom it was issued.

[1987 c 346 § 3.]

NOTES:

Legislative intent--Effective date--1987 c 346: See notes following RCW 29.36.210.

RCW 29.01.047 Disabled voter.

"Disabled voter" means any registered voter who qualifies for special parking privileges under RCW 46.16.381, or who is defined as blind under RCW 74.18.020, or who qualifies to require assistance with voting under RCW 29.51.200.

[1987 c 346 § 4.]

NOTES:

Legislative intent--Effective date--1987 c 346: See notes following RCW 29.36.210.

RCW 29.01.050 Election.

"Election" when used alone means a general election except where the context indicates

that a special election is included. "Election" when used without qualification does not include a primary.

[1990 c 59 § 5; 1965 c 9 § 29.01.050. Prior: 1907 c 209 § 1, part; RRS § 5177(c). See also 1950 ex.s. c 14 § 3.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.01.055 Election board.

"Election board" means a group of election officers serving one precinct or groups of precincts in a polling place.

[1986 c 167 § 1.]

Notes:

Severability--1986 c 167: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 167 § 26.]

RCW 29.01.060 Election officer.

"Election officer" includes any officer who has a duty to perform relating to elections under the provisions of any statute, charter, or ordinance.

[1965 c 9 § 29.01.060.]

RCW 29.01.065 Elector.

"Elector" means any person who possesses all of the qualifications to vote under Article VI of the state Constitution.

[1987 c 346 § 2.]

NOTES:

Legislative intent--Effective date--1987 c 346: See notes following RCW 29.36.210.

RCW 29.01.068 Filing officer.

"Filing officer" means the county or state officer with whom declarations of candidacy for an office are required to be filed under this title.

[1990 c 59 § 77.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.01.070 General election.

"General election" means an election required to be held on a fixed date recurring at

regular intervals.

[1965 c 9 § 29.01.070.]

RCW 29.01.080 Infamous crime.

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

[1992 c 7 § 31; 1965 c 9 § 29.01.080. Prior: Code 1881 § 3054; 1865 p 25 § 5; RRS § 5113.]

Notes:
Contests, conviction of felony without reversal or restoration of civil rights as grounds for: RCW 29.65.010.
Denial of civil rights for conviction of infamous crime: State Constitution Art. 6 § 3.

RCW 29.01.087 Local voters' pamphlet.

"Local voters' pamphlet" means a pamphlet produced by a county or a first-class or code city that provides information about ballot measures or candidates, or both, and other information related to a primary, special election, or general election.

[1984 c 106 § 2.]

Notes:
Effective date--Severability--1984 c 106: See RCW 29.81A.900 and 29.81A.901.

RCW 29.01.090 Major political party.

"Major political party" means a political party of which at least one nominee for president, vice president, United States senator, or a state-wide office received at least five percent of the total vote cast at the last preceding state general election in an even-numbered year: PROVIDED, That any political party qualifying as a major political party under the previous subsection (2) or subsection (3) of this section prior to its 1977 amendment shall retain such status until after the next state general election following June 30, 1977.

[1977 ex.s. c 329 § 9; 1965 c 9 § 29.01.090. Prior: 1907 c 209 § 6, part; RRS § 5183, part.]

Notes:
Partisan primaries, application of chapter: RCW 29.18.010.
Political parties: Chapter 29.42 RCW.

RCW 29.01.100 Minor political party.

"Minor political party" means a political organization other than a major political party.

[1965 c 9 § 29.01.100. Prior: 1955 c 102 § 8; prior: 1907 c 209 § 26, part; RRS § 5203, part.]

Notes:
Minor party convention: Chapter 29.24 RCW.
Political parties: Chapter 29.42 RCW.

RCW 29.01.110 Measures.

"Measure" includes any proposition or question submitted to the voters of any specific constituency.

[1965 c 9 § 29.01.110.]

RCW 29.01.113 Out-of-state voter.

"Out-of-state voter" means any elector of the state of Washington outside the state but not outside the territorial limits of the United States or the District of Columbia.

[1987 c 346 § 5.]

NOTES:

Legislative intent--Effective date--1987 c 346: See notes following RCW 29.36.210.

RCW 29.01.117 Overseas voter.

"Overseas voter" means any elector of the state of Washington outside the territorial limits of the United States or the District of Columbia.

[1987 c 346 § 6.]

NOTES:

Legislative intent--Effective date--1987 c 346: See notes following RCW 29.36.210.

RCW 29.01.119 Poll-site ballot counting devices.

"Poll-site ballot counting device" means a device programmed to accept voted ballots at a polling place for the purpose of tallying and storing the ballots on election day.

[1999 c 158 § 2.]

RCW 29.01.120 Precinct.

"Precinct" means a geographical subdivision for voting purposes within or without the limits of a city or town, whether established by a board of county commissioners, by a city council, or by the board of supervisors of a township.

[1965 c 9 § 29.01.120. Prior: 1933 c 1 § 2; RRS § 5114-2; prior: 1915 c 16 § 1; RRS § 5114.]

RCW 29.01.130 Primary.

"Primary" or "primary election" means a statutory procedure for nominating candidates to public office at the polls.

[1965 c 9 § 29.01.130. Prior: 1907 c 209 § 1, part; RRS § 5177(a). See also 1950 ex.s. c 14 § 2.]

NOTES:

Nonpartisan primaries: Chapter 29.21 RCW.
Partisan primaries: Chapter 29.18 RCW.
Presidential primary: Chapter 29.19 RCW.
Times for holding primaries: Chapter 29.13 RCW.

RCW 29.01.135 Qualified.

"Qualified" when pertaining to a winner of an election means that for such election:

(1) The results have been certified;

(2) A certificate has been issued;

(3) Any required bond has been posted; and

(4) The winner has taken and subscribed an oath or affirmation in compliance with the appropriate statute, or if none is specified, that he or she will faithfully and impartially discharge the duties of the office to the best of his or her ability. This oath or affirmation shall be administered and certified by any officer or notary public authorized to administer oaths, without charge therefor.

[1979 ex.s. c 126 § 2.]

Notes:

Purpose--1979 ex.s. c 126: RCW 29.04.170(1).

RCW 29.01.136 Recount.

"Recount" means the process of retabulating ballots and producing amended election returns based on that retabulation, even if the vote totals have not changed.

[2001 c 225 § 1.]

RCW 29.01.137 Registered voter.

"Registered voter" means any elector who possesses all of the statutory qualifications to vote under chapters 29.07 and 29.10 RCW. The terms "registered voter" and "qualified elector" are synonymous.

[1987 c 346 § 7.]

NOTES:

Legislative intent--Effective date--1987 c 346: See notes following RCW 29.36.210.

RCW 29.01.140 Residence.

"Residence" for the purpose of registering and voting means a person's permanent address where he physically resides and maintains his abode: PROVIDED, That no person gains residence by reason of his presence or loses his residence by reason of his absence:

(1) While employed in the civil or military service of the state or of the United States;

(2) While engaged in the navigation of the waters of this state or the United States or the high seas;

(3) While a student at any institution of learning;

(4) While confined in any public prison.

Absence from the state on business shall not affect the question of residence of any person unless the right to vote has been claimed or exercised elsewhere.

[1971 ex.s. c 178 § 1; 1965 c 9 § 29.01.140. Prior: 1955 c 181 § 1; prior: (i) Code 1881 § 3051; 1865 p 25 § 2; RRS § 5110. (ii) Code 1881 § 3053; 1866 p 8 § 11; 1865 p 25 § 4; RRS § 5111.]

Notes:
Residence, contingencies affecting: State Constitution Art. 6 § 4.

RCW 29.01.150 Rural precinct.

"Rural precinct" means a voting precinct lying wholly outside the limits of a city or town.

[1965 c 9 § 29.01.150. Prior: 1957 c 251 § 3; prior: 1939 c 15 § 1, part; 1933 c 1 § 3, part; RRS § 5114-3, part; prior: 1891 c 104 §§ 1, part, 2, part; RRS §§ 5116, part, 5117, part.]

RCW 29.01.155 Service voter.

"Service voter" means any elector of the state of Washington who is a member of the armed forces under 42 U.S.C. Sec. 1973 ff-6 while in active service, is a student or member of the faculty at a United States military academy, is a member of the merchant marine of the United States, is a program participant as defined in RCW 40.24.020, or is a member of a religious group or welfare agency officially attached to and serving with the armed forces of the United States.

[1991 c 23 § 13; 1987 c 346 § 8.]

NOTES:
Legislative intent--Effective date--1987 c 346: See notes following RCW 29.36.210.

RCW 29.01.160 September primary.

"September primary" means the primary election held in September to nominate candidates to be voted for at the ensuing election.

[1965 c 9 § 29.01.160. Prior: 1907 c 209 § 1, part; RRS § 5177(b).]

RCW 29.01.170 Special election.

"Special election" means any election that is not a general election.

[1965 c 9 § 29.01.170. Prior: Code 1881 § 3056; 1865 p 27 § 2; RRS § 5155.]

RCW 29.01.180 Short term.

"Short term" means the brief period of time starting upon the completion of the certification of election returns and ending with the start of the full term on the second Tuesday of the next January immediately following the election and is applicable only when the office concerned is being held by an appointee to fill a vacancy which occurred after the last election,

at which such office could have been voted upon for an unexpired term, prior to the election for such office for the subsequent full term.

[1975-'76 2nd ex.s. c 120 § 14.]

Notes:

Severability--1975-'76 2nd ex.s. c 120: See note following RCW 29.21.010.

RCW 29.01.200 Voting system, device, tallying system.

(1) "Voting system" means a voting device, vote tallying system, or combination of these together with ballots and other supplies or equipment used to conduct a primary or election or to canvass the votes cast in a primary or election;

(2) "Voting device" means a piece of equipment used for the purpose of or to facilitate the marking of a ballot to be tabulated by a vote tallying system or a piece of mechanical or electronic equipment used to directly record votes and to accumulate results for a number of issues or offices from a series of voters; and

(3) "Vote tallying system" means a piece of mechanical or electronic equipment and associated data processing software used to tabulate votes cast on ballot cards or otherwise recorded on a voting device or to prepare that system to tabulate ballot cards or count votes.

[1990 c 59 § 6.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Chapter 29.04 RCW
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29.04.190 Write-in candidates--Notice to auditors, ballot counters.
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29.04.210 Ballots, voting systems--Rules by secretary of state.
29.04.230 Electronic facsimile documents--Acceptance of.
29.04.235 Electronic facsimile documents--Rules.
29.04.240 Records concerning accuracy and currency of voters lists.

NOTES:
Elections and elective rights: State Constitution Art. 6.
Employer's duty to provide time to vote: RCW 49.28.120.

RCW 29.04.001 State policy.

It is the policy of the state of Washington to encourage every eligible person to register to vote and to participate fully in all elections, and to protect the integrity of the electoral process by providing equal access to the process while guarding against discrimination and fraud. The election registration laws and the voting laws of the state of Washington, and the requirements of chapter 41, Laws of 2001, must be administered without discrimination based upon race, creed, color, national origin, sex, or political affiliation.

[2001 c 41 § 1.]

RCW 29.04.010 Registration required for voting--Exception.

Only a registered voter shall be permitted to vote:

(1) At any election held for the purpose of electing persons to public office;

(2) At any recall election of a public officer;

(3) At any election held for the submission of a measure to any voting constituency;

(4) At any primary election.

The provisions of this section shall not apply to township elections.

[1965 c 9 § 29.04.010. Prior: 1955 c 181 § 8; prior: (i) 1933 c 1 § 22, part; RRS § 5114-22, part. (ii) 1933 c 1 § 23; RRS § 5114-23. See also 1935 c 26 § 3; RRS § 5189.]

NOTES:
Out-of-state, overseas, service voters, same ballots as registered voters: RCW 29.36.210.
Subversive activities, disqualification from voting: RCW 9.81.040.

RCW 29.04.020 County auditor as supervisor of certain primaries and elections.

The county auditor of each county shall be ex officio the supervisor of all primaries and elections, general or special, and it shall be the county auditor's duty to provide places for holding such primaries and elections; to appoint the precinct election officers; to provide for

their compensation; to provide ballot boxes and ballots or voting machines, poll books, or precinct lists of registered voters, and tally sheets, and deliver them to the precinct election officers at the polling places; to publish and post notices of calling such primaries and elections in the manner provided by law: PROVIDED, That notice of a general election held in an even-numbered year shall indicate that the office of precinct committee officer will be on the ballot; and to apportion to each city, town, or district, its share of the expense of such primaries and elections: PROVIDED, That this section shall not apply to general or special elections for any city, town, or district which is not subject to RCW 29.13.010 and 29.13.020, but all such elections shall be held and conducted at the time, in the manner, and by the officials (with such notice, requirements for filing for office, and certifications by local officers) as provided and required by the laws governing such elections.

[1987 c 295 § 1; 1977 ex.s. c 361 § 2; 1971 ex.s. c 202 § 1; 1965 c 123 § 1; 1965 c 9 § 29.04.020. Prior: 1947 c 182 § 1, part; Rem. Supp. 1947 § 5166-10, part; prior: 1945 c 194 § 3, part; 1941 c 180 § 1, part; 1935 c 5 § 1, part; 1933 ex.s. c 29 § 1, part; prior: 1933 c 79 § 1, part; 1927 c 279 § 2, part; 1923 c 53 § 3, part; 1921 c 61 § 5, part; Rem. Supp. 1945 § 5147, part.]

Notes:

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

Conduct of elections--Canvass: RCW 29.13.040.
Costs of elections--Shared: RCW 29.13.045, 29.13.047.
General election laws govern primary: RCW 29.18.120.
Oaths of officers, county auditor to provide forms for: RCW 29.45.080.

RCW 29.04.025 Handling of reports filed under public disclosure law.

Each county auditor or county elections official shall ensure that reports filed pursuant to chapter 42.17 RCW are arranged, handled, indexed, and disclosed in a manner consistent with the rules of the public disclosure commission adopted under RCW 42.17.375.

[1983 c 294 § 2.]

RCW 29.04.030 Prevention and correction of election frauds and errors.

Any justice of the supreme court, judge of the court of appeals, or judge of the superior court in the proper county shall, by order, require any person charged with error, wrongful act, or neglect to forthwith correct the error, desist from the wrongful act, or perform the duty and to do as the court orders or to show cause forthwith why the error should not be corrected, the wrongful act desisted from, or the duty or order not performed, whenever it is made to appear to such justice or judge by affidavit of an elector that:

(1) An error or omission has occurred or is about to occur in printing the name of any candidate on official ballots; or

(2) An error other than as provided in subsections (1) and (3) of this section has been committed or is about to be committed in printing the ballots; or

(3) The name of any person has been or is about to be wrongfully placed upon the ballots;

or

(4) A wrongful act other than as provided for in subsections (1) and (3) of this section has been performed or is about to be performed by any election officer; or

(5) Any neglect of duty on the part of an election officer other than as provided for in subsections (1) and (3) of this section has occurred or is about to occur; or

(6) An error or omission has occurred or is about to occur in the issuance of a certificate of election.

An affidavit of an elector under subsections (1) and (3) above when relating to a primary election must be filed with the appropriate court no later than the second Friday following the closing of the filing period for nominations for such office and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under subsections (1) and (3) of this section when relating to a general election must be filed with the appropriate court no later than three days following the official certification of the primary election returns and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under subsection (6) of this section shall be filed with the appropriate court no later than ten days following the issuance of a certificate of election.

[1977 ex.s. c 361 § 3; 1973 1st ex.s. c 165 § 1; 1971 c 81 § 74; 1965 c 9 § 29.04.030. Prior: (i) 1907 c 209 § 25, part; RRS § 5202, part. (ii) 1889 p 407 § 19; RRS § 5276.]

Notes:

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

Certiorari, mandamus, and prohibition: Chapter 7.16 RCW.

Contests: Chapter 29.65 RCW.

Crimes and penalties: Chapter 29.85 RCW.

RCW 29.04.035 Prohibition against campaign materials deceptively similar to voters' or candidates' pamphlets.

No person or entity may publish or distribute any campaign material that is deceptively similar in design or appearance to a voters' pamphlet or candidates' pamphlet or combination thereof, which pamphlet or combination was published by the secretary of state during the ten-year period prior to the publication or distribution by the person or entity. The secretary of state shall take reasonable measures to prevent or to stop violations of this section. Such measures may include, among others, petitioning the superior court for a temporary restraining order or other appropriate injunctive relief. In addition, the secretary may request the superior court to impose a civil fine on a violator of this section. The court is authorized to levy on and recover from each violator a civil fine not to exceed the greater of: (1) Two dollars for each copy of the deceptive material distributed, or (2) one thousand dollars. In addition, the violator shall be liable for the state's legal expenses and other costs resulting from the violation. Any funds recovered under this section shall be transmitted to the state treasurer for deposit in the general fund.

[1984 c 41 § 1.]

RCW 29.04.040 Precincts--Number of voters--Dividing, altering, or combining--Creating new precincts.

(1) No paper ballot precinct may contain more than three hundred active registered voters. The county legislative authority may divide, alter, or combine precincts so that, whenever practicable, over-populated precincts shall contain no more than two hundred fifty active registered voters in anticipation of future growth.

(2) Precinct boundaries may be altered at any time as long as sufficient time exists prior to a given election for the necessary procedural steps to be honored. Except as permitted under subsection (5) of this section, no precinct boundaries may be changed during the period starting on the thirtieth day prior to the first day for candidates to file for the primary election and ending with the day of the general election.

(3) Precincts in which voting machines or electronic voting devices are used may contain as many as nine hundred active registered voters. The number of poll-site ballot counting devices at each polling place is at the discretion of the auditor. The number of devices must be adequate to meet the expected voter turnout.

(4) On petition of twenty-five or more voters resident more than ten miles from any polling site, the county legislative authority shall establish a separate voting precinct therefor.

(5) The county auditor shall temporarily adjust precinct boundaries when a city or town annexes unincorporated territory to the city or town. The adjustment shall be made as soon as possible after the approval of the annexation. The temporary adjustment shall be limited to the minimum changes necessary to accommodate the addition of the territory to the city or town and shall remain in effect only until precinct boundary modifications reflecting the annexation are adopted by the county legislative authority.

The county legislative authority may establish by ordinance a limitation on the maximum number of active registered voters in each precinct within its jurisdiction. The limitation may be different for precincts based upon the method of voting used for such precincts and the number may be less than the number established by law, but in no case may the number exceed that authorized by law.

The county legislative authority of each county in the state hereafter formed shall, at their first session, divide their respective counties into election precincts with two hundred fifty active registered voters or less and establish the boundaries of the precincts. The county auditor shall thereupon designate the voting place for each such precinct.

(6) In determining the number of active registered voters for the purposes of this section, persons who are ongoing absentee voters under *RCW 29.36.013 shall not be counted. Nothing in this subsection may be construed as altering the vote tallying requirements of RCW 29.62.090.

[1999 c 158 § 3; 1994 c 57 § 3; 1986 c 167 § 2; 1980 c 107 § 3. Prior: 1977 ex.s. c 361 § 4; 1977 ex.s. c 128 § 1; 1975-'76 2nd ex.s. c 129 § 3; 1967 ex.s. c 109 § 1; 1965 c 9 § 29.04.040; prior: (i) 1921 c 178 § 1, part; 1915 c 11 § 1, part; 1907 c 130 § 1, part; 1889 p 402 § 7, part; Code 1881 § 3067, part; 1865 p 30 § 1, part; RRS § 5171, part. (ii) 1907 c 130 § 2, part; 1889 p 408 § 21, part; RRS § 5278, part. (iii) Code 1881 § 2679; 1854 p 65 § 4, part; No

RRS.]

NOTES:

***Reviser's note:** RCW 29.36.013 was recodified as RCW 29.36.240 pursuant to 2001 c 241 § 25.

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

Severability--1986 c 167: See note following RCW 29.01.055.

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

Severability--1977 ex.s. c 128: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 128 § 6.]

Effective date--Severability--1975-'76 2nd ex.s. c 129: See notes following RCW 29.04.140.

"City precinct" defined: RCW 29.01.030.

"Precinct" defined: RCW 29.01.120.

"Rural precinct" defined: RCW 29.01.150.

RCW 29.04.050 Precincts--Restrictions on precinct boundaries--Designated by number.

(1) Every voting precinct must be wholly within a single congressional district, a single legislative district, and a single district of a county legislative authority.

(2) Every voting precinct shall be composed, as nearly as practicable, of contiguous and compact areas.

(3) Except as provided in this subsection, changes to the boundaries of any precinct shall follow visible, physical features delineated on the most current maps provided by the United States census bureau. A change need not follow such visible, physical features if (a) it is necessitated by an annexation or incorporation and the proposed precinct boundary is identical to an exterior boundary of the annexed or incorporated area which does not follow a visible, physical feature; or (b) doing so would substantially impair election administration in the involved area.

(4) After a change to precinct boundaries is adopted by the county legislative authority, the county auditor shall send to the secretary of state a copy of the legal description and a map or maps of the changes and, if all or part of the changes do not follow visible, physical features, a statement of the applicable exception under subsection (3) of this section. For boundary changes made pursuant to subsection (3)(b) of this section, the auditor shall include a statement of the reasons why following visible, physical features would have substantially impaired election administration.

(5) Every voting precinct within each county shall be designated by number for the purpose of preparation of maps and the tabulation of population for apportionment purposes. These precincts may be identified with names or other numbers for other election purposes.

(6) After a change to precinct boundaries in a city or town, the county auditor shall send one copy of the map or maps delineating the new precinct boundaries within that city or town to the city or town clerk.

(7) Precinct maps are public records and shall be available for inspection by the public during normal office hours in the offices where they are kept. Copies shall be made available to the public for a fee necessary to cover the cost of reproduction.

[1999 c 298 § 1; 1989 c 278 § 1; 1977 ex.s. c 128 § 2; 1965 c 9 § 29.04.050. Prior: 1921 c 178 § 1, part; 1915 c 11 § 1, part; 1907 c 130 § 1, part; 1889 p 402 § 7, part; Code 1881 § 3067, part; 1865 p 30 § 1, part; RRS § 5171, part.]

Notes:

Severability--1977 ex.s. c 128: See note following RCW 29.04.040.

RCW 29.04.055 Combining or dividing precincts, election boards.

At any special election or primary, the county auditor may combine, unite, or divide precincts and may combine or unite election boards for the purpose of holding such election. At any general election, the county auditor may combine or unite election boards for the purpose of holding such election, but shall report all election returns by individual precinct.

[2001 c 241 § 22; 1986 c 167 § 3; 1977 ex.s. c 361 § 5; 1974 ex.s. c 127 § 1; 1965 c 9 § 29.04.055. Prior: 1963 c 200 § 22; 1951 c 70 § 1.]

NOTES:

Captions not law--2001 c 241: See RCW 29.36.900.

Severability--1986 c 167: See note following RCW 29.01.055.

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.04.060 Publication of election laws by secretary of state.

In every year in which state and county officers are to be elected, the secretary of state shall cause the election laws of the state then in force to be published in pamphlet form and distributed through the county auditors at least twenty days prior to the primary next preceding the election in sufficient number to place a copy thereof in the hands of all officers of elections.

[1965 c 9 § 29.04.060. Prior: (i) 1907 c 209 § 16; RRS § 5193. (ii) 1889 p 413 § 34; RRS § 5299.]

Notes:

Primaries, when held: RCW 29.13.070.

RCW 29.04.070 Secretary of state as chief election officer.

The secretary of state through the election division shall be the chief election officer for all federal, state, county, city, town, and district elections and it shall be his or her duty to keep records of such elections held in the state and to make such records available to the public upon request, and to coordinate those state election activities required by federal law.

[1994 c 57 § 4; 1965 c 9 § 29.04.070. Prior: 1963 c 200 § 23; 1949 c 161 § 12; Rem. Supp. 1949 § 5147-2.]

Notes:

Severability--1994 c 57: See note following RCW 10.64.021.

RCW 29.04.080 Rules by secretary of state--Data processing systems.

The secretary of state shall make rules and regulations not inconsistent with the federal, state, county, city, town, and district election laws to facilitate the execution of their provisions

in an orderly manner and to that end shall assist local election officers by devising uniform forms and procedures. He shall provide uniform regulations governing the maintenance of voter registration records on electronic or automatic data processing systems so that the records of counties using such systems shall be compatible. He shall supervise the development and use of such systems to insure that they conform to all the provisions of Title 29 RCW and the regulations provided for in this section.

[1971 ex.s. c 202 § 2; 1965 c 9 § 29.04.080. Prior: 1963 c 200 § 24; 1949 c 161 § 13; Rem. Supp. 1949 § 5147-3.]

NOTES:
Absentee voters, secretary of state duties regarding: RCW 29.36.360.
Forms
statement of change in residence of voter, design by secretary of state--Availability to public: RCW 29.10.150.
statement registered voter is deceased, design by secretary of state: RCW 29.10.090.
Statutory recount proceedings, rules for: RCW 29.64.070.

RCW 29.04.085 Information in foreign languages.

In order to encourage the broadest possible voting participation by all eligible citizens, the secretary of state shall produce voter registration information in the foreign languages required of state agencies. This information must be available no later than January 1, 2002.

[2001 c 41 § 3.]

RCW 29.04.088 Voter guide.

The secretary of state shall cause to be produced a "voter guide" detailing what constitutes voter fraud and discrimination under state election laws. This voter guide must be provided to every county election officer and auditor, and any other person upon request, no later than January 1, 2002.

[2001 c 41 § 4.]

RCW 29.04.091 Toll-free media and web page.

The secretary of state shall provide a toll-free media and web page designed to allow voter communication with the office of the secretary of state.

[2001 c 41 § 5.]

RCW 29.04.095 Definitions for purposes of RCW 29.04.100 through 29.04.120.

For purposes of RCW 29.04.100 through 29.04.120, the following words shall have the following meanings:

(1) "County auditor" means the county auditor in any noncharter county and in a charter county that county official having the overall responsibility to maintain voter registration information.

(2) "Person" means an individual, partnership, joint venture, public or private corporation, association, state or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

(3) "Political purpose" means a purpose concerned with the support of or opposition to any candidate for any partisan or nonpartisan office or concerned with the support of or opposition to any ballot proposition or issue; "political purpose" includes, but is not limited to, such activities as the advertising for or against any candidate or ballot measure or the solicitation of financial support.

[1973 1st ex.s. c 111 § 1.]

RCW 29.04.100 Registration, voting records--As public records--Information furnished--Restrictions, confidentiality.

(1) In the case of voter registration records received through the department of licensing, the identity of the office at which any particular individual registered to vote is not available for public inspection and shall not be disclosed to the public. In the case of voter registration records received through an agency designated under RCW 29.07.420, the identity of the agency at which any particular individual registered to vote is not available for public inspection and shall not be disclosed to the public. Any record of a particular individual's choice not to register to vote at an office of the department of licensing or a state agency designated under RCW 29.07.420 is not available for public inspection and any information regarding such a choice by a particular individual shall not be disclosed to the public.

(2) All poll books or current lists of registered voters, except original voter registration forms or their images, shall be public records and be made available for inspection under such reasonable rules and regulations as the county auditor may prescribe. The county auditor shall promptly furnish current lists or mailing labels of registered voters in his or her possession, at actual reproduction cost, to any person requesting such information: PROVIDED, That such lists and labels shall not be used for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value: PROVIDED, HOWEVER, That such lists and labels may be used for any political purpose.

[1994 c 57 § 5; 1975-'76 2nd ex.s. c 46 § 1; 1974 ex.s. c 127 § 2; 1973 1st ex.s. c 111 § 2; 1971 ex.s. c 202 § 3; 1965 ex.s. c 156 § 6.]

Notes:

Severability--1994 c 57: See note following RCW 10.64.021.

Forms, secretary of state to design--Availability to public: RCW 29.10.150.

Signature required to vote--Procedure if voter unable to sign name: RCW 29.51.060.

RCW 29.04.110 Registration, voting--Furnishing data upon request--Cost--Use restricted.

Except original voter registration forms or their images, a reproduction of any form of data storage, in the custody of the county auditor, including poll books and precinct lists of registered voters, magnetic tapes or discs, punched cards, and any other form of storage of such books and lists, shall at the written request of any person be furnished to him or her by the

county auditor pursuant to such reasonable rules and regulations as the county auditor may prescribe, and at a cost equal to the county's actual cost in reproducing such form of data storage. Any data contained in a form of storage furnished under this section shall not be used for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product or service or for the purpose of mailing or delivering any solicitation for money, services or anything of value: PROVIDED, HOWEVER, That such data may be used for any political purpose. Whenever the county auditor furnishes any form of data storage under this section, he or she shall also furnish the person receiving the same with a copy of RCW 29.04.120.

[1994 c 57 § 6; 1973 1st ex.s. c 111 § 3.]

Notes:

Severability--1994 c 57: See note following RCW 10.64.021.

RCW 29.04.120 Violations of restricted use of registered voter data--Penalties--Liabilities.

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

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

under subsection (1) of this section for the misuse of such data.

[1999 c 298 § 2; 1992 c 7 § 32; 1974 ex.s. c 127 § 3; 1973 1st ex.s. c 111 § 4.]

RCW 29.04.140 Maps and census correspondence lists--Apportionment--Duties of secretary of state.

(1) With regard to functions relating to census, apportionment, and the establishment of legislative and congressional districts, the secretary of state shall:

(a) Adopt rules pursuant to chapter 34.05 RCW governing the preparation, maintenance, distribution, review, and filing of precinct maps under RCW 29.04.050;

(b) Coordinate and monitor precinct mapping functions of the county auditors and county engineers;

(c) Maintain official state base maps and correspondence lists and maintain an index of all such maps and lists;

(d) Furnish to the United States bureau of the census as needed for the decennial census of population, current, accurate, and easily readable versions of maps of all counties, cities, towns, and other areas of this state, which indicate current precinct boundaries together with copies of the census correspondence lists.

(2) The secretary of state shall serve as the state liaison with the United States bureau of census on matters relating to the preparation of maps and the tabulation of population for apportionment purposes.

[1989 c 278 § 2; 1977 ex.s. c 128 § 4; 1975-'76 2nd ex.s. c 129 § 2.]

Notes:

Severability--1977 ex.s. c 128: See note following RCW 29.04.040.

Effective date--1975-'76 2nd ex.s. c 129: "This 1976 amendatory act shall take effect on February 1, 1977." [1975-'76 2nd ex.s. c 129 § 5.]

Severability--1975-'76 2nd ex.s. c 129: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 129 § 6.]

RCW 29.04.150 Computer file of registered voters--County records to secretary of state--Reimbursement.

(1) No later than June 15th or November 15th, any political party organization or any other individual may request in writing from the secretary of state to receive a copy of the subsequent state-wide computer file of registered voters compiled under subsection (2) of this section. At the time it makes this request, the political party or individual shall deposit sufficient funds with the secretary of state to pay for the cost of assembling, compiling, and distributing the computer file of registered voters and shall agree to the statutory restrictions regarding the commercial use of this data.

(2) Not earlier than January 1st or July 1st subsequent to the receipt of a request and deposit under subsection (1) of this section, each county auditor shall provide to the secretary of

state, or a data processing agency designated by the secretary of state, a duplicate computer tape or data file of the records of the registered voters in that county, containing the information specified in RCW 29.07.220. The secretary of state shall reimburse each county for the actual cost of reproduction and mailing of the duplicate computer tape or data file.

[1993 c 441 § 1; 1975-'76 2nd ex.s. c 46 § 2.]

Notes:

Effective date--1993 c 441: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 441 § 3.]

RCW 29.04.160 Computer file--Duplicate copy--Restrictions and penalties.

As soon as any or all of the voter registration data from the counties has been received under RCW 29.04.150 and processed, the secretary of state shall provide a duplicate copy of this data to the political party organization or other individual making the request, at cost, shall provide a duplicate copy of the master state-wide computer tape or data file of registered voters to the statute law committee without cost, and shall provide a duplicate copy of the master state-wide computer tape or electronic data file of registered voters to the department of information services for purposes of creating the jury source list without cost. Restrictions as to the commercial use of the information on the state-wide computer tape or data file of registered voters, and penalties for its misuse, shall be the same as provided in RCW 29.04.110 and 29.04.120 as now existing or hereafter amended.

[1995 c 135 § 2. Prior: 1993 c 441 § 2; 1993 c 408 § 10; 1977 ex.s. c 226 § 1; 1975-'76 2nd ex.s. c 46 § 3.]

Notes:

Intent--1995 c 135: "The only intent of the legislature in this act is to correct multiple amendments and delete obsolete provisions. It is not the intent of the legislature to change the substance or effect of any presently effective statute." [1995 c 135 § 1.]

Effective date--1993 c 441: See note following RCW 29.04.150.

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

RCW 29.04.170 Local elected officials, commencement of term of office--Purpose, 1979 ex.s. c 126.

(1) The legislature finds that certain laws are in conflict governing the election of various local officials. The purpose of chapter 126, Laws of 1979 ex. sess. is to provide a common date for the assumption of office for all the elected officials of counties, cities, towns, and special purpose districts other than school districts where the ownership of property is not a prerequisite of voting. A person elected to the office of school director begins his or her term of office at the first official meeting of the board of directors after certification of the election results. It is also the purpose of chapter 126, Laws of 1979 ex. sess. to remove these conflicts and delete old statutory language concerning such elections which is no longer necessary.

(2) For elective offices of counties, cities, towns, and special purpose districts other than school districts where the ownership of property is not a prerequisite of voting, the term of

incumbents shall end and the term of successors shall begin after the successor is elected and qualified, and the term shall commence immediately after December 31st following the election, except as follows:

(a) Where the term of office varies from this standard according to statute; and

(b) If the election results have not been certified prior to January 1st after the election, in which event the time of commencement for the new term shall occur when the successor becomes qualified in accordance with RCW 29.01.135.

(3) For elective offices governed by this section, the oath of office shall be taken as the last step of qualification as defined in RCW 29.01.135 but may be taken either:

(a) Up to ten days prior to the scheduled date of assuming office; or

(b) At the last regular meeting of the governing body of the applicable county, city, town, or special district held before the winner is to assume office.

[1999 c 298 § 3; 1980 c 35 § 7; 1979 ex.s. c 126 § 1.]

Notes:

Severability--1980 c 35: See note following RCW 28A.343.300.

RCW 29.04.180 Write-in voting--Candidates, declaration.

Any person who desires to be a write-in candidate and have such votes counted at a primary or election may, if the jurisdiction of the office sought is entirely within one county, file a declaration of candidacy with the county auditor not later than the day before the primary or election. If the jurisdiction of the office sought encompasses more than one county the declaration of candidacy shall be filed with the secretary of state not later than the day before the primary or election. Declarations of candidacy for write-in candidates must be accompanied by a filing fee in the same manner as required of other candidates filing for the office as provided in RCW 29.15.050.

Votes cast for write-in candidates who have filed such declarations of candidacy and write-in votes for persons appointed by political parties pursuant to RCW 29.18.160 need only specify the name of the candidate in the appropriate location on the ballot in order to be counted. Write-in votes cast for any other candidate, in order to be counted, must designate the office sought and position number or political party, if applicable. In order for write-in votes to be valid in jurisdictions employing optical-scan mark sense ballot systems the voter must complete the proper mark next to the write-in line for that office.

No person may file as a write-in candidate where:

(1) At a general election, the person attempting to file either filed as a write-in candidate for the same office at the preceding primary or the person's name appeared on the ballot for the same office at the preceding primary;

(2) The person attempting to file as a write-in candidate has already filed a valid write-in declaration for that primary or election, unless one or the other of the two filings is for the office of precinct committeeperson;

(3) The name of the person attempting to file already appears on the ballot as a candidate

for another office, unless one of the two offices for which he or she is a candidate is precinct committeeperson.

The declaration of candidacy shall be similar to that required by RCW 29.15.010. No write-in candidate filing under RCW 29.04.180 may be included in any voter's pamphlet produced under *chapter 29.80 RCW unless that candidate qualifies to have his or her name printed on the general election ballot. The legislative authority of any jurisdiction producing a local voter's pamphlet under chapter 29.81A RCW may provide, by ordinance, for the inclusion of write-in candidates in such pamphlets.

[1999 c 157 § 1; 1995 c 158 § 1; 1990 c 59 § 100; 1988 c 181 § 1.]

Notes:

***Reviser's note:** Chapter 29.80 RCW was repealed by 1999 c 260 § 13. For later enactment, see chapter 29.81 RCW.

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.04.190 Write-in candidates--Notice to auditors, ballot counters.

The secretary of state shall notify each county auditor of any declarations filed with the secretary under RCW 29.04.180 for offices appearing on the ballot in that county. The county auditor shall ensure that those persons charged with counting the ballots for a primary or election are notified of all valid write-in candidates before the tabulation of those ballots.

[1988 c 181 § 2.]

RCW 29.04.200 Voting devices, machines--Recording requirements.

(1) Beginning January 1, 1993, no voting device or machine may be used in a county with a population of seventy thousand or more to conduct a primary or general or special election in this state unless it correctly records on a separate ballot the votes cast by each elector for any person and for or against any measure and such separate ballots are available for audit purposes after such a primary or election.

(2) Beginning January 1, 1993, the secretary of state shall not certify under this title any voting device or machine for use in conducting a primary or general or special election in this state unless the device or machine correctly records on a separate ballot the votes cast by each elector for any person and for or against any measure and such separate ballots are available for audit purposes after such a primary or election.

(3) Beginning January 1, 1993, a county with a population of less than seventy thousand may use a voting machine or device for conducting a primary or general or special election which does not record on a separate ballot, available for audit purposes after the primary or election, the votes cast by each elector for any person and for or against any measure if:

(a) The device was certified under this title before January 1, 1993, for use in this state;

(b) The device otherwise satisfies the requirements of this title; and

(c) Not more than twenty percent of the votes cast during any primary or general or special election conducted after January 1, 1998, in the county are cast using such a machine or

device.

(4) The purpose of subsection (3) of this section is to permit less populous counties to replace voting equipment in stages over several years. These less populous counties are, nonetheless, encouraged to secure as expeditiously as possible voting equipment which would satisfy the requirements of subsection (1) of this section established for more populous counties.

[1998 c 245 § 26; 1991 c 363 § 30; 1990 c 184 § 1.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Voting devices, tallying systems, requirements for approval: RCW 29.33.300, 29.33.320.

RCW 29.04.210 Ballots, voting systems--Rules by secretary of state.

The secretary of state shall adopt rules to:

(1) Establish standards for the design, layout, and production of ballots;

(2) Provide for the examination and testing of voting systems for certification;

(3) Specify the source and scope of independent evaluations of voting systems that may be relied upon in certifying voting systems for use in this state;

(4) Establish standards and procedures for the acceptance testing of voting systems by counties;

(5) Establish standards and procedures for testing the programming of vote tallying software for specific primaries and elections;

(6) Establish standards and procedures for the preparation and use of each type of certified voting system including procedures for the operation of counting centers where vote tallying systems are used;

(7) Establish standards and procedures to ensure the accurate tabulation and canvassing of ballots;

(8) Provide consistency among the counties of the state in the preparation of ballots, the operation of vote tallying systems, and the canvassing of primaries and elections;

(9) Ensure the secrecy of a voter's ballot when a small number of ballots are counted at the polls or at a counting center;

(10) Govern the use of substitute devices or means of voting when a voting device at the polling place is found to be defective, the counting of votes cast on the defective device and from the substitute device or means, and the documentation that must be submitted to the county auditor regarding such circumstances; and

(11) Govern the transportation of sealed containers of voted ballots or sealed voting devices.

The secretary shall publish proposed rules implementing this section not later than December 15, 1991.

[1990 c 59 § 7.]

Notes:

Intent--1990 c 59: See note following RCW 29.01.006.

RCW 29.04.230 Electronic facsimile documents--Acceptance of.

The secretary of state or a county auditor shall accept and file in his or her office electronic facsimile transmissions of the following documents:

(1) Declarations and affidavits of candidacy;

(2) County canvass reports;

(3) Candidates' pamphlet statements;

(4) Arguments for and against ballot measures that will appear in a voters' pamphlet;

(5) Requests for recounts;

(6) Certification of candidates and measures by the secretary of state;

(7) Direction by the secretary of state for the conduct of a mandatory recount;

(8) Requests for absentee ballots;

(9) Any other election related document authorized by rule adopted by the secretary of state under RCW 29.04.235.

The acceptance by the secretary of state or the county auditor is conditional upon the document being filed in a timely manner, being legible, and otherwise satisfying the requirements of state law or rules with respect to form and content.

If the original copy of a document must be signed and a copy of the document is filed by facsimile transmission under this section, the original copy shall be subsequently filed with the official with whom the facsimile was filed. The original copy shall be filed by a deadline established by the secretary by rule. The secretary may by rule require that the original of any document, a copy of which is filed by facsimile transmission under this section, also be filed by a deadline established by the secretary by rule.

[1991 c 186 § 1.]

RCW 29.04.235 Electronic facsimile documents--Rules.

The secretary of state shall adopt rules in accordance with chapter 34.05 RCW to implement RCW 29.04.230.

[1991 c 186 § 2.]

RCW 29.04.240 Records concerning accuracy and currency of voters lists.

Each county auditor shall maintain for at least two years and shall make available for public inspection and copying all records concerning the implementation of programs and activities conducted for the purpose of insuring the accuracy and currency of official lists of eligible voters. These records must include lists of the names and addresses of all persons to whom notices are sent and information concerning whether or not each person has responded to the notices. These records must contain lists of all persons removed from the list of eligible voters and the reasons why the voters were removed.

[1994 c 57 § 7.]

Notes:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

Chapter 29.07 RCW
VOTER REGISTRATION

Sections

29.07.005 Definition.
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29.07.310 Driver licensing and voter registration--Duties of secretary of state.
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29.07.400 Registration law--Officials' violations.
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29.07.420 Designation of agencies providing registration services.
29.07.430 Registration or transfer at designated agencies--Form and application.
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29.07.450 Duties of secretary of state.

NOTES:

Disqualification from voting
incapacitated persons: RCW 11.88.010, 11.88.090.
mentally incompetent persons: State Constitution Art. 6 § 3.
persons convicted of infamous crimes: State Constitution Art. 6 § 3.
Out-of-state, overseas, service voters, same ballots as registered voters: RCW 29.36.210.
Registration
state Constitution Art. 6 § 7.
status, transfers, and cancellations: Chapter 29.10 RCW.
Residence defined for purpose of registering and voting: RCW 29.01.140.

RCW 29.07.005 Definition.

"Information required for voter registration" means the minimum information provided on a voter registration application that is required by the county auditor in order to place a voter registration applicant on the voter registration rolls. This information includes the applicant's name, complete residence address, date of birth, and a signature attesting to the truth of the information provided on the application. All other information supplied is ancillary and not to be used as grounds for not registering an applicant to vote.

[1994 c 57 § 9.]

Notes:

Severability--1994 c 57: See note following RCW 10.64.021.

RCW 29.07.010 County auditor as chief registrar of voters, custodian of records--Registration assistants.

(1) In all counties, the county auditor shall be the chief registrar of voters for every precinct within the county. The auditor may appoint a registration assistant for each precinct or group of precincts and shall appoint city or town clerks as registration assistants to assist in registering persons residing in cities, towns, and rural precincts within the county.

(2) In addition, the auditor may appoint a registration assistant for each common school. The auditor may appoint a registration assistant for each fire station.

(3) A registration assistant must be a registered voter. Except for city and town clerks, each registration assistant holds office at the pleasure of the county auditor.

(4) The county auditor shall be the custodian of the official registration records of that county. The county auditor shall ensure that mail-in voter registration application forms are readily available to the public at locations to include but not limited to the elections office, and all common schools, fire stations, and public libraries.

[1999 c 298 § 4; 1994 c 57 § 8; 1984 c 211 § 3; 1980 c 48 § 1; 1971 ex.s. c 202 § 4; 1965 c 9 § 29.07.010. Prior: 1957 c 251 § 4; prior: 1939 c 15 § 1, part; 1933 c 1 § 3, part; RRS § 5114-3, part; prior: 1891 c 104 §§ 1, part, 2, part; RRS §§ 5116, part, 5117, part.]

Notes:

Severability--1994 c 57: See note following RCW 10.64.021.
Intent--1984 c 211: See note following RCW 29.07.025.
Rural precinct defined: RCW 29.01.150.

RCW 29.07.025 Voter registration in state offices.

(1) Each state agency designated under RCW 29.07.420 shall provide voter registration services for employees and the public within each office of that agency.

(2) The secretary of state shall design and provide a standard notice informing the public of the availability of voter registration, which notice shall be posted in each state agency where such services are available.

(3) The secretary of state shall design and provide standard voter registration forms for use by these state agencies.

[1994 c 57 § 10; 1984 c 211 § 2.]

Notes:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

Intent--1984 c 211: "It is the intention of the legislature, in order to encourage the broadest possible participation in the electoral process by the citizens of the state of Washington, to make voter registration services available in state offices which have significant contact with the public." [1984 c 211 § 1.]

RCW 29.07.030 Expense of registration.

The expense of registration in all rural precincts shall be paid by the county; in all precincts lying wholly within a city or town by the city or town. In precincts lying partly within and partly outside of a city or town, the expense of registration shall be apportioned between the county and city or town according to the number of voters registered in the precinct living within the city or town and the number living outside of it.

[1965 c 9 § 29.07.030. Prior: 1939 c 82 § 1, part; 1933 c 1 § 4, part; RRS § 5114-4, part; prior: 1891 c 104 § 4; RRS § 5119.]

RCW 29.07.070 Voter qualification information--Verification notice.

Except as provided under RCW 29.07.260, an applicant for voter registration shall complete an application providing the following information concerning his or her qualifications as a voter in this state:

(1) The address of the last former registration of the applicant as a voter in the state;

(2) The applicant's full name;

(3) The applicant's date of birth;

(4) The address of the applicant's residence for voting purposes;

(5) The mailing address of the applicant if that address is not the same as the address in subsection (4) of this section;

(6) The sex of the applicant;

(7) A declaration that the applicant is a citizen of the United States; and

(8) Any other information that the secretary of state determines is necessary to establish the identity of the applicant and prevent duplicate or fraudulent voter registrations.

This information shall be recorded on a single registration form to be prescribed by the secretary of state.

If the applicant fails to provide the information required for voter registration, the auditor shall send the applicant a verification notice. The auditor shall not register the applicant until the required information is provided. If a verification notice is returned as undeliverable or the applicant fails to respond to the notice within forty-five days, the auditor shall not register the applicant to vote.

The following warning shall appear in a conspicuous place on the voter registration form:

"If you knowingly provide false information on this voter registration form or knowingly make a false declaration about your qualifications for voter registration you will have committed a class C felony that is punishable by imprisonment for up to five years, or by a fine of up to ten thousand dollars, or both imprisonment and fine."

[1994 c 57 § 11; 1990 c 143 § 7; 1973 1st ex.s. c 21 § 3; 1971 ex.s. c 202 § 9; 1965 c 9 § 29.07.070. Prior: 1947 c 68 § 3, part; 1933 c 1 § 11, part; Rem. Supp. 1947 § 5114-11, part; prior: 1921 c 177 § 7, part; 1915 c 16 § 8, part; 1901 c 135 § 4, part; 1893 c 45 § 3, part; 1889 p 416 § 8, part; RRS § 5126, part.]

NOTES:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

Effective date--1990 c 143 §§ 1-8: See note following RCW 29.07.260.

Civil disabilities of wife abolished: RCW 26.16.160.

Civil rights

loss of: State Constitution Art. 6 § 3, RCW 29.10.097.

restoration of: RCW 9.92.066, 9.94A.637, 9.94A.885, 9.95.260, chapter 9.96 RCW.

Copy of instrument restoring civil rights as evidence: RCW 5.44.090.

Qualifications of electors: State Constitution Art. 6 § 1 (Amendment 5).

Residence defined: RCW 29.01.140.

Subversive activities as disqualification for voting: RCW 9.81.040.

United States constitutional amendment conventions, delegates, qualifications of voters: RCW 29.74.090.

RCW 29.07.080 Oath of applicant.

For voter registrations executed under RCW 29.07.070, the registrant shall sign the following oath:

"I declare that the facts on this voter registration form are true. I am a citizen of the United States, I am not presently denied my civil rights as a result of being convicted of a felony, I will have lived in Washington at this address for thirty days immediately before the next election at which I vote, and I will be at least eighteen years old when I vote."

[1994 c 57 § 12; 1990 c 143 § 8; 1973 1st ex.s. c 21 § 4; 1971 ex.s. c 202 § 10; 1965 c 9 § 29.07.080. Prior: 1933 c 1 § 12; RRS § 5114-12.]

NOTES:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

Effective date--1990 c 143 §§ 1-8: See note following RCW 29.07.260.

Civil rights

loss of: State Constitution Art. 6 § 3, RCW 29.10.097.
restoration of: RCW 9.92.066, 9.94A.637, 9.94A.885, 9.95.260, chapter 9.96 RCW.

RCW 29.07.090 Signature card.

At the time of registering, a voter shall sign his or her name upon a signature card to be transmitted to the secretary of state. The voter shall also provide his or her first name followed by the last name or names and the name of the county in which he or she is registered.

[1994 c 57 § 13; 1973 1st ex.s. c 21 § 5; 1971 ex.s. c 202 § 11; 1965 c 9 § 29.07.090. Prior: 1933 c 1 § 13, part; RRS § 5114-13, part.]

Notes:

Severability--1994 c 57: See note following RCW 10.64.021.

RCW 29.07.092 New registration or transfer--Acknowledgment--Cancellation of previous registration.

The county auditor shall acknowledge each new voter registration or transfer by providing or sending the voter a card identifying his current precinct and containing such other information as may be prescribed by the secretary of state. When a person who has previously registered to vote in a jurisdiction applies for voter registration in a new jurisdiction, the person shall provide on the registration form, all information needed to cancel any previous registration. The county auditor shall forward any information pertaining to the voter's prior voter registration to the county where the voter was previously registered, so that registration may be canceled. If the prior voter registration is in another state, the notification must be made to the state elections office of that state. A county auditor receiving official information that a voter has registered to vote in another jurisdiction shall immediately cancel that voter's registration.

[2001 c 41 § 6; 1975 1st ex.s. c 184 § 1; 1973 c 153 § 2.]

NOTES:

Severability--1975 1st ex.s. c 184: "If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 184 § 5.]

RCW 29.07.100 Registration assistance by city and town clerks.

In cities and towns, clerks shall provide voter registration assistance during the normal business hours of the office.

[1994 c 57 § 14; 1971 ex.s. c 202 § 13; 1965 c 9 § 29.07.100. Prior: 1957 c 251 § 10; prior: 1947 c 68 § 1, part; 1945 c 95 § 1, part; 1933 c 1 § 6, part; Rem. Supp. 1947 § 5114-6, part; prior: 1919 c 163 § 6, part; 1915 c 16 § 6, part; 1901 c 35 § 5, part; 1893 c 45 § 1, part; 1889 p 415 § 6, part; RRS § 5124, part.]

Notes:

Severability--1994 c 57: See note following RCW 10.64.021.

RCW 29.07.110 Time and places for registration--Deputy registrars outside county

courthouse.

Every deputy registrar located outside the county courthouse shall keep registration supplies at his usual place of residence or usual place of business at reasonable hours and at the end of each week mail to the county auditor the cards of those who have registered during the week: PROVIDED, That with the written consent of the county auditor a deputy registrar may designate some centrally located place for registration in lieu of the usual place where registration supplies are kept by giving notice thereof in such manner as he may deem expedient stating therein the days and hours when the place will be open for registration: PROVIDED FURTHER, That such consent of the county auditor may include authorization for door-to-door registration including registration from a portable office as in a trailer and the person or persons so deputized may register all eligible electors residing in any precinct within the county concerned.

[1971 ex.s. c 202 § 15; 1965 c 9 § 29.07.110. Prior: 1957 c 251 § 11; prior: 1947 c 68 § 1, part; 1945 c 95 § 1, part; 1933 c 1 § 6, part; Rem. Supp. 1947 § 5114-6, part; prior: 1919 c 163 § 6, part; 1915 c 16 § 6, part; 1901 c 135 § 5, part; 1893 c 45 § 1, part; 1889 p 415 § 6, part; RRS § 5124, part.]

RCW 29.07.115 Registration records--Weekly transmittal.

A person or organization collecting voter registration application forms must transmit the forms to the secretary of state or a designee at least once weekly.

[1994 c 57 § 15; 1971 ex.s. c 202 § 23.]

Notes:

Severability--1994 c 57: See note following RCW 10.64.021.

RCW 29.07.120 Registrar's cards--Weekly transmittal--Exemption.

Once each week the county auditor shall transmit all cards required by RCW 29.07.090 to the secretary of state. The secretary of state may exempt a county auditor who is providing electronic voter registration and electronic voter signature information to the secretary of state from the requirements of this section.

[1999 c 298 § 5; 1994 c 57 § 16; 1971 ex.s. c 202 § 16; 1965 c 9 § 29.07.120. Prior: 1933 c 1 § 13, part; RRS § 5114-13, part.]

Notes:

Severability--1994 c 57: See note following RCW 10.64.021.

RCW 29.07.130 Registration records--Originals and automated files--Public access.

(1) The cards required by RCW 29.07.090 shall be kept on file in the office of the secretary of state in such manner as will be most convenient for, and for the sole purpose of, checking initiative and referendum petitions. The secretary may maintain an automated file of voter registration information for any county or counties in lieu of filing or maintaining these

voter registration cards if the automated file includes all of the information from the cards including, but not limited to, a retrievable facsimile of the signature of each voter of that county or counties. Such an automated file may be used only for the purpose authorized for the use of the cards.

(2) The county auditor shall have custody of the voter registration records for each county. The original voter registration form, as established by RCW 29.07.070, shall be filed alphabetically without regard to precinct and shall be considered confidential and unavailable for public inspection and copying. An automated file of all registered voters shall be maintained pursuant to RCW 29.07.220. An auditor may maintain the automated file in lieu of filing or maintaining the original voter registration forms if the automated file includes all of the information from the original voter registration forms including, but not limited to, a retrievable facsimile of each voter's signature.

(3) The following information contained in voter registration records or files regarding a voter or a group of voters is available for public inspection and copying: The voter's name, gender, voting record, date of registration, and registration number. The address of a registered voter or addresses of a group of voters are available for public inspection and copying except to the extent that the address of a particular voter is not so available under RCW 42.17.310(1)(bb). The political jurisdictions within which a voter or group of voters reside are also available for public inspection and copying except that the political jurisdictions within which a particular voter resides are not available for such inspection and copying if the address of the voter is not so available under RCW 42.17.310(1)(bb). No other information from voter registration records or files is available for public inspection or copying.

[1994 c 57 § 17; 1991 c 81 § 21; 1971 ex.s. c 202 § 17; 1965 c 9 § 29.07.130. Prior: 1933 c 1 § 13, part; RRS § 5114-13, part.]

Notes:

Severability--1994 c 57: See note following RCW 10.64.021.

Effective date--1991 c 81: See note following RCW 29.85.010.

RCW 29.07.140 Application form--Single completion--Furnished by secretary of state.

(1) The secretary of state shall specify by rule the format of all voter registration applications. These applications shall be compatible with existing voter registration records. An applicant for voter registration shall be required to complete only one application and to provide the required information other than his or her signature no more than one time. These applications shall also contain information for the voter to transfer his or her registration.

Any application format specified by the secretary for use in registering to vote in state and local elections shall satisfy the requirements of the National Voter Registration Act of 1993 (P.L. 103-31) for registering to vote in federal elections.

(2) The secretary of state shall adopt by rule a uniform data format for transferring voter registration records on machine-readable media.

(3) All registration applications required under RCW 29.07.070 and 29.07.260 shall be produced and furnished by the secretary of state to the county auditors and the department of licensing.

(4) The secretary of state shall produce and distribute any instructional material and other supplies needed to implement RCW 29.07.260 through 29.07.300 and 46.20.155.

(5) Any notice or statement that must be provided under the National Voter Registration Act of 1993 (P.L. 103-31) to prospective registrants concerning registering to vote in federal elections shall also be provided to prospective registrants concerning registering to vote under this title in state and local elections as well as federal elections.

[1994 c 57 § 18; 1990 c 143 § 9; 1973 1st ex.s. c 21 § 7; 1971 ex.s. c 202 § 18; 1965 c 9 § 29.07.140. Prior: (i) 1933 c 1 § 30; RRS § 5114-30. (ii) 1933 c 1 § 13, part; RRS § 5114-13, part.]

Notes:

Severability--1994 c 57: See note following RCW 10.64.021.

RCW 29.07.152 Late registration--Special procedure.

This section establishes a special procedure which an elector may use to register to vote during the period beginning after the closing of registration for voting at the polls under RCW 29.07.160 and ending on the fifteenth day before a primary, special election, or general election. During this period, the unregistered qualified elector may register to vote in person in the office of the county auditor or at a voter registration location specifically designated for this purpose by the county auditor of the county in which the applicant resides, and apply for an absentee ballot for that primary or election. The auditor or voter registrar shall register that individual in the manner provided in this chapter. The application for an absentee ballot executed by the newly registered voter for the primary or election that follows the execution of the registration shall be promptly transmitted to the auditor with the completed voter registration form.

[1993 c 383 § 1.]

RCW 29.07.160 Closing registration files--Notice.

The registration files of all precincts shall be closed against original registration or transfers for thirty days immediately preceding every primary, special election, and general election to be held in such precincts.

The county auditor shall give notice of the closing of the precinct files for original registration and transfer and notice of the special registration and voting procedure provided by RCW 29.07.152 by one publication in a newspaper of general circulation in the county at least five days before the closing of the precinct files.

No person may vote at any primary, special election, or general election in a precinct polling place unless he or she has registered to vote at least thirty days before that primary or election. If a person, otherwise qualified to vote in the state, county, and precinct in which he or she applies for registration, does not register at least thirty days before any primary, special election, or general election, he or she may register and vote by absentee ballot for that primary or election under RCW 29.07.152.

[1993 c 383 § 2; 1980 c 3 § 4; 1974 ex.s. c 127 § 4; 1971 ex.s. c 202 § 20; 1965 c 9 § 29.07.160. Prior: 1947 c 68 §

2; 1933 c 1 § 9; Rem. Supp. 1947 § 5114-9.]

RCW 29.07.170 Delivery of precinct lists to polls.

Upon closing of the registration files preceding an election, the county auditor shall deliver the precinct lists of registered voters to the inspector or one of the judges of each precinct or group of precincts located at the polling place before the polls open.

[1994 c 57 § 19; 1971 ex.s. c 202 § 21; 1965 c 9 § 29.07.170. Prior: 1957 c 251 § 8; prior: 1933 c 1 § 10, part; RRS § 5114-10, part; prior: 1919 c 163 § 11, part; 1915 c 16 § 13, part; 1905 c 171 § 4, part; 1889 p 417 § 13, part; RRS § 5131, part.]

Notes:

Severability--1994 c 57: See note following RCW 10.64.021.

RCW 29.07.180 Return of precinct lists after election--Public records.

The precinct list of registered voters for each precinct or group of precincts delivered to the precinct election officers for use on the day of an election held in that precinct shall be returned by them to the county auditor upon the completion of the count of the votes cast in the precinct at that election. While in possession of the county auditor they shall be open to public inspection under such reasonable rules and regulations as may be prescribed therefor.

[1994 c 57 § 20; 1971 ex.s. c 202 § 22; 1965 c 9 § 29.07.180. Prior: 1933 c 1 § 8, part; RRS § 5114-8, part; prior: 1919 c 163 § 7, part; 1915 c 16 § 7, part; 1905 c 171 § 3, part; 1901 c 135 § 3, part; 1893 c 45 § 2, part; 1889 p 415 § 7, part; RRS § 5125, part.]

Notes:

Severability--1994 c 57: See note following RCW 10.64.021.

RCW 29.07.220 Computer file of voter registration records--Establishment--Duties of county auditor.

Each county auditor shall maintain a computer file on magnetic tape or disk, punched cards, or other form of data storage containing the records of all registered voters within the county. Where it is necessary or advisable, the auditor may provide for the establishment and maintenance of such files by private contract or through interlocal agreement as provided by chapter 39.34 RCW, as it now exists or is hereafter amended. The computer file shall include, but not be limited to, each voter's last name, first name, middle initial, date of birth, residence address, sex, date of registration, applicable taxing district and precinct codes and the last date on which the individual voted. The county auditor shall subsequently record each consecutive date upon which the individual has voted and retain at least the last five such consecutive dates: PROVIDED, That if the voter has not voted at least five times since establishing his or her current registration record, only the available dates shall be included.

[1993 c 408 § 11; 1991 c 81 § 22; 1974 ex.s. c 127 § 12.]

Notes:

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

Effective date--1991 c 81: See note following RCW 29.85.010.

RCW 29.07.230 Payment to counties for maintenance of voter registration records on electronic data processing systems.

To compensate counties with fewer than ten thousand registered voters at the time of the most recent state general election for unrecoverable costs incident to the maintenance of voter registration records on electronic data processing systems, the secretary of state shall, in June of each year, pay such counties an amount equal to thirty cents for each registered voter in the county at the time of the most recent state general election.

[1980 c 32 § 6; 1974 ex.s. c 127 § 13.]

RCW 29.07.240 Computer file of voter registration records--Rules--Assistance.

The secretary of state, as chief election officer, shall adopt rules and regulations, not inconsistent with the provisions of this chapter to:

(1) Facilitate the establishment and maintenance of voter registration records by county auditors and the use of voter registration information in the conduct of elections; and

(2) Establish standards and procedures for the establishment and maintenance of voter registration records on electronic data processing systems.

He shall provide planning, coordination, training and other assistance in the conversion of voter registration files to maintenance by electronic data processing and he shall administer the voter registration assistance account.

[1974 ex.s. c 127 § 14.]

RCW 29.07.250 Handling of reports filed under public disclosure law.

See RCW 29.04.025.

RCW 29.07.260 Registration with driver's license application or renewal.

(1) A person may register to vote, transfer a voter registration, or change his or her name for voter registration purposes when he or she applies for or renews a driver's license or identification card under chapter 46.20 RCW.

(2) To register to vote, transfer his or her voter registration, or change his or her name for voter registration purposes under this section, the applicant shall provide the following:

(a) His or her full name;

(b) Whether the address in the driver's license file is the same as his or her residence for voting purposes;

(c) The address of the residence for voting purposes if it is different from the address in the driver's license file;

(d) His or her mailing address if it is not the same as the address in (c) of this subsection;

(e) Additional information on the geographic location of that voting residence if it is only identified by route or box;

(f) The last address at which he or she was registered to vote in this state;

(g) A declaration that he or she is a citizen of the United States; and

(h) Any other information, other than an applicant's social security number, that the secretary of state determines is necessary to establish the identity of the applicant and to prevent duplicate or fraudulent voter registrations.

(3) The following warning shall appear in a conspicuous place on the voter registration form:

"If you knowingly provide false information on this voter registration form or knowingly make a false declaration about your qualifications for voter registration you will have committed a class C felony that is punishable by imprisonment for up to five years, or by a fine of up to ten thousand dollars, or both imprisonment and fine."

(4) The applicant shall sign a portion of the form that can be used as an initiative signature card for the verification of petition signatures by the secretary of state and shall sign and attest to the following oath:

"I declare that the facts on this voter registration form are true. I am a citizen of the United States, I am not presently denied my civil rights as a result of being convicted of a felony, I will have lived in Washington at this address for thirty days before the next election at which I vote, and I will be at least eighteen years old when I vote."

(5) The driver licensing agent shall record that the applicant has requested to register to vote or transfer a voter registration.

[2001 c 41 § 16; 1999 c 298 § 6; 1994 c 57 § 21; 1990 c 143 § 1.]

NOTES:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

Effective date--1990 c 143 §§ 1-8: "Sections 1 through 8 of this act shall take effect January 1, 1992." [1990 c 143 § 13.]

Civil rights

loss of: State Constitution Art. 6 § 3, RCW 29.10.097.

restoration of: RCW 9.92.066, 9.94A.637, 9.94A.885, 9.95.260, chapter 9.96 RCW.

Driver licensing agents duties regarding voter registration: RCW 46.20.155.

RCW 29.07.270 Duties of secretary of state, department of licensing, county auditors--Address changes.

(1) The secretary of state shall provide for the voter registration forms submitted under RCW 29.07.260 to be collected from each driver's licensing facility within five days of their completion.

(2) The department of licensing shall produce and transmit to the secretary of state a machine-readable file containing the following information from the records of each individual who requested a voter registration or transfer at a driver's license facility during each period for which forms are transmitted under subsection (1) of this section: The name, address, date of birth, and sex of the applicant and the driver's license number, the date on which the application for voter registration or transfer was submitted, and the location of the office at which the application was submitted.

(3) The department of licensing shall provide information on all persons changing their address on change of address forms submitted to the department unless the voter has indicated that the address change is not for voting purposes. This information will be transmitted to the secretary of state each week in a machine-readable file containing the following information on persons changing their address: The name, address, date of birth, and sex of the applicant, the applicant's driver's license number, the applicant's former address, the county code for the applicant's former address, and the date that the request for address change was received.

(4) The secretary of state shall forward this information to the appropriate county each week. When the information indicates that the voter has moved within the county, the county auditor shall use the change of address information to transfer the voter's registration and send the voter an acknowledgement notice of the transfer. If the information indicates that the new address is outside the voter's original county, the county auditor shall send the voter a registration by mail form at the voter's new address and advise the voter of the need to reregister in the new county. The auditor shall then place the voter on inactive status.

[1994 c 57 § 22; 1990 c 143 § 2.]

Notes:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

Effective date--1990 c 143 §§ 1-8: See note following RCW 29.07.260.

RCW 29.07.280 Forwarding of forms to voter's county.

The voter registration forms from the driver's licensing facilities shall be forwarded to the county in which the applicant has registered to vote no later than ten days after the date on which the forms were to be collected under RCW 29.07.270(1).

[1990 c 143 § 3.]

Notes:

Effective date--1990 c 143: See note following RCW 29.07.260.

RCW 29.07.290 Records--Correction, sorting, transmittal.

(1) For any voter registration application where the address for voting purposes is different from the address in the machine-readable file received from the department of licensing, the secretary of state shall amend the record of that application in the machine-readable file to reflect the county in which the applicant has registered to vote.

(2) The secretary of state shall sort the records in the machine-readable file according to the county in which the applicant registered to vote and produce a file of voter registration

transactions for each county. The records of each county shall be transmitted on or through whatever medium the county auditor determines will best facilitate the incorporation of these records into the existing voter registration files of that county.

(3) The secretary of state shall produce a list of voter registration transactions for each county and transmit a copy of this list to that county with each file of voter registration transactions.

[1990 c 143 § 4.]

Notes:

Effective date--1990 c 143 §§ 1-8: See note following RCW 29.07.260.

RCW 29.07.300 Delivery of files to auditors--Address changes.

(1) The secretary of state shall deliver the files and lists of voter registration information produced under RCW 29.07.290 to the county auditors no later than ten days after the date on which that information was to be transmitted under RCW 29.07.270(1). The county auditor shall process these records in the same manner as voter registrations executed under RCW 29.07.080.

(2) If a registrant has indicated on the voter registration application form that he or she is registered to vote in another county in Washington but has also provided an address within the auditor's county that is for voter registration purposes, the auditor shall send, on behalf of the registrant, a registration cancellation notice to the auditor of that other county and the auditor receiving the notice shall cancel the registrant's voter registration in that other county. If the registrant has indicated on the form that he or she is registered to vote within the county but has provided a new address within the county that is for voter registration purposes, the auditor shall transfer the voter's registration.

[1994 c 57 § 23; 1990 c 143 § 5.]

Notes:

Severability--1994 c 57: See note following RCW 10.64.021.

Effective date--1990 c 143: See note following RCW 29.07.260.

RCW 29.07.310 Driver licensing and voter registration--Duties of secretary of state.

The secretary of state shall:

(1) Coordinate with the department of licensing and county auditors on the implementation of RCW 29.07.260 through 29.07.300 and 46.20.155;

(2) Adopt rules governing the delivery and processing of voter registrations submitted under RCW 29.07.260 and insuring the integrity of the voter registration process and of the data on registered voters collected under RCW 29.07.260 through 29.07.300 and 46.20.155;

(3) Develop and enter into interlocal agreements with county auditors and with the department of licensing governing the systems development, testing, implementation, and other data processing services provided by the county auditors and the department of licensing in carrying out RCW 29.07.260 through 29.07.300 and 46.20.155 and providing for the reimbursement of all costs to county auditors and the department of licensing for these data processing services.

[1990 c 143 § 10.]

RCW 29.07.320 Driver licensing and voter registration--Funding.

The secretary of state shall include in his or her biennial budget requests sufficient funds to carry out the purposes of RCW 29.07.260 through 29.07.300 and 46.20.155, including the reimbursement of costs to county auditors and the department of licensing under RCW 29.07.310(3).

[1990 c 143 § 11.]

RCW 29.07.400 Registration law--Officials' violations.

If any county auditor or registration assistant:

(1) Willfully neglects or refuses to perform any duty required by law in connection with the registration of voters; or

(2) Willfully neglects or refuses to perform such duty in the manner required by voter registration law; or

(3) Enters or causes or permits to be entered on the voter registration records the name of any person in any other manner or at any other time than as prescribed by voter registration law or enters or causes or permits to be entered on such records the name of any person not entitled to be thereon; or

(4) Destroys, mutilates, conceals, changes, or alters any registration record in connection therewith except as authorized by voter registration law,

he or she is guilty of a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

[1994 c 57 § 24; 1991 c 81 § 11; 1965 c 9 § 29.85.190. Prior: 1933 c 1 § 26; RRS § 5114-26; prior: 1889 p 418 § 15; RRS § 5133. Formerly RCW 29.85.190.]

Notes:

Severability--1994 c 57: See note following RCW 10.64.021.

Effective date--1991 c 81: See note following RCW 29.85.010.

RCW 29.07.405 Disenfranchisement or discrimination--Penalty.

An election officer or a person who intentionally disenfranchises an eligible citizen or discriminates against a person eligible to vote by denying voter registration is guilty of a misdemeanor punishable under RCW 9A.20.021.

[2001 c 41 § 2.]

RCW 29.07.410 Registration law--Voter violations.

Any person who:

(1) Knowingly provides false information on an application for voter registration under any provision of this title;

(2) Knowingly makes or attests to a false declaration as to his or her qualifications as a voter;

(3) Knowingly causes or permits himself or herself to be registered using the name of another person;

(4) Knowingly causes himself or herself to be registered under two or more different names;

(5) Knowingly causes himself or herself to be registered in two or more counties;

(6) Offers to pay another person to assist in registering voters, where payment is based on a fixed amount of money per voter registration;

(7) Accepts payment for assisting in registering voters, where payment is based on a fixed amount of money per voter registration; or

(8) Knowingly causes any person to be registered or causes any registration to be transferred or canceled except as authorized under this title,

is guilty of a class C felony punishable under RCW 9A.20.021.

[1994 c 57 § 25; 1991 c 81 § 12; 1990 c 143 § 12; 1977 ex.s. c 361 § 110; 1965 c 9 § 29.85.200. Prior: 1933 c 1 § 27; RRS § 5114-27; prior: 1893 c 45 § 5; 1889 p 418 § 16; RRS § 5136. Formerly RCW 29.85.200.]

Notes:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

Effective date--1991 c 81: See note following RCW 29.85.010.

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.07.420 Designation of agencies providing registration services.

The governor, in consultation with the secretary of state, shall designate agencies to provide voter registration services in compliance with federal statutes.

[1994 c 57 § 26.]

Notes:

Severability--1994 c 57: See note following RCW 10.64.021.

RCW 29.07.430 Registration or transfer at designated agencies--Form and application.

(1) A person may register to vote or transfer a voter registration when he or she applies for service or assistance and with each renewal, recertification, or change of address at agencies designated under RCW 29.07.420.

(2) A prospective applicant shall initially be offered a form adopted by the secretary of state that is designed to determine whether the person wishes to register to vote. The form must comply with all applicable state and federal statutes regarding content.

The form shall also contain a box that may be checked by the applicant to indicate that he or she declines to register.

If the person indicates an interest in registering or has made no indication as to a desire to register or not register to vote, the person shall be given a mail-in voter registration application

or a prescribed agency application as provided by RCW 29.07.440.

[1994 c 57 § 27.]

Notes:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

RCW 29.07.440 Registration at designated agencies--Procedures.

(1) The secretary of state shall prescribe the method of voter registration for each designated agency. The agency shall use either the state voter registration by mail form with a separate declination form for the applicant to indicate that he or she declines to register at this time, or the agency may use a separate form approved for use by the secretary of state.

(2) The person providing service at the agency shall offer voter registration services to every client whenever he or she applies for service or assistance and with each renewal, recertification, or change of address. The person providing service shall give the applicant the same level of assistance with the voter registration application as is offered to fill out the agency's forms and documents, including information about age and citizenship requirements for voter registration.

(3) If an agency uses a computerized application process, it may, in consultation with the secretary of state, develop methods to capture simultaneously the information required for voter registration during a person's computerized application process.

(4) Each designated agency shall provide for the voter registration application forms to be collected from each agency office at least once each week. The agency shall then forward the application forms to the secretary of state each week. The secretary of state shall forward the forms to the county in which the applicant has registered to vote no later than ten days after the date on which the forms were received by the secretary of state.

[2001 c 41 § 7; 1994 c 57 § 28.]

NOTES:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

RCW 29.07.450 Duties of secretary of state.

The secretary of state shall:

(1) Coordinate with the designated agencies and county auditors on the implementation of RCW 29.07.430 and 29.07.440;

(2) Adopt rules governing the delivery and processing of voter registration application forms submitted under RCW 29.07.430 and 29.07.440 and ensuring the integrity of the voter registration process and of the integrity and confidentiality of data on registered voters collected under RCW 29.07.430 and 29.07.440.

[1994 c 57 § 29.]

Notes:

Severability--1994 c 57: See note following RCW 10.64.021.

Chapter 29.08 RCW
REGISTRATION BY MAIL

Sections

29.08.010 Definitions--Rules.
29.08.020 Duties of county auditor--Application of remainder of title.
29.08.030 Authorization.
29.08.040 Forms.
29.08.050 Declaration and warning.
29.08.060 Auditor's procedure.
29.08.070 Form--Adoption, contents.
29.08.080 Forms--Supplied without cost--Citizenship.
29.08.090 Violations of chapter.
29.08.900 Effective date--1993 c 434.

RCW 29.08.010 Definitions--Rules.

The definitions set forth in this section apply throughout this chapter, unless the context clearly requires otherwise.

(1) "By mail" means delivery of a completed original voter registration application by mail or by personal delivery. The secretary of state, in consultation with the county auditors, may adopt rules to develop a process to receive and distribute these applications.

(2) For voter registration applicants, "date of mailing" means the date of the postal cancellation on the voter registration application. This date will also be used as the date of application for the purpose of meeting the registration cutoff deadline. If the postal cancellation date is illegible then the date of receipt by the elections official is considered the date of application. If an application is received by the elections official by the close of business on the fifth day after the cutoff date for voter registration and the postal cancellation date is illegible, the application will be considered to have arrived by the cutoff date for voter registration.

[1994 c 57 § 30; 1993 c 434 § 1.]

Notes:

Severability--1994 c 57: See note following RCW 10.64.021.

RCW 29.08.020 Duties of county auditor--Application of remainder of title.

The county auditor is responsible for the conduct of voter registration under this chapter within the county. Except where inconsistent with this chapter, the remaining provisions of Title 29 RCW apply to registration by mail.

[1993 c 434 § 2.]

RCW 29.08.030 Authorization.

Any elector of this state may register to vote by mail under this chapter.

[1993 c 434 § 3.]

RCW 29.08.040 Forms.

The county auditor shall distribute forms by which a person may register to vote by mail and cancel any previous registration in this state. The county auditor shall keep a supply of voter registration forms in his or her office at all times for political parties and others interested in assisting in voter registration, and shall make every effort to make these forms generally available to the public. The county auditor shall provide voter registration forms to city and town clerks, state offices, schools, fire stations, and any other locations considered appropriate by the auditor for extending registration opportunities to all areas of the county. After the initial distribution of voter registration forms to a given location, a representative designated by the official in charge of that location shall notify the county auditor of the need for additional voter registration supplies.

[1993 c 434 § 4.]

RCW 29.08.050 Declaration and warning.

In addition to the information required under RCW 29.07.070, when registering to vote by mail under this chapter, the applicant shall sign a portion of the form that can be used as an initiative signature card for the verification of petition signatures by the secretary of state and shall sign and attest to the following oath: "I declare that the facts on this voter registration form are true. I am a citizen of the United States, I am not presently denied my civil rights as a result of being convicted of a felony, I will have lived in Washington at this address for thirty days immediately before the next election at which I vote, and I will be at least eighteen years old when I vote."

The voter registration by mail form shall provide, in a conspicuous place, the following warning: "If you knowingly provide false information on this voter registration form or knowingly make a false declaration about your qualifications for voter registration you will have committed a class C felony that is punishable by imprisonment for up to five years, or by a fine of up to ten thousand dollars, or both imprisonment and fine."

[1994 c 57 § 31; 1993 c 434 § 5.]

NOTES:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

Civil rights

loss of: State Constitution Art. 6 § 3, RCW 29.10.097.

restoration of: RCW 9.92.066, 9.94A.637, 9.94A.885, 9.95.260, chapter 9.96 RCW.

RCW 29.08.060 Auditor's procedure.

(1) On receipt of an application for voter registration under this chapter, the county auditor shall review the application to determine whether the information supplied is complete. An application that contains the applicant's name, complete valid residence address, date of birth, and signature attesting to the truth of the information provided on the application is complete. If

it is not complete, the auditor shall promptly mail a verification notice of the deficiency to the applicant. This verification notice shall require the applicant to provide the missing information. If the verification notice is not returned by the applicant or is returned as undeliverable the auditor shall not place the name of the applicant on the county voter list. If the applicant provides the required information, the applicant shall be registered to vote as of the date of mailing of the original voter registration application.

(2) If the information is complete, the applicant is considered to be registered to vote as of the date of mailing. The auditor shall record the appropriate precinct identification, taxing district identification, and date of registration on the voter's record. Within forty-five days after the receipt of an application but no later than seven days before the next primary, special election, or general election, the auditor shall send to the applicant, by first class mail, an acknowledgement notice identifying the registrant's precinct and containing such other information as may be required by the secretary of state. The postal service shall be instructed not to forward a voter registration card to any other address and to return to the auditor any card which is not deliverable. If the applicant has indicated that he or she is registered to vote in another county in Washington but has also provided an address within the auditor's county that is for voter registration purposes, the auditor shall send, on behalf of the registrant, a registration cancellation notice to the auditor of that other county and the auditor receiving the notice shall cancel the registrant's voter registration in that other county. If the registrant has indicated on the form that he or she is registered to vote within the county but has provided a new address within the county that is for voter registration purposes, the auditor shall transfer the voter's registration.

(3) If an acknowledgement notice card is properly mailed as required by this section to the address listed by the voter as being the voter's mailing address and the notice is subsequently returned to the auditor by the postal service as being undeliverable to the voter at that address, the auditor shall promptly send the voter a confirmation notice. The auditor shall place the voter's registration on inactive status pending a response from the voter to the confirmation notice.

[1994 c 57 § 32; 1993 c 434 § 6.]

Notes:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

RCW 29.08.070 Form--Adoption, contents.

The secretary of state shall adopt an application form for registering by mail under RCW 29.07.140. An applicant registering to vote by mail shall be required to complete only one form and to provide the required information, other than his or her signature, no more than once. The form shall also contain instructions on its use, a notification of filing deadlines, a warning to the applicant of the penalty for knowingly supplying false information, and space for the county auditor to enter the voter's precinct identification, taxing district identification, and registration number. The secretary of state shall develop the form in consultation with the county auditors.

[1993 c 434 § 7.]

RCW 29.08.080 Forms--Supplied without cost--Citizenship.

The secretary of state shall furnish registration forms necessary to carry out the registration of voters as provided by this chapter without cost to the respective counties. All voter registration forms printed after January 1, 2002, must include clear and conspicuous language, designed to draw an applicant's attention, stating that the applicant must be a United States citizen in order to register to vote.

[2001 c 41 § 8; 1999 c 298 § 7; 1993 c 434 § 8.]

RCW 29.08.090 Violations of chapter.

Violations of this chapter shall be prosecuted under chapter 29.07 RCW or any other applicable provisions of law.

[1993 c 434 § 9.]

RCW 29.08.900 Effective date--1993 c 434.

Sections 1 through 9 and 12 of this act take effect on January 1, 1994.

[1993 c 434 § 13.]

Chapter 29.10 RCW
REGISTRATION STATUS, TRANSFERS, AND CANCELLATIONS

Sections

29.10.011 Definitions.
29.10.015 "Active," "inactive" registered voters.
29.10.020 Address change within county--Transfer by telephone.
29.10.040 Reregistration on transfer to another county.
29.10.051 Voter name change.
29.10.060 Change of precinct boundaries--Transfer of registration.
29.10.071 Assignment of voter to inactive status--Confirmation notice.
29.10.075 Return of inactive voter to active status--Cancellation of registration.
29.10.081 Count of registered voters.
29.10.090 Cancellation for death.
29.10.097 Cancellation for conviction of felony.
29.10.100 Weekly report of cancellations and name changes.
29.10.110 Record of cancellations.
29.10.125 Challenge of registration--Initiation.
29.10.127 Challenge--Voting by person challenged--Burden of proof, procedures.
29.10.130 Challenge--Affidavit--Administration, notice of challenge.
29.10.140 Challenge--Procedure before cancellation.
29.10.150 Challenge of registration--Forms, availability.
29.10.170 Transfer on election day.
29.10.180 Registration list maintenance.

29.10.185 Dual registration or voting detection.
29.10.200 Confirmation notices--Form, contents.
29.10.210 Confirmation notice--Response, auditor's action.
29.10.220 Voting by inactive or canceled voters.
29.10.230 Electronic file format.

NOTES:
Voter registration: Chapter 29.07 RCW.

RCW 29.10.011 Definitions.

The definitions set forth in this section apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Verification notice" means a notice sent by the county auditor to a voter registration applicant and is used to verify or collect information about the applicant in order to complete the registration.

(2) "Acknowledgement notice" means a notice sent by nonforwardable mail by the county auditor to a registered voter to acknowledge a voter registration transaction, which can include initial registration, transfer, or reactivation of an inactive registration. An acknowledgement notice may be a voter registration card.

(3) "Confirmation notice" means a notice sent to a registered voter by first class forwardable mail at the address indicated on the voter's permanent registration record and to any other address at which the county auditor could reasonably expect mail to be received by the voter in order to confirm the voter's residence address. The confirmation notice must be designed so that the voter may update his or her current residence address.

[1994 c 57 § 33.]

Notes:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

RCW 29.10.015 "Active," "inactive" registered voters.

Registered voters are divided into two categories, "active" and "inactive." All registered voters are classified as active, unless assigned to inactive status by the county auditor.

[1994 c 57 § 34.]

Notes:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

RCW 29.10.020 Address change within county--Transfer by telephone.

To maintain a valid voter registration, a registered voter who changes his or her residence from one address to another within the same county shall transfer his or her registration to the new address in one of the following ways: (1) Sending to the county auditor a signed request stating the voter's present address and the address from which the voter was last registered; (2) appearing in person before the auditor and signing such a request; (3) transferring the

registration in the manner provided by RCW 29.10.170; or (4) telephoning the county auditor to transfer the registration. The telephone call transferring a registration by telephone must be received by the auditor before the precinct registration files are closed to new registrations for the next primary or special or general election in which the voter participates.

The secretary of state may adopt rules facilitating the transfer of a registration by telephone authorized by this section.

[1994 c 57 § 35; 1991 c 81 § 23; 1975 1st ex.s. c 184 § 2; 1971 ex.s. c 202 § 24; 1965 c 9 § 29.10.020. Prior: 1955 c 181 § 4; prior: 1933 c 1 § 14, part; RRS § 5114-14, part; prior: 1919 c 163 § 9, part; 1915 c 16 § 9, part; 1889 p 417 § 12, part; RRS § 5129, part.]

Notes:

Severability--1994 c 57: See note following RCW 10.64.021.
Effective date--1991 c 81: See note following RCW 29.85.010.
Severability--1975 1st ex.s. c 184: See note following RCW 29.07.092.

RCW 29.10.040 Reregistration on transfer to another county.

A registered voter who changes his or her residence from one county to another county, shall be required to register anew. The voter shall sign an authorization to cancel his or her present registration. An authorization to cancel a voter's registration must be forwarded promptly to the county auditor of the county in which the voter was previously registered. The county auditor of the county where the previous registration was made shall cancel the registration of the voter if it appears that the signatures in the registration record and on the cancellation authorization form were made by the same person.

[1999 c 100 § 3; 1994 c 57 § 36; 1991 c 81 § 24; 1977 ex.s. c 361 § 26; 1971 ex.s. c 202 § 26; 1965 c 9 § 29.10.040. Prior: 1933 c 1 § 15; RRS § 5114-15.]

Notes:

Severability--1994 c 57: See note following RCW 10.64.021.
Effective date--1991 c 81: See note following RCW 29.85.010.
Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.10.051 Voter name change.

To maintain a valid voter registration, a person who changes his or her name shall notify the county auditor regarding the name change in one of the following ways: (1) By sending the auditor a notice clearly identifying the name under which he or she is registered to vote, the voter's new name, and the voter's residence. Such a notice must be signed by the voter using both this former name and the voter's new name; (2) by appearing in person before the auditor or a registration assistant and signing such a change-of-name notice; (3) by signing such a change-of-name notice at the voter's precinct polling place on the day of a primary or special or general election; (4) by properly executing a name change on a mail-in registration application or a prescribed state agency application.

A properly registered voter who files a change-of-name notice at the voter's precinct polling place during a primary or election and who desires to vote at that primary or election

shall sign the poll book using the voter's former and new names in the same manner as is required for the change-of-name notice.

The secretary of state may adopt rules facilitating the implementation of this section.

[1994 c 57 § 37; 1991 c 81 § 25.]

Notes:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

Effective date--1991 c 81: See note following RCW 29.85.010.

RCW 29.10.060 Change of precinct boundaries--Transfer of registration.

If the boundaries of any city, township, or rural precinct are changed in the manner provided by law, the county auditor shall transfer the registration cards of every registered voter whose place of residence is affected thereby to the files of the proper precinct, noting thereon the name or number of the new precinct, or change the addresses, the precinct names or numbers, and the special district designations for those registered voters on the voter registration lists of the county. It shall not be necessary for any registered voter whose residence has been changed from one precinct to another, by a change of boundary, to apply to the registration officer for a transfer of registration. The county auditor shall mail to each registrant in the new precinct a notice that his precinct has been changed from . . . . . to . . . . . ., and that thereafter he will be entitled to vote in the new precinct, giving the name or number.

[1971 ex.s. c 202 § 27; 1965 c 9 § 29.10.060. Prior: 1933 c 1 § 17; RRS § 5114-17.]

RCW 29.10.071 Assignment of voter to inactive status--Confirmation notice.

(1) A county auditor shall assign a registered voter to inactive status and shall send the voter a confirmation notice if any of the following documents are returned by the postal service as undeliverable:

(a) An acknowledgement of registration;

(b) An acknowledgement of transfer to a new address;

(c) A vote-by-mail ballot, absentee ballot, or application for a ballot;

(d) Notification to a voter after precinct reassignment;

(e) Notification to serve on jury duty; or

(f) Any other document other than a confirmation notice, required by statute, to be mailed by the county auditor to the voter.

(2) A county auditor shall also assign a registered voter to inactive status and shall send the voter a confirmation notice:

(a) Whenever change of address information received from the department of licensing under RCW 29.07.270, or by any other agency designated to provide voter registration services under RCW 29.07.420, indicates that the voter has moved to an address outside the county; or

(b) If the auditor receives postal change of address information under RCW 29.10.180, indicating that the voter has moved out of the county.

[1994 c 57 § 38.]

Notes:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

RCW 29.10.075 Return of inactive voter to active status--Cancellation of registration.

The county auditor shall return an inactive voter to active voter status if, during the period beginning on the date the voter was assigned to inactive status and ending on the day of the second general election for federal office that occurs after the date that the voter was sent a confirmation notice, the voter: Notifies the auditor of a change of address within the county; responds to a confirmation notice with information that the voter continues to reside at the registration address; votes or attempts to vote in a primary or a special or general election and resides within the county; or signs any petition authorized by statute for which the signatures are required by law to be verified by the county auditor. If the inactive voter fails to provide such a notice or take such an action within that period, the auditor shall cancel the person's voter registration.

[1994 c 57 § 39.]

Notes:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

RCW 29.10.081 Count of registered voters.

(1) Except as otherwise specified by this title, registered voters include those assigned to active and inactive status by the county auditor.

(2) Election officials shall not include inactive voters in the count of registered voters for the purpose of dividing precincts, creating vote-by-mail precincts, determining voter turnout, or other purposes in law for which the determining factor is the number of registered voters. Election officials shall not include persons who are ongoing absentee voters under *RCW 29.36.013 in determining the maximum permissible size of vote-by-mail precincts or in determining the maximum permissible size of precincts. Nothing in this subsection may be construed as altering the vote tallying requirements of RCW 29.62.090.

[1994 c 57 § 40.]

NOTES:

***Reviser's note:** RCW 29.36.013 was recodified as RCW 29.36.240 pursuant to 2001 c 241 § 25.

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

RCW 29.10.090 Cancellation for death.

In addition to case-by-case maintenance under RCW 29.10.071 and 29.10.075 and the general program of maintenance of voter registration lists under RCW 29.10.180, deceased voters will be canceled from voter registration lists as follows:

(1) Every month, the registrar of vital statistics of the state shall prepare a separate list of persons who resided in each county, for whom a death certificate was transmitted to the registrar

and was not included on a previous list, and shall supply the appropriate list to each county auditor.

A county auditor shall compare this list with the registration records and cancel the registrations of deceased voters within at least forty-five days before the next primary or election held in the county after the auditor receives the list.

(2) In addition, the county auditor may also use newspaper obituary articles as a source of information in order to cancel a voter's registration. The auditor must verify the identity of the voter by matching the voter's date of birth or an address. The auditor shall record the date and source of the obituary in the cancellation records.

(3) In addition, any registered voter may sign a statement, subject to the penalties of perjury, to the effect that to his or her personal knowledge or belief another registered voter is deceased. This statement may be filed with the county auditor. Upon the receipt of such signed statement, the county auditor shall cancel the registration records concerned and so notify the secretary of state. Upon receipt of such notice, the secretary of state shall in turn cancel his or her copy of said registration record.

The secretary of state as chief elections officer shall cause such form to be designed to carry out the provisions of this section. The county auditors shall have such forms available for public use. Further, each such public officer having jurisdiction of an election shall make available a reasonable supply of such forms for the use of the precinct election officers at each polling place on the day of an election.

[1999 c 100 § 1; 1994 c 57 § 41; 1983 c 110 § 1; 1971 ex.s. c 202 § 29; 1965 c 9 § 29.10.090. Prior: 1961 c 32 § 1; 1933 c 1 § 20; RRS § 5114-20.]

Notes:

Severability--1994 c 57: See note following RCW 10.64.021.

RCW 29.10.097 Cancellation for conviction of felony.

Upon receiving official notice of a person's conviction of a felony in either state or federal court, if the convicted person is a registered voter in the county, the county auditor shall cancel the defendant's voter registration.

[1994 c 57 § 42.]

NOTES:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

Restoration of civil rights: RCW 9.92.066, 9.94A.637, 9.94A.885, 9.95.260, chapter 9.96 RCW.

RCW 29.10.100 Weekly report of cancellations and name changes.

Once each week after the cancellation of the registration of any voter or the change of name of a voter, each county auditor shall certify all cancellations or name changes to the secretary of state. The certificate shall set forth the name of each voter whose registration has been canceled or whose name was changed, and the county, city or town, and precinct in which the voter was registered.

[1999 c 298 § 8; 1994 c 57 § 43; 1971 ex.s. c 202 § 31; 1965 c 9 § 29.10.100. Prior: 1933 c 1 § 13, part; RRS § 5114-13, part.]

Notes:

Severability--1994 c 57: See note following RCW 10.64.021.

RCW 29.10.110 Record of cancellations.

Every county auditor shall carefully preserve in a separate file or list the registration records of persons whose voter registrations have been canceled as authorized under this title. The files or lists shall be kept in the manner prescribed by rule by the secretary of state. Information from such canceled registration records is available for public inspection and copying to the same extent established by RCW 29.07.130 for other voter registration information.

The county auditor may destroy the voter registration information and records of any person whose voter registration has been canceled for a period of two years or more.

[1991 c 81 § 26; 1971 ex.s. c 202 § 32; 1965 ex.s. c 156 § 1; 1965 c 9 § 29.10.110. Prior: 1961 c 32 § 2; 1947 c 85 § 5; 1933 c 1 § 21; Rem. Supp. 1947 § 5114-21.]

Notes:

Effective date--1991 c 81: See note following RCW 29.85.010.

RCW 29.10.125 Challenge of registration--Initiation.

Registration of a person as a voter is presumptive evidence of his or her right to vote at any primary or election, general or special. A person's right to vote may be challenged at the polls only by a precinct judge or inspector. A challenge may be made only upon the belief or knowledge of the challenging officer that the voter is unqualified. The challenge must be supported by evidence or testimony given to the county canvassing board under RCW 29.10.127 and may not be based on unsupported allegations or allegations by anonymous third parties. The identity of the challenger, and any third person involved in the challenge, shall be public record and shall be announced at the time the challenge is made.

Challenges initiated by a registered voter must be filed not later than the day before any primary or election, general or special, at the office of the appropriate county auditor. A challenged voter may properly transfer or reregister until three days before the primary or election, general or special, by applying personally to the county auditor. Challenges may also be initiated by the office of the county prosecuting attorney and must be filed in the same manner as challenges initiated by a registered voter.

[2001 c 41 § 9; 1987 c 288 § 1; 1983 1st ex.s. c 30 § 2.]

NOTES:

Right to vote

loss of: State Constitution Art. 6 § 3, RCW 11.88.010, 11.88.090.

restoration of: RCW 9.92.066, 9.94A.637, 9.94A.885, 9.95.260, chapter 9.96 RCW.

RCW 29.10.127 Challenge--Voting by person challenged--Burden of proof, procedures.

When the right of a person has been challenged under RCW 29.10.125 or 29.10.130(2), the challenged person shall be permitted to vote a ballot which shall be placed in a sealed envelope separate from other voted ballots. In precincts where voting machines are used, any person whose right to vote is challenged under RCW 29.10.125 or 29.10.130(2) shall be furnished a paper ballot, which shall be placed in a sealed envelope after being marked. Included with the challenged ballot shall be (1) an affidavit filed under RCW 29.10.130 challenging the person's right to vote or (2) an affidavit signed by the precinct election officer and any third party involved in the officer's challenge and stating the reasons the voter is being challenged. The sealed ballots of challenged voters shall be transmitted at the close of the election to the canvassing board or other authority charged by law with canvassing the returns of the particular primary or election. The county auditor shall notify the challenger and the challenged voter, by certified mail, of the time and place at which the county canvassing board will meet to rule on challenged ballots. If the challenge is made by a precinct election officer under RCW 29.10.125, the officer must appear in person before the board unless he or she has received written authorization from the canvassing board to submit an affidavit supporting the challenge. If the challenging officer has based his or her challenge upon evidence provided by a third party, that third party must appear with the challenging officer before the canvassing board, unless he or she has received written authorization from the canvassing board to submit an affidavit supporting the challenge. If the challenge is filed under RCW 29.10.130, the challenger must either appear in person before the board or submit an affidavit supporting the challenge. The challenging party must prove to the canvassing board by clear and convincing evidence that the challenged voter's registration is improper. If the challenging party fails to meet this burden, the challenged ballot shall be accepted as valid and counted. The canvassing board shall give the challenged voter the opportunity to present testimony, either in person or by affidavit, and evidence to the canvassing board before making their determination. All challenged ballots must be determined no later than the time of canvassing for the particular primary or election. The decision of the canvassing board or other authority charged by law with canvassing the returns shall be final. Challenges of absentee ballots shall be determined according to *RCW 29.36.100.

[1987 c 288 § 2; 1983 1st ex.s. c 30 § 3.]

NOTES:

***Reviser's note:** RCW 29.36.100 was recodified as RCW 29.36.350 pursuant to 2001 c 241 § 25.

Right to vote

loss of: State Constitution Art. 6 § 3, RCW 11.88.010, 11.88.090.

restoration of: RCW 9.92.066, 9.94A.637, 9.94A.885, 9.95.260, chapter 9.96 RCW.

RCW 29.10.130 Challenge--Affidavit--Administration, notice of challenge.

(1) Any registered voter may request that the registration of another voter be canceled if he or she believes that the voter does not meet the requirements of Article VI, section 1 of the state Constitution or that voter no longer maintains a legal voting residence at the address shown

on his or her registration record. The challenger shall file with the county auditor a signed affidavit subject to the penalties of perjury, to the effect that to his or her personal knowledge and belief another registered voter does not actually reside at the address as given on his or her registration record or is otherwise not a qualified voter and that the voter in question is not protected by the provisions of Article VI, section 4, of the Constitution of the state of Washington. The person filing the challenge must furnish the address at which the challenged voter actually resides.

(2) Any such challenge of a voter's registration and right to vote made less than thirty days before a primary or election, special or general, shall be administered under RCW 29.10.127. The county auditor shall notify the challenged voter and the precinct election officers in the voter's precinct that a challenge has been filed, provide the name of the challenger, and instruct both the precinct election officers and the voter that, in the event the challenged voter desires to vote at the ensuing primary or election, a challenged ballot will be provided. The voter shall also be informed that the status of his or her registration and the disposition of any challenged ballot will be determined by the county canvassing board in the manner provided by RCW 29.10.127. If the challenged voter does not vote at the ensuing primary or election, the challenge shall be processed in the same manner as challenges made more than thirty days prior to the primary or election under RCW 29.10.140.

[1987 c 288 § 3; 1983 1st ex.s. c 30 § 4; 1967 c 225 § 2; 1965 ex.s. c 156 § 2.]

RCW 29.10.140 Challenge--Procedure before cancellation.

All challenges of voter registration under RCW 29.10.130 made thirty days or more before a primary or election, general or special, shall be delivered to the appropriate county auditor who shall notify the challenged voter, by certified mail, that his or her voter registration has been challenged.

The notification shall be mailed to the address at which the challenged voter is registered, any address provided by the challenger under RCW 29.10.130, and to any other address at which the individual whose registration is being challenged is alleged to reside or at which the county auditor would reasonably expect that individual to receive notice of the challenge of his or her voter registration. Included in the notification shall be a request that the challenged voter appear at a hearing to be held within ten days of the mailing of the request, at the place, day, and hour stated, in order to determine the validity of his or her registration. The challenger shall be provided with a copy of this notification and request. If either the challenger or the challenged voter is unable to appear in person, he or she may file a reply by means of an affidavit stating under oath the reasons he or she believes the registration to be invalid or valid.

If both the challenger and the challenged voter file affidavits instead of appearing in person, an evaluation of the affidavits by the county auditor constitutes a hearing for the purposes of this section.

The county auditor shall hold a hearing at which time both parties may present their facts and arguments. After reviewing the facts and arguments, including any evidence submitted by either side, the county auditor shall rule as to the validity or invalidity of the challenged

registration. His or her ruling is final subject only to a petition for judicial review by the superior court under chapter 34.05 RCW. If either party, or both parties, fail to appear at the meeting or fail to file an affidavit, the county auditor shall determine the status of the registration based on his or her evaluation of the available facts.

[1987 c 288 § 4; 1983 1st ex.s. c 30 § 5; 1971 ex.s. c 202 § 34; 1967 c 225 § 3; 1965 ex.s. c 156 § 3.]

RCW 29.10.150 Challenge of registration--Forms, availability.

The secretary of state as chief elections officer shall cause appropriate forms to be designed to carry out the provisions of RCW 29.10.130 through *29.10.160. The county auditors and registrars shall have such forms available. Further, a reasonable supply of such forms shall be at each polling place on the day of a primary or election, general or special.

[1991 c 81 § 27; 1971 ex.s. c 202 § 35; 1965 ex.s. c 156 § 4.]

Notes:

***Reviser's note:** RCW 29.10.160 was repealed by 1991 c 81 § 41, effective July 1, 1992; the reference should be to RCW 29.10.140.

Effective date--1991 c 81: See note following RCW 29.85.010.

RCW 29.10.170 Transfer on election day.

(1) A person who is registered to vote in this state may transfer his or her voter registration on the day of a special or general election or primary under the following procedures:

(a) The voter may complete, at the polling place, a registration transfer form designed by the secretary of state and supplied by the county auditor; or

(b) The voter may write in his or her new residential address in the precinct list of registered voters.

The county auditor shall determine which of these two procedures are to be used in the county or may determine that both procedures are to be available to voters for use in the county.

(2) A voter who transfers his or her registration in the manner authorized by this section shall vote in the precinct in which he or she was previously registered.

(3) The auditor shall, within ninety days, mail to each voter who has transferred a registration under this section a notice of his or her current precinct and polling place.

[1991 c 81 § 28; 1979 c 96 § 1.]

Notes:

Effective date--1991 c 81: See note following RCW 29.85.010.

RCW 29.10.180 Registration list maintenance.

In addition to the case-by-case maintenance required under RCW 29.10.071 and 29.10.075 and the canceling of registrations under RCW 29.10.090, the county auditor shall establish a general program of voter registration list maintenance. This program must be a thorough review that is applied uniformly throughout the county and must be nondiscriminatory

in its application. Any program established must be completed at least once every two years and not later than ninety days before the date of a primary or general election for federal office. The county may fulfill its obligations under this section in one of the following ways:

(1) The county auditor may enter into one or more contracts with the United States postal service, or its licensee, which permit the auditor to use postal service change-of-address information. If the auditor receives change of address information from the United States postal service that indicates that a voter has changed his or her residence address within the county, the auditor shall transfer the registration of that voter and send a confirmation notice informing the voter of the transfer to the new address. If the auditor receives postal change of address information indicating that the voter has moved out of the county, the auditor shall send a confirmation notice to the voter and advise the voter of the need to reregister in the new county. The auditor shall place the voter's registration on inactive status;

(2) A direct, nonforwardable, nonprofit or first-class mailing to every registered voter within the county bearing the postal endorsement "Return Service Requested." If address correction information for a voter is received by the county auditor after this mailing, the auditor shall place that voter on inactive status and shall send to the voter a confirmation notice;

(3) Any other method approved by the secretary of state.

[1999 c 100 § 2; 1994 c 57 § 44. Prior: 1993 c 434 § 10; 1993 c 417 § 8; 1991 c 363 § 31; 1989 c 261 § 1; 1987 c 359 § 1.]

Notes:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 29.10.185 Dual registration or voting detection.

In addition to the case-by-case cancellation procedure required in RCW 29.10.040, the county auditor, in conjunction with the office of the secretary of state, shall participate in an annual list maintenance program designed to detect persons registered in more than one county or voting in more than one county in an election. This program must be applied uniformly throughout the county and must be nondiscriminatory in its application. The program must be completed not later than thirty days before the date of a primary or general election.

The office of the secretary of state shall cause to be created a list of registered voters with the same date of birth and similar names who appear on two or more county lists of registered voters. The office of the secretary of state shall forward this list to each county auditor so that they may properly cancel the previous registration of voters who have subsequently registered in a different county. The county auditor of the county where the previous registration was made shall cancel the registration of the voter if it appears that the signatures in the registration and the signature provided to the new county on the voter's new registration were made by the same person. The office of the secretary of state shall adopt rules to facilitate this process.

If a voter is suspected of voting in two or more counties in an election, the county auditors in each county shall cooperate without delay to determine the voter's county of residence. The county auditor of the county of residence of the voter suspected of voting in two

or more counties shall take action under RCW 29.85.245 without delay.

[2001 c 41 § 10; 1999 c 100 § 4.]

RCW 29.10.200 Confirmation notices--Form, contents.

Confirmation notices must be on a form prescribed by, or approved by, the secretary of state and must request that the voter confirm that he or she continues to reside at the address of record and desires to continue to use that address for voting purposes. The notice must inform the voter that if the voter does not respond to the notice and does not vote in either of the next two federal elections, his or her voter registration will be canceled.

[1994 c 57 § 45.]

Notes:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

RCW 29.10.210 Confirmation notice--Response, auditor's action.

If the response to the confirmation notice provides the county auditor with the information indicating that the voter has moved within the county, the auditor shall transfer the voter's registration. If the response indicates that the voter has left the county, the auditor shall cancel the voter's registration.

[1994 c 57 § 46.]

Notes:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

RCW 29.10.220 Voting by inactive or canceled voters.

(1) A voter whose registration has been made inactive under this chapter and who offers to vote at an ensuing election before two federal elections have been held shall be allowed to vote a regular ballot and the voter's registration restored to active status.

(2) A voter whose registration has been properly canceled under this chapter shall vote a special ballot. The voter shall mark the special ballot in secrecy, the ballot shall be placed in a security envelope, the security envelope placed in a special ballot envelope, and the reasons for the use of the special ballot noted.

(3) Upon receipt of such a voted special ballot the auditor shall investigate the circumstances surrounding the original cancellation. If he or she determines that the cancellation was in error, the voter's registration shall be immediately reinstated, and the voter's special ballot shall be counted. If the original cancellation was not in error, the voter shall be afforded the opportunity to reregister at his or her correct address, and the voter's special ballot shall not be counted.

[1994 c 57 § 47.]

Notes:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

RCW 29.10.230 Electronic file format.

The secretary of state shall create a standard electronic file format (state transfer form) to be used for the transfer of voter registration information between county auditors and the office of the secretary of state. The format must be prescribed by rule and contain at least the following information: Voter name, address, date of birth, date of registration, mailing address, legislative and congressional district, and digitized signature image. Each county shall program its voter registration system to convert this data from the county's storage format into the state transfer format. Every county shall complete this work by January 1, 2000. Each county may bill reasonable programming costs incurred by it to the office of the secretary of state by June 1, 2000.

[1999 c 100 § 5.]

Chapter 29.13 RCW
TIMES FOR HOLDING ELECTIONS AND PRIMARIES

Sections

29.13.010	State and local general elections--State-wide general election--Exceptions--Special county elections.
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29.13.050	Local officers, beginning of terms--Organization of district boards of directors.
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29.13.070	Primaries.
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Notes:

County officers, generally, time of election: RCW 36.16.010.
District elections, time of holding, see under particular district.
Elections, time of holding: State Constitution Art. 6 § 8.
School elections conducted according to Title 29 RCW: RCW 28A.320.410.
Special primary for United States senate vacancy in 1983: Chapter 3, Laws of 1983 3rd ex. sess. (uncodified).

RCW 29.13.010 State and local general elections--State-wide general

election--Exceptions--Special county elections.

(1) All state, county, city, town, and district general elections for the election of federal, state, legislative, judicial, county, city, town, district, and precinct officers, and for the submission to the voters of the state, county, city, town, or district of any measure for their adoption and approval or rejection, shall be held on the first Tuesday after the first Monday of November, in the year in which they may be called. A state-wide general election shall be held on the first Tuesday after the first Monday of November of each year: PROVIDED, That the state-wide general election held in odd-numbered years shall be limited to (a) city, town, and district general elections as provided for in RCW 29.13.020, or as otherwise provided by law; (b) the election of federal officers for the remainder of any unexpired terms in the membership of either branch of the congress of the United States; (c) the election of state and county officers for the remainder of any unexpired terms of offices created by or whose duties are described in Article II, section 15, Article III, sections 16, 17, 19, 20, 21, 22, and 23, and Article IV, sections 3 and 5 of the state Constitution and RCW 2.06.080; (d) the election of county officers in any county governed by a charter containing provisions calling for general county elections at this time; and (e) the approval or rejection of state measures, including proposed constitutional amendments, matters pertaining to any proposed constitutional convention, initiative measures and referendum measures proposed by the electorate, referendum bills, and any other matter provided by the legislature for submission to the electorate.

(2) A county legislative authority may, if it deems an emergency to exist, call a special county election by presenting a resolution to the county auditor at least forty-five days prior to the proposed election date. Except as provided in subsection (4) of this section, a special election called by the county legislative authority shall be held on one of the following dates as decided by such governing body:

(a) The first Tuesday after the first Monday in February;

(b) The second Tuesday in March;

(c) The fourth Tuesday in April;

(d) The third Tuesday in May;

(e) The day of the primary as specified by RCW 29.13.070; or

(f) The first Tuesday after the first Monday in November.

(3) In addition to the dates set forth in subsection (2) (a) through (f) of this section, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from fire, flood, earthquake, or other act of God. Such county special election shall be noticed and conducted in the manner provided by law.

(4) In a presidential election year, if a presidential preference primary is conducted in February, March, April, or May under chapter 29.19 RCW, the date on which a special election may be called by the county legislative authority under subsection (2) of this section during the month of that primary is the date of the presidential primary.

(5) This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections except for those elections held pursuant to a home-rule charter adopted under Article XI, section 4 of the state

Constitution. This section shall not be construed as fixing the time for holding primary elections, or elections for the recall of any elective public officer.

[1994 c 142 § 1; 1992 c 37 § 1; 1989 c 4 § 9 (Initiative Measure No. 99); 1980 c 3 § 1; 1975-'76 2nd ex.s. c 111 § 1; 1975-'76 2nd ex.s. c 3 § 1; 1973 2nd ex.s. c 36 § 1; 1973 c 4 § 1; 1965 c 123 § 2; 1965 c 9 § 29.13.010. Prior: 1955 c 151 § 1; prior: (i) 1923 c 53 § 1; 1921 c 61 § 1; RRS § 5143. (ii) 1921 c 61 § 3; RRS § 5145.]

Notes:

Effective date--1994 c 142: "This act shall take effect January 1, 1995." [1994 c 142 § 3.]

Severability--1989 c 4: See RCW 29.19.900.

Severability--1975-'76 2nd ex.s. c 111: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 111 § 3.]

RCW 29.13.020 City, town, and district general and special elections--Exceptions.

(1) All city, town, and district general elections shall be held throughout the state of Washington on the first Tuesday following the first Monday in November in the odd-numbered years.

This section shall not apply to:

(a) Elections for the recall of any elective public officer;

(b) Public utility districts or district elections at which the ownership of property within those districts is a prerequisite to voting, all of which elections shall be held at the times prescribed in the laws specifically applicable thereto;

(c) Consolidation proposals as provided for in *RCW 28A.315.280 and nonhigh capital fund aid proposals as provided for in chapter 28A.540 RCW.

(2) The county auditor, as ex officio supervisor of elections, upon request in the form of a resolution of the governing body of a city, town, or district, presented to the auditor at least forty-five days prior to the proposed election date, may, if the county auditor deems an emergency to exist, call a special election in such city, town, or district, and for the purpose of such special election he or she may combine, unite, or divide precincts. Except as provided in subsection (3) of this section, such a special election shall be held on one of the following dates as decided by the governing body:

(a) The first Tuesday after the first Monday in February;

(b) The second Tuesday in March;

(c) The fourth Tuesday in April;

(d) The third Tuesday in May;

(e) The day of the primary election as specified by RCW 29.13.070; or

(f) The first Tuesday after the first Monday in November.

(3) In a presidential election year, if a presidential preference primary is conducted in February, March, April, or May under chapter 29.19 RCW, the date on which a special election may be called under subsection (2) of this section during the month of that primary is the date of the presidential primary.

(4) In addition to subsection (2)(a) through (f) of this section, a special election to

validate an excess levy or bond issue may be called at any time to meet the needs resulting from fire, flood, earthquake, or other act of God, except that no special election may be held between the first day for candidates to file for public office and the last day to certify the returns of the general election other than as provided in subsection (2)(e) and (f) of this section. Such special election shall be conducted and notice thereof given in the manner provided by law.

(5) This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections.

[1994 c 142 § 2; 1992 c 37 § 2; 1990 c 33 § 562; 1989 c 4 § 10 (Initiative Measure No. 99); 1986 c 167 § 6; 1980 c 3 § 2; 1975-'76 2nd ex.s. c 111 § 2; 1965 c 123 § 3; 1965 c 9 § 29.13.020. Prior: 1963 c 200 § 1; 1955 c 55 § 1; 1951 c 101 § 1; 1949 c 161 § 1; 1927 c 182 § 1; 1923 c 53 § 2; 1921 c 61 § 2; Rem. Supp. 1949 § 5144.]

Notes:

***Reviser's note:** RCW 28A.315.280 was repealed by 1999 c 315 § 801.

Effective date--1994 c 142: See note following RCW 29.13.010.

Purpose--Statutory references--Severability--1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability--1989 c 4: See RCW 29.19.900.

Severability--1986 c 167: See note following RCW 29.01.055.

Severability--1975-'76 2nd ex.s. c 111: See note following RCW 29.13.010.

RCW 29.13.021 First class commission cities with charters providing triennial elections.

All regular elections in cities of the first class under a commission form of government whose charters provide that elections shall be held triennially, shall hereafter be held quadrennially and shall be held on the Tuesday following the first Monday in November in the odd-numbered years. All city officials shall be elected for terms of four years and until their successors are elected and qualified and then assume office in accordance with RCW 29.04.170.

[1983 c 3 § 43; 1979 ex.s. c 126 § 10; 1965 c 9 § 29.13.021. Prior: 1963 c 200 § 4.]

Notes:

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

RCW 29.13.023 First class mayor-council cities--Twelve councilmembers.

All regular elections in first class cities having a mayor-council form of government whose charters provide for twelve councilmembers elected for a term of two years, two being elected from each of six wards, and for the election of a mayor, treasurer, and comptroller for terms of two years, shall be held biennially as provided in RCW 29.13.020. The term of each councilmember, mayor, treasurer, and comptroller shall be four years and until his or her successor is elected and qualified and assumes office in accordance with RCW 29.04.170. The terms of the councilmembers shall be so staggered that six councilmembers shall be elected to office at each regular election.

[1981 c 213 § 3; 1979 ex.s. c 126 § 11; 1965 c 9 § 29.13.023. Prior: 1963 c 200 § 2; 1957 c 168 § 1.]

Notes:

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

RCW 29.13.024 First class mayor-council cities--Seven councilmembers.

All regular elections in first class cities having a mayor-council form of government whose charters provide for seven councilmembers, one to be elected from each of six wards and one at large, for a term of two years, and for the election of a mayor, comptroller, treasurer and attorney for two year terms, shall be held biennially as provided in RCW 29.13.020. The terms of the six councilmembers to be elected by wards shall be four years and until their successors are elected and qualified and the term of the councilmember to be elected at large shall be two years and until their successors are elected and qualified. The terms of the councilmembers shall be so staggered that three ward councilmembers and the councilmember at large shall be elected at each regular election. The term of the mayor, attorney, treasurer, and comptroller shall be four years and until their successors are elected and qualified and assume office in accordance with RCW 29.04.170.

[1981 c 213 § 4; 1979 ex.s. c 126 § 12; 1965 c 9 § 29.13.024. Prior: 1963 c 200 § 3; 1957 c 168 § 2.]

Notes:

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

RCW 29.13.040 Conduct of elections--Canvass.

All elections, whether special or general, held under RCW 29.13.010 and 29.13.020 as now or hereafter amended, shall be conducted by the county auditor as ex officio county supervisor of elections and except as provided in RCW 29.62.100 the returns thereof shall be canvassed by the county canvassing board.

[1965 c 123 § 4; 1965 c 9 § 29.13.040. Prior: 1963 c 200 § 6; 1955 c 55 § 3; 1951 c 257 § 4; 1951 c 101 § 4; 1949 c 161 § 5; Rem. Supp. 1949 § 5153-1.]

Notes:

County auditor designated as supervisor of certain elections: RCW 29.04.020.

RCW 29.13.045 Election costs borne by constituencies.

Every city, town, and district shall be liable for its proportionate share of the costs when such elections are held in conjunction with other elections held under RCW 29.13.010 and 29.13.020.

Whenever any city, town, or district shall hold any primary or election, general or special, on an isolated date, all costs of such elections shall be borne by the city, town, or district concerned.

The purpose of this section is to clearly establish that the county is not responsible for

any costs involved in the holding of any city, town, or district election.

In recovering such election expenses, including a reasonable pro-ration of administrative costs, the county auditor shall certify the cost to the county treasurer with a copy to the clerk or auditor of the city, town, or district concerned. Upon receipt of such certification, the county treasurer shall make the transfer from any available and appropriate city, town, or district funds to the county current expense fund or to the county election reserve fund if such a fund is established. Each city, town, or district shall be promptly notified by the county treasurer whenever such transfer has been completed: PROVIDED, HOWEVER, That in those districts wherein a treasurer, other than the county treasurer, has been appointed such transfer procedure shall not apply but the district shall promptly issue its warrant for payment of election costs.

[1965 c 123 § 5; 1965 c 9 § 29.13.045. Prior: 1963 c 200 § 7; 1951 c 257 § 5.]

Notes:

Compensation of precinct election officers: RCW 29.04.020.
County, municipality, or special district facilities as polling places, payment for: RCW 29.48.007.
Diking districts, election to authorize, costs: RCW 85.38.060.
Diking or drainage district, reorganization into improvement district
1917 act, election to authorize: RCW 85.38.060.
1933 act, election to authorize: RCW 85.38.060.
Expense of printing and distributing ballot materials: RCW 29.30.130.
Expense of recount--Charges: RCW 29.64.060.
Port districts, formation of, election on, expense of: RCW 53.04.070.
Public utility district elections, expense of: RCW 54.08.041.
Reclamation districts of one million acres, election to form, expense: RCW 89.30.115.
Soil and water conservation district, election to form, expense: RCW 89.08.140.
Water-sewer districts
annexation of territory by, election on, expense: RCW 57.24.050.
formation of, expense: RCW 57.04.055.

RCW 29.13.047 State share of election costs.

(1) Whenever state officers or measures are voted upon at a state primary or general election held in an odd-numbered year under RCW 29.13.010, the state of Washington shall assume a prorated share of the costs of that state primary or general election.

(2) Whenever a primary or vacancy election is held to fill a vacancy in the position of United States senator or United States representative under chapter 29.68 RCW, the state of Washington shall assume a prorated share of the costs of that primary or vacancy election.

(3) The county auditor shall apportion the state's share of these expenses when prorating election costs under RCW 29.13.045 and shall file such expense claims with the secretary of state.

(4) The secretary of state shall include in his or her biennial budget requests sufficient funds to carry out this section. Reimbursements for election costs shall be from appropriations specifically provided by law for that purpose.

[1985 c 45 § 2; 1977 ex.s. c 144 § 4; 1975-'76 2nd ex.s. c 4 § 1; 1973 c 4 § 2.]

Notes:

Legislative intent--1985 c 45: "It is the intention of the legislature that sections 2 through 7 of this act shall provide an orderly and predictable election procedure for filling vacancies in the offices of United States representative and United States senator." [1985 c 45 § 1.]

Compensation of precinct election officers: RCW 29.04.020.

RCW 29.13.048 Interest on reimbursement of costs.

For any reimbursement of election costs under RCW 29.13.047, the secretary of state shall pay interest at an annual rate equal to two percentage points in excess of the discount rate on ninety-day commercial paper in effect at the federal reserve bank in San Francisco on the fifteenth day of the month immediately preceding the payment for any period of time in excess of thirty days after the receipt of a properly executed and documented voucher for such expenses and the entry of an allotment from specifically appropriated funds for this purpose under *RCW 43.88.111. The secretary of state shall promptly notify any county that submits an incomplete or inaccurate voucher for reimbursement under RCW 29.13.047.

[1986 c 167 § 7.]

Notes:

***Reviser's note:** RCW 43.88.111 was repealed by 1986 c 215 § 7.

Severability--1986 c 167: See note following RCW 29.01.055.

RCW 29.13.050 Local officers, beginning of terms--Organization of district boards of directors.

The term of every city, town, and district officer elected to office on the first Tuesday following the first Monday in November of the odd-numbered years shall begin in accordance with RCW 29.04.170: PROVIDED, That any person elected to less than a full term shall assume office as soon as the election returns have been certified and he or she is qualified in accordance with RCW 29.01.135.

Each board of directors of every district shall be organized at the first meeting held after one or more newly elected directors take office.

[1979 ex.s. c 126 § 14; 1965 c 123 § 6; 1965 c 9 § 29.13.050. Prior: 1963 c 200 § 8; 1959 c 86 § 1; prior: 1951 c 257 § 6. (i) 1949 c 161 § 9; Rem. Supp. 1949 § 5146-1. (ii) 1949 c 163 § 1; 1921 c 61 § 4; Rem. Supp. 1949 § 5146.]

Notes:

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

RCW 29.13.060 Elections in certain first class school districts.

(1) In each county with a population of two hundred ten thousand or more, first class school districts containing a city of the first class shall hold their elections biennially as provided in RCW 29.13.020.

(2) Except as provided in *RCW 28A.315.460, the directors to be elected may be elected for terms of six years and until their successors are elected and qualified and assume office in accordance with RCW 29.04.170.

(3) If the board of directors of a school district included within the definition in subsection (1) of this section reduces the length of the term of office for school directors in the district from six to four years, the reduction in the length of term must not affect the term of office of any incumbent director without his or her consent, and provision must be made to appropriately stagger future elections of school directors.

[1996 c 202 § 1; 1991 c 363 § 32; 1990 c 33 § 563; 1989 c 10 § 7. Prior: 1979 ex.s. c 183 § 11; 1979 ex.s. c 126 § 15; 1965 c 9 § 29.13.060; prior: 1963 c 200 § 9; 1943 c 10 § 1; Rem. Supp. 1943 § 4810-1.]

Notes:

***Reviser's note:** RCW 28A.315.460 was recodified as RCW 28A.343.610 pursuant to 1999 c 315 § 805.

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Purpose--Statutory references--Severability--1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

Effective date--Severability--1979 ex.s. c 183: See notes following RCW 28A.343.020.

Directors--Number and terms of in new first class district having city with population of 400,000 people or more: RCW 28A.343.650.

RCW 29.13.070 Primaries.

Nominating primaries for general elections to be held in November shall be held at the regular polling places in each precinct on the third Tuesday of the preceding September or on the seventh Tuesday immediately preceding such general election, whichever occurs first.

[1977 ex.s. c 361 § 29; 1965 ex.s. c 103 § 6; 1965 c 9 § 29.13.070. Prior: 1963 c 200 § 25; 1907 c 209 § 3; RRS § 5179.]

Notes:

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.13.080 Opening and closing polls.

At all primaries and elections, general or special, in all counties the polls must be kept open from seven o'clock a.m. to eight o'clock p.m. All qualified electors who are at the polling place at eight o'clock p.m., shall be allowed to cast their votes.

[1973 c 78 § 1; 1965 ex.s. c 101 § 13; 1965 c 9 § 29.13.080. Prior: (i) 1921 c 61 § 7; RRS § 5149. (ii) 1921 c 170 § 5; RRS § 5154. (iii) 1921 c 178 § 7; 1907 c 235 § 1; 1889 p 413 § 35; RRS § 5319. (iv) 1919 c 163 § 16, part; 1907 c 209 § 17, part; RRS § 5194, part.]

Notes:

Closing the polls: RCW 29.51.250.

District elections, hours, see particular districts.

Employer's duty to provide time to vote: RCW 49.28.120.

Polls open continuously--Announcement of closing: RCW 29.51.240.

Proclamation opening the polls: RCW 29.48.100.

RCW 29.13.100 United States Constitutional amendment conventions--Election of convention delegates.

See RCW 29.74.030.

Chapter 29.15 RCW
FILING FOR OFFICE

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NOTES:
Vacancy on major party ticket: RCW 29.18.150.

RCW 29.15.010 Declaration and affidavit of candidacy.

A candidate who desires to have his or her name printed on the ballot for election to an

office other than president of the United States, vice-president of the United States, or an office for which ownership of property is a prerequisite to voting shall complete and file a declaration and affidavit of candidacy. The secretary of state shall adopt, by rule, a declaration of candidacy form for the office of precinct committee officer and a separate standard form for candidates for all other offices filing under this chapter. Included on the standard form shall be:

(1) A place for the candidate to declare that he or she is a registered voter within the jurisdiction of the office for which he or she is filing, and the address at which he or she is registered;

(2) A place for the candidate to indicate the position for which he or she is filing;

(3) A place for the candidate to indicate a party designation, if applicable;

(4) A place for the candidate to indicate the amount of the filing fee accompanying the declaration of candidacy or for the candidate to indicate that he or she is filing a nominating petition in lieu of the filing fee under RCW 29.15.050;

(5) A place for the candidate to sign the declaration of candidacy, stating that the information provided on the form is true and swearing or affirming that he or she will support the Constitution and laws of the United States and the Constitution and laws of the state of Washington.

The secretary of state may require any other information on the form he or she deems appropriate to facilitate the filing process.

[1990 c 59 § 82.]

RCW 29.15.020 Declaration of candidacy--Certain offices, when filed.

Except where otherwise provided by this title, declarations of candidacy for the following offices shall be filed during regular business hours with the filing officer no earlier than the fourth Monday in July and no later than the following Friday in the year in which the office is scheduled to be voted upon:

(1) Offices that are scheduled to be voted upon for full terms or both full terms and short terms at, or in conjunction with, a state general election; and

(2) Offices where a vacancy, other than a short term, exists that has not been filled by election and for which an election to fill the vacancy is required in conjunction with the next state general election.

This section supersedes all other statutes that provide for a different filing period for these offices.

[1990 c 59 § 81; 1986 c 167 § 8; 1984 c 142 § 2. Formerly RCW 29.18.025.]

Notes:

Severability--1986 c 167: See note following RCW 29.01.055.

Intent--1984 c 142: "It is the intention of the legislature that this act shall provide an equitable qualifying procedure for candidates who, at the time of filing, lack sufficient assets or income to pay the filing fees otherwise required of candidates for public office." [1984 c 142 § 1.]

RCW 29.15.025 Qualifications for filing, appearance on ballot.

(1) A person filing a declaration and affidavit of candidacy for an office shall, at the time of filing, be a registered voter and possess the qualifications specified by law for persons who may be elected to the office.

(2) The name of a candidate for an office shall not appear on a ballot for that office unless, except as provided in RCW 3.46.067 and 3.50.057, the candidate is, at the time the candidate's declaration and affidavit of candidacy is filed, properly registered to vote in the geographic area represented by the office. For the purposes of this section, each geographic area in which registered voters may cast ballots for an office is represented by that office. If a person elected to an office must be nominated from a district or similar division of the geographic area represented by the office, the name of a candidate for the office shall not appear on a primary ballot for that office unless the candidate is, at the time the candidate's declaration and affidavit of candidacy is filed, properly registered to vote in that district or division. The officer with whom declarations and affidavits of candidacy must be filed under this title shall review each such declaration filed regarding compliance with this subsection.

(3) This section does not apply to the office of a member of the United States congress.

[1999 c 298 § 9; 1993 c 317 § 10; 1991 c 178 § 1. Formerly RCW 29.18.021.]

NOTES:

Severability--Effective date--1993 c 317: See notes following RCW 3.50.810.

RCW 29.15.026 Information on geographical boundaries.

(1) The legislative authority of each county and each city, town, and special purpose district which lies entirely within the county shall provide the county auditor accurate information describing its geographical boundaries and the boundaries of its director, council, or commissioner districts and shall ensure that the information provided to the auditor is kept current.

(2) A city, town, or special purpose district that lies in more than one county shall provide the secretary of state accurate information describing its geographical boundaries and the boundaries of its director, council, or commissioner districts and shall ensure that the information provided to the secretary is kept current. The secretary of state shall promptly transmit to each county in which a city, town, or special purpose district is located information regarding the boundaries of that jurisdiction which is provided to the secretary.

[1991 c 178 § 2. Formerly RCW 29.04.220.]

RCW 29.15.030 Declaration of candidacy--Where filed--Copy to public disclosure commission.

Declarations of candidacy shall be filed with the following filing officers:

(1) The secretary of state for declarations of candidacy for state-wide offices, United States senate, and United States house of representatives;

(2) The secretary of state for declarations of candidacy for the state legislature, the court

of appeals, and the superior court when voters from a district comprising more than one county vote upon the candidates;

(3) The county auditor for all other offices. For any nonpartisan office, other than judicial offices and school director in joint districts, where voters from a district comprising more than one county vote upon the candidates, a declaration of candidacy shall be filed with the county auditor of the county in which a majority of the registered voters of the district reside. For school directors in joint school districts, the declaration of candidacy shall be filed with the county auditor of the county designated by the state board of education as the county to which the joint school district is considered as belonging under *RCW 28A.315.380.

Each official with whom declarations of candidacy are filed under this section, within one business day following the closing of the applicable filing period, shall forward to the public disclosure commission a copy of each declaration of candidacy filed in his office during such filing period or a list containing the name of each candidate who files such a declaration in his office during such filing period together with a precise identification of the position sought by each such candidate and the date on which each such declaration was filed. Such official, within three days following his receipt of any letter withdrawing a person's name as a candidate, shall also forward a copy of such withdrawal letter to the public disclosure commission.

[1998 c 22 § 1; 1990 c 59 § 84; 1977 ex.s. c 361 § 30; 1975-'76 2nd ex.s. c 112 § 1; 1965 c 9 § 29.18.040. Prior: 1907 c 209 § 7; RRS § 5184. Formerly RCW 29.18.040.]

Notes:

***Reviser's note:** RCW 28A.315.380 was recodified as RCW 28A.323.040 pursuant to 1999 c 315 § 803.

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

Construction--1975-'76 2nd ex.s. c 112: RCW 42.17.945.

Severability--1975-'76 2nd ex.s. c 112: RCW 42.17.912.

Precinct committee officer, filing of declaration of candidacy with county auditor: RCW 29.42.040.

Public disclosure--Campaign finances, lobbying, records: Chapter 42.17 RCW.

RCW 29.15.040 Declaration--Filing by mail.

Any candidate may mail his or her declaration of candidacy for an office to the filing officer. Such declarations of candidacy shall be processed by the filing officer in the following manner:

(1) Any declaration received by the filing officer by mail before the tenth business day immediately preceding the first day for candidates to file for office shall be returned to the candidate submitting it, together with a notification that the declaration of candidacy was received too early to be processed. The candidate shall then be permitted to resubmit his or her declaration of candidacy during the filing period.

(2) Any properly executed declaration of candidacy received by mail on or after the tenth business day immediately preceding the first day for candidates to file for office and before the close of business on the last day of the filing period shall be included with filings made in person during the filing period. In partisan and judicial elections the filing officer shall determine by lot the order in which the names of those candidates shall appear upon sample and absentee primary

ballots.

(3) Any declaration of candidacy received by the filing officer after the close of business on the last day for candidates to file for office shall be rejected and returned to the candidate attempting to file it.

[1987 c 110 § 2; 1986 c 120 § 2. Formerly RCW 29.18.045.]

Notes:
Precinct committee officer, declaration of candidacy, fee: RCW 29.42.040, 29.42.050.

RCW 29.15.050 Declaration--Fees and petitions.

A filing fee of one dollar shall accompany each declaration of candidacy for precinct committee officer; a filing fee of ten dollars shall accompany the declaration of candidacy for any office with a fixed annual salary of one thousand dollars or less; a filing fee equal to one percent of the annual salary of the office at the time of filing shall accompany the declaration of candidacy for any office with a fixed annual salary of more than one thousand dollars per annum. No filing fee need accompany a declaration of candidacy for any office for which compensation is on a per diem or per meeting attended basis.

A candidate who lacks sufficient assets or income at the time of filing to pay the filing fee required by this section shall submit with his or her declaration of candidacy a nominating petition. The petition shall contain not less than a number of signatures of registered voters equal to the number of dollars of the filing fee. The signatures shall be of voters registered to vote within the jurisdiction of the office for which the candidate is filing.

When the candidacy is for:

(1) A legislative or judicial office that includes territory from more than one county, the fee shall be paid to the secretary of state for equal division between the treasuries of the counties comprising the district.

(2) A city or town office, the fee shall be paid to the county auditor who shall transmit it to the city or town clerk for deposit in the city or town treasury.

[1999 c 298 § 10; 1999 c 157 § 2; 1990 c 59 § 85; 1987 c 295 § 2; 1984 c 142 § 4; 1965 c 9 § 29.18.050. Prior: 1909 c 82 § 2; 1907 c 209 § 5; RRS § 5182. Formerly RCW 29.18.050.]

Notes:

Intent--1984 c 142: See note following RCW 29.15.020.
Precinct committee officer, declaration of candidacy, fee: RCW 29.42.040, 29.42.050.

RCW 29.15.060 Nominating petition--Form.

The nominating petition authorized by RCW 29.15.050 shall be printed on sheets of uniform color and size, shall contain no more than twenty numbered lines, and shall be in substantially the following form:

WARNING

Any person who signs this petition with any other than his or her true name, or who knowingly (1) signs more than one petition for any single candidate, (2) signs the petition when he or she is not a legal voter, or (3) makes any false statement may be subject to fine, or imprisonment, or both.

We, the undersigned registered voters of (the state of Washington or the political subdivision for which the nomination is made), hereby petition that the name of (candidate's name) be printed on the official primary ballot for the office of (insert name of office).

Signature	Printed Name	Residence Address	City	County
1- - - - - - - -	- - - - - - - - - - -	- - - - - - - - - - - - - - -	- - - - -	- - - - - - - - - -
2- - - - - - - -	- - - - - - - - - - -	- - - - - - - - - - - - - - -	- - - - -	- - - - - - - - - -
3- - - - - - - -	- - - - - - - - - - -	- - - - - - - - - - - - - - -	- - - - -	- - - - - - - - - -

etc.

[1984 c 142 § 5. Formerly RCW 29.18.053.]

Notes:

Intent--1984 c 142: See note following RCW 29.15.020.

RCW 29.15.070 Petitions--Rejection--Acceptance, canvass of signatures--Judicial review.

Nominating petitions may be rejected for the following reasons:

(1) The petition is not in the proper form;

(2) The petition clearly bears insufficient signatures;

(3) The petition is not accompanied by a declaration of candidacy;

(4) The time within which the petition and the declaration of candidacy could have been filed has expired.

If the petition is accepted, the officer with whom it is filed shall canvass the signatures contained on it and shall reject the signatures of those persons who are not registered voters and the signatures of those persons who are not registered to vote within the jurisdiction of the office for which the nominating petition is filed. He or she shall additionally reject any signature that appears on the nominating petitions of two or more candidates for the same office and shall also reject, each time it appears, the name of any person who signs the same petition more than once.

If the officer with whom the petition is filed refuses to accept the petition or refuses to certify the petition as bearing sufficient valid signatures, the person filing the petition may

appeal that action to the superior court. The application for judicial review shall take precedence over other cases and matters and shall be speedily heard and determined.

[1984 c 142 § 6. Formerly RCW 29.18.055.]

Notes:

Intent--1984 c 142: See note following RCW 29.15.020.

RCW 29.15.080 Petitions--Penalties for improperly signing.

The following apply to persons signing nominating petitions prescribed by RCW 29.15.060:

(1) A person who signs a petition with any other than his or her name shall be guilty of a misdemeanor.

(2) A person shall be guilty of a misdemeanor if the person knowingly: Signs more than one petition for any single candidacy of any single candidate; signs the petition when he or she is not a legal voter; or makes a false statement as to his or her residence.

[1984 c 142 § 8. Formerly RCW 29.18.057.]

Notes:

Intent--1984 c 142: See note following RCW 29.15.020.

RCW 29.15.090 Candidates' names--Nicknames.

When filing for office, a candidate may indicate the manner in which he or she desires his or her name to be printed on the ballot. For filing purposes, a candidate may use a nickname by which he or she is commonly known as his or her first name, but the last name shall be the name under which he or she is registered to vote.

No candidate may:

(1) Use a nickname that denotes present or past occupation, including military rank;

(2) Use a nickname that denotes the candidate's position on issues or political affiliation;

(3) Use a nickname designed intentionally to mislead voters.

The secretary of state shall adopt rules to resolve those instances when candidates have filed for the same office whose last names are so similar in sound or spelling as to be confusing to the voter.

[1990 c 59 § 83.]

RCW 29.15.100 Duplication of, use of nonexistent or untrue names, as felony.

A person is guilty of a felony who files a declaration of candidacy for any public office of:

(1) A nonexistent or fictitious person; or

(2) The name of any person not his true name; or

(3) A name similar to that of an incumbent seeking reelection to the same office with

intent to confuse and mislead the electors by taking advantage of the public reputation of the incumbent; or

(4) A surname similar to one who has already filed for the same office, and whose political reputation is widely known, with intent to confuse and mislead the electors by capitalizing on the public reputation of the candidate who had previously filed.

[1965 c 9 § 29.18.070. Prior: (i) 1943 c 198 § 2; Rem. Supp. 1943 § 5213-11. (ii) 1943 c 198 § 3; Rem. Supp. 1943 § 5213-12. Formerly RCW 29.18.070.]

RCW 29.15.110 Duplication of names--Conspiracy--Criminal and civil liability.

Any person who with intent to mislead or confuse the electors conspires with another person who has a surname similar to an incumbent seeking reelection to the same office, or to an opponent for the same office whose political reputation has been well established, by persuading such other person to file for such office with no intention of being elected, but to defeat the incumbent or the well known opponent, shall be guilty of a felony. In addition thereto such person or persons shall be subject to a suit for civil damages the amount of which shall not exceed the salary which the injured person would have received had he been elected or reelected.

[1965 c 9 § 29.18.080. Prior: 1943 c 198 § 6; Rem. Supp. 1943 § 5213-15. Formerly RCW 29.18.080.]

RCW 29.15.120 Withdrawal of candidacy.

A candidate may withdraw his or her declaration of candidacy at any time before the close of business on the Thursday following the last day for candidates to file under RCW 29.15.020 by filing, with the officer with whom the declaration of candidacy was filed, a signed request that his or her name not be printed on the ballot. There shall be no withdrawal period for declarations of candidacy filed during special filing periods held under this title. The filing officer may permit the withdrawal of a filing for the office of precinct committee officer at the request of the candidate at any time if no absentee ballots have been issued for that office and the general election ballots for that precinct have not been printed. The filing officer may permit the withdrawal of a filing for any elected office of a city, town, or special district at the request of the candidate at any time before a primary if the primary ballots for that city, town, or special district have not been ordered. No filing fee may be refunded to any candidate who withdraws under this section. Notice of the deadline for withdrawal of candidacy and that the filing fee is not refundable shall be given to each candidate at the time he or she files.

[1994 c 223 § 6; 1990 c 59 § 86; 1984 c 142 § 7. Formerly RCW 29.18.105.]

Notes:

Intent--1984 c 142: See note following RCW 29.15.020.

Vacancy on major party ticket: RCW 29.18.150.

RCW 29.15.125 Notice of date for withdrawal.

Each person who files a declaration of candidacy for an elected office of a city, town, or special district shall be given written notice of the date by which a candidate may withdraw his or her candidacy under RCW 29.15.120.

[1994 c 223 § 7.]

RCW 29.15.130 Officials to designate position numbers, when--Effect.

Not less than thirty days before the first day for filing declarations of candidacy under RCW 29.15.020 for legislative, judicial, county, city, town, or district office, where more than one position with the same name, district number, or title will be voted upon at the succeeding election, the filing officer shall designate the positions to be filled by number.

The positions so designated shall be dealt with as separate offices for all election purposes. With the exception of the office of justice of the supreme court, the position numbers shall be assigned, whenever possible, to reflect the position numbers that were used to designate the same positions at the last full-term election for those offices.

[1990 c 59 § 79; 1965 c 52 § 1. Formerly RCW 29.18.015.]

RCW 29.15.140 Designation of short terms, full terms, and unexpired terms--Filing declarations--Election to both short and full terms.

If at the same election there are short terms or full terms and unexpired terms of office to be filled, the filing officer shall distinguish them and designate the short term, the full term, and the unexpired term, as such, or by use of the words "short term," "unexpired two year term," or "four year term," as the case may be.

In filing the declaration of candidacy in such cases the candidate shall specify that the candidacy is for the short term, the full term, or the unexpired term. When both a short term and a full term for the same position are scheduled to be voted upon, or when a short term is created after the close of the filing period, a single declaration of candidacy accompanied by a single filing fee shall be construed as a filing for both the short term and the full term and the name of such candidate shall appear upon the ballot for the position sought with the designation "short term and full term." The candidate elected to both such terms shall be sworn into and assume office for the short term as soon as the election returns have been certified and shall again be sworn into office on the second Monday in January following the election to assume office for the full term.

[1990 c 59 § 92; 1975-'76 2nd ex.s. c 120 § 4; 1965 c 9 § 29.21.140. Prior: (i) 1927 c 155 § 1, part; 1925 ex.s. c 68 § 1, part; 1921 c 116 § 1, part; 1919 c 85 § 1, part; 1911 c 101 § 1, part; 1909 c 82 § 11, part; 1907 c 209 § 38, part; RRS § 5212, part. (ii) 1933 c 85 § 1, part; RRS § 5213-1, part. Formerly RCW 29.21.140.]

Notes:

Severability--1975-'76 2nd ex.s. c 120: See note following RCW 29.21.010.

Term of person elected to fill vacancy: RCW 42.12.030.

Vacancies in public office, how filled: RCW 42.12.010.

RCW 29.15.150 Elections to fill unexpired term--No primary, when.

Whenever it shall be necessary to hold a special election in an odd-numbered year to fill an unexpired term of any office which is scheduled to be voted upon for a full term in an even-numbered year, no September primary election shall be held in the odd-numbered year if, after the last day allowed for candidates to withdraw, either of the following circumstances exist:

(1) No more than one candidate of each qualified political party has filed a declaration of candidacy for the same partisan office to be filled; or

(2) No more than two candidates have filed a declaration of candidacy for a single nonpartisan office to be filled.

In either event, the officer with whom the declarations of candidacy were filed shall immediately notify all candidates concerned and the names of the candidates that would have been printed upon the September primary ballot, but for the provisions of this section, shall be printed as nominees for the positions sought upon the November general election ballot.

[1973 c 4 § 3. Formerly RCW 29.13.075.]

RCW 29.15.160 Void in candidacy--Exception.

A void in candidacy for a nonpartisan office occurs when an election for such office, except for the short term, has been scheduled and no valid declaration of candidacy has been filed for the position or all persons filing such valid declarations of candidacy have died or been disqualified.

[1975-'76 2nd ex.s. c 120 § 9; 1972 ex.s. c 61 § 1. Formerly RCW 29.21.350.]

Notes:

Severability--1975-'76 2nd ex.s. c 120: See note following RCW 29.21.010.

Severability--1972 ex.s. c 61: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1972 ex.s. c 61 § 8.]

RCW 29.15.170 Reopening of filing--Occurrences before sixth Tuesday before primary.

Filings for a nonpartisan office shall be reopened for a period of three normal business days, such three day period to be fixed by the election officer with whom such declarations of candidacy are filed and notice thereof given by notifying press, radio, and television in the county and by such other means as may now or hereafter be provided by law whenever before the sixth Tuesday prior to a primary:

(1) A void in candidacy occurs;

(2) A vacancy occurs in any nonpartisan office leaving an unexpired term to be filled by an election for which filings have not been held; or

(3) A nominee for judge of the superior court entitled to a certificate of election pursuant

to Article 4, section 29, Amendment 41 of the state Constitution, dies or is disqualified.

Candidacies validly filed within said three-day period shall appear on the ballot as if made during the earlier filing period.

[2001 c 46 § 1; 1975-'76 2nd ex.s. c 120 § 10; 1972 ex.s. c 61 § 2. Formerly RCW 29.21.360.]

NOTES:

Severability--1975-'76 2nd ex.s. c 120: See note following RCW 29.21.010.

Severability--1972 ex.s. c 61: See note following RCW 29.15.160.

RCW 29.15.180 Reopening of filing--Occurrences after sixth Tuesday before primary.

Filings for a nonpartisan office (other than judge of the supreme court or superintendent of public instruction) shall be reopened for a period of three normal business days, such three day period to be fixed by the election officer with whom such declarations of candidacy are filed and notice thereof given by notifying press, radio, and television in the county and by such other means as may now or hereafter be provided by law, when:

(1) A void in candidacy for such nonpartisan office occurs on or after the sixth Tuesday prior to a primary but prior to the sixth Tuesday before an election; or

(2) A nominee for judge of the superior court eligible after a contested primary for a certificate of election by Article 4, section 29, Amendment 41 of the state Constitution, dies or is disqualified within the ten day period immediately following the last day allotted for a candidate to withdraw; or

(3) A vacancy occurs in any nonpartisan office on or after the sixth Tuesday prior to a primary but prior to the sixth Tuesday before an election leaving an unexpired term to be filled by an election for which filings have not been held.

The candidate receiving a plurality of the votes cast for that office in the general election shall be deemed elected.

[2001 c 46 § 2; 1975-'76 2nd ex.s. c 120 § 11; 1972 ex.s. c 61 § 3. Formerly RCW 29.21.370.]

NOTES:

Severability--1975-'76 2nd ex.s. c 120: See note following RCW 29.15.160.

Severability--1972 ex.s. c 61: See note following RCW 29.15.160.

RCW 29.15.190 Scheduled election lapses, when.

A scheduled election shall be lapsed, the office deemed stricken from the ballot, no purported write-in votes counted, and no candidate certified as elected, when:

(1) In an election for judge of the supreme court or superintendent of public instruction, a void in candidacy occurs on or after the fourth Tuesday prior to a primary, public filings and the primary being an indispensable phase of the election process for such offices;

(2) Except as otherwise specified in RCW 29.15.180, as now or hereafter amended, a nominee for judge of the superior court entitled to a certificate of election pursuant to Article 4, section 29, Amendment 41 of the state Constitution dies or is disqualified on or after the fourth Tuesday prior to a primary;

(3) In other elections for nonpartisan office a void in candidacy occurs or a vacancy

occurs involving an unexpired term to be filled on or after the fourth Tuesday prior to an election.

[1975-'76 2nd ex.s. c 120 § 12; 1972 ex.s. c 61 § 4. Formerly RCW 29.21.380.]

Notes:

Severability--1975-'76 2nd ex.s. c 120: See note following RCW 29.21.010.
Severability--1972 ex.s. c 61: See note following RCW 29.15.160.

RCW 29.15.200 Lapse of election when no filing for single positions--Effect.

If after both the normal filing period and special three day filing period as provided by RCW 29.15.170 and 29.15.180 have passed, no candidate has filed for any single city, town, or district position to be filled, the election for such position shall be deemed lapsed, the office deemed stricken from the ballot and no write-in votes counted. In such instance, the incumbent occupying such position shall remain in office and continue to serve until a successor is elected at the next election when such positions are voted upon.

[1994 c 223 § 8; 1975-'76 2nd ex.s. c 120 § 13. Formerly RCW 29.21.385.]

Notes:

Severability--1975-'76 2nd ex.s. c 120: See note following RCW 29.21.010.

RCW 29.15.210 Notice of void in candidacy.

The election officer with whom declarations of candidacy are filed shall give notice of a void in candidacy for a nonpartisan office, by notifying press, radio, and television in the county and by such other means as may now or hereafter be provided by law. The notice shall state the office, and the time and place for filing declarations of candidacy.

[1972 ex.s. c 61 § 5. Formerly RCW 29.21.390.]

Notes:

Severability--1972 ex.s. c 61: See note following RCW 29.15.160.

RCW 29.15.220 Filings to fill void in candidacy--How made.

Filings to fill a void in candidacy for nonpartisan office shall be made in the same manner and with the same official as required during the regular filing period for such office: PROVIDED, That nominating signature petitions which may be required of candidates filing for certain district offices during the normal filing period shall not be required of candidates filing during the special three day filing period.

[1972 ex.s. c 61 § 6. Formerly RCW 29.21.400.]

Notes:

Severability--1972 ex.s. c 61: See note following RCW 29.15.160.

RCW 29.15.230 Vacancy in partisan elective office--Special filing period.

Filings for a partisan elective office shall be opened for a period of three normal business days whenever, on or after the first day of the regular filing period and before the sixth Tuesday prior to a primary, a vacancy occurs in that office, leaving an unexpired term to be filled by an election for which filings have not been held.

Any such special three-day filing period shall be fixed by the election officer with whom declarations of candidacy for that office are filed. The election officer shall give notice of the special three-day filing period by notifying the press, radio, and television in the county or counties involved, and by such other means as may be required by law.

Candidacies validly filed within the special three-day filing period shall appear on the primary ballot as if filed during the regular filing period.

[2001 c 46 § 3; 1981 c 180 § 2. Formerly RCW 29.18.032.]

NOTES:

Severability--1981 c 180: See note following RCW 42.12.040.

Vacancy in partisan elective office, successor elected, when: RCW 42.12.040.

Vacancy in United States senate, special filing period in 1983: Chapter 1, Laws of 1983 3rd ex. sess. (uncodified).

Vacancy on major party ticket: RCW 29.18.150.

RCW 29.15.240 Rejection of ineligible persons.

(1) The secretary of state or other election official authorized by law shall not accept or verify the signatures, nor accept a declaration of candidacy or a nomination paper, from or on behalf of a person who, by reason of RCW 43.01.015, 44.04.015, 29.68.015, or 29.68.016, is ineligible for the office, nor allow the person's name to appear on the ballot.

(2) No terms or years served in office before November 3, 1992, may be used to determine eligibility to appear on the ballot.

[1993 c 1 § 7 (Initiative Measure No. 573, approved November 3, 1992).]

Notes:

Preamble--Severability--1993 c 1 (Initiative Measure No. 573): See notes following RCW 43.01.015.

RCW 29.15.800 Rules by secretary of state.

The secretary of state shall adopt rules consistent with the provisions of this chapter to facilitate its implementation. The secretary shall publish proposed rules implementing this section not later than December 15, 1991.

[1990 c 59 § 97.]

RCW 29.15.900 Intent--1990 c 59.

See note following RCW 29.01.006.

RCW 29.15.901 Effective date--1990 c 59.

See note following RCW 29.01.006.

Chapter 29.18 RCW
PARTISAN PRIMARIES

Sections

29.18.010 Application of chapter.
29.18.120 General election laws govern primaries.
29.18.150 Vacancies on major party ticket caused by no filing--How filled.
29.18.160 Vacancies by death or disqualification--How filled--Correcting ballots--Counting votes already cast.
29.18.200 Blanket primary authorized.

NOTES:
Contest, ineligibility to hold office at time declared elected as ground for: RCW 29.65.010.
Notice of primary election: RCW 29.27.030.
Political party conventions not to nominate candidates to be voted on in primary: RCW 29.42.010.

RCW 29.18.010 Application of chapter.

Candidates for the following offices shall be nominated at partisan primaries held pursuant to the provisions of this chapter:

(1) Congressional offices;

(2) All state offices except (a) judicial offices and (b) the office of superintendent of public instruction;

(3) All county offices except (a) judicial offices and (b) those offices where a county home rule charter provides otherwise.

[1990 c 59 § 78; 1965 c 9 § 29.18.010. Prior: 1911 c 101 § 2; 1909 c 82 § 1; 1907 c 209 § 2; RRS § 5178.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.18.120 General election laws govern primaries.

So far as applicable, the provisions of this title relating to conducting general elections shall govern the conduct of primaries.

[1990 c 59 § 87; 1971 ex.s. c 112 § 1; 1965 c 9 § 29.18.120. Prior: (i) 1907 c 209 § 14; RRS § 5191. (ii) 1921 c 178 § 5; 1907 c 209 § 21; RRS § 5197. (iii) 1909 c 82 § 10; 1907 c 209 § 33; RRS § 5208.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.18.150 Vacancies on major party ticket caused by no filing--How filled.

Should a place on the ticket of a major political party be vacant because no person has filed for nomination as the candidate of that major political party, after the last day allowed for

candidates to withdraw as provided by RCW 29.15.120, and if the vacancy is for a state or county office to be voted on solely by the electors of a single county, the county central committee of the major political party may select and certify a candidate to fill the vacancy; if the vacancy is for any other office the state central committee of the major political party may select and certify a candidate to fill the vacancy; the certificate must set forth the cause of the vacancy, the name of the person nominated, the office for which he is nominated and other pertinent information required in an ordinary certificate of nomination and be filed in the proper office no later than the first Friday after the last day allowed for candidates to withdraw, together with the candidate's fee applicable to that office and a declaration of candidacy.

[1990 c 59 § 102; 1977 ex.s. c 329 § 12; 1965 c 9 § 29.18.150. Prior: 1961 c 130 § 17; prior: (i) 1933 c 21 § 1, part; 1919 c 163 § 24, part; RRS § 5200, part. (ii) 1889 p 404 § 12; RRS § 5176.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.18.160 Vacancies by death or disqualification--How filled--Correcting ballots--Counting votes already cast.

A vacancy caused by the death or disqualification of any candidate or nominee of a major or minor political party may be filled at any time up to and including the day prior to the election for that position. For state partisan offices in any political subdivision voted on solely by electors of a single county, an individual shall be appointed to fill such vacancy by the county central committee in the case of a major political party or by the state central committee or comparable governing body in the case of a minor political party. For other partisan offices, including federal or statewide offices, an individual shall be appointed to fill such vacancy by the state central committee or comparable governing body of the appropriate political party.

Should such vacancy occur no later than the sixth Tuesday prior to the state primary or general election concerned and the ballots have been printed, it shall be mandatory that they be corrected by the appropriate election officers. In making such correction, it shall not be necessary to reprint complete ballots if any other less expensive technique can be used and the resulting correction is reasonably clear.

Should such vacancy occur after the sixth Tuesday prior to said state primary or general election and time does not exist in which to correct ballots (including absentee ballots), either in total or in part, then the votes cast or recorded for the person who has died or become disqualified shall be counted for the person who has been named to fill such vacancy.

When the secretary of state is the person with whom the appointment by the major or minor political party is filed, he shall, in certifying candidates or nominations to the various county officers insert the name of the person appointed to fill a vacancy.

In the event that the secretary of state has already sent forth his certificate when the appointment to fill a vacancy is filed with him, he shall forthwith certify to the county auditors of the proper counties the name and place of residence of the person appointed to fill a vacancy, the office for which he is a candidate or nominee, the party he represents and all other pertinent facts

pertaining to the vacancy.

[2001 c 46 § 4; 1977 ex.s. c 329 § 13.]

RCW 29.18.200 Blanket primary authorized.

Except as provided otherwise in chapter 29.19 RCW, all properly registered voters may vote for their choice at any primary held under this title, for any candidate for each office, regardless of political affiliation and without a declaration of political faith or adherence on the part of the voter.

[1990 c 59 § 88; 1965 c 9 § 29.18.200. Prior: 1935 c 26 § 5, part; No RRS.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Chapter 29.19 RCW
PRESIDENTIAL PRIMARY

Sections

29.19.010 Intent.
29.19.020 Date.
29.19.030 Ballot--Names included.
29.19.045 Procedures--Ballot form and arrangement.
29.19.055 Allocation of delegates--Party declarations.
29.19.070 Rules.
29.19.080 Costs.
29.19.900 Severability--1989 c 4.

RCW 29.19.010 Intent.

The people of the state of Washington declare that:

(1) The current presidential nominating caucus system in Washington state is unnecessarily restrictive of voter participation in that it discriminates against the elderly, the infirm, women, the handicapped, evening workers, and others who are unable to attend caucuses and therefore unable to fully participate in this most important quadrennial event that occurs in our democratic system of government.

(2) It is the intent of this chapter to make the presidential selection process more open and representative of the will of the people of our state.

(3) A presidential primary will afford the maximum opportunity for voter access at regular polling places during the daytime and evening hours convenient to the most people.

(4) This state's participation in the selection of presidential candidates shall be in accordance with the will of the people as expressed in a presidential preference primary.

(5) It is the intent of this chapter, to the maximum extent practicable, to continue to reserve to the political parties the right to conduct their delegate selection as prescribed by party

rules insofar as it reflects the will of the people as expressed in a presidential primary election conducted every four years in the manner described by this chapter.

[1989 c 4 § 1 (Initiative Measure No. 99).]

RCW 29.19.020 Date.

(1) On the fourth Tuesday in May of each year in which a president of the United States is to be nominated and elected, a presidential primary shall be held at which voters may vote for the nominee of a major political party for the office of president. The secretary of state may propose an alternative date for the primary no later than the first day of August of the year before the year in which a president is to be nominated and elected.

(2) No later than the first day of September of the year before the year in which a presidential nominee is selected, the state committee of any major political party that will use the primary results for candidates of that party may propose an alternative date for that primary.

(3) If an alternative date is proposed under subsection (1) or (2) of this section, a committee consisting of the chair and the vice-chair of the state committee of each major political party, the secretary of state, the majority leader and minority leader of the senate, and the speaker and the minority leader of the house of representatives shall meet and, if affirmed by a two-thirds vote of the members of the committee, the date of the primary shall be changed. The committee shall meet and decide on the proposed alternate date not later than the first day of October of the year before the year in which a presidential nominee is selected. The secretary of state shall convene and preside over the meeting of the committee. A committee member other than a legislator may appoint, in writing, a designee to serve on his or her behalf. A legislator who is a member of the committee may appoint, in writing, another legislator to serve on his or her behalf.

(4) If an alternate date is approved under this section, the secretary of state shall adopt rules under RCW 29.19.070 to adjust the deadlines in RCW 29.19.030 and related provisions of this chapter to correspond with the date that has been approved.

[1995 1st sp.s. c 20 § 1; 1989 c 4 § 2 (Initiative Measure No. 99).]

Notes:

Effective date--1995 1st sp.s. c 20: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [June 15, 1995]." [1995 1st sp.s. c 20 § 7.]

RCW 29.19.030 Ballot--Names included.

The name of any candidate for a major political party nomination for president of the United States shall be printed on the presidential preference primary ballot of a major political party only:

(1) By direction of the secretary of state, who in the secretary's sole discretion has determined that the candidate's candidacy is generally advocated or is recognized in national news media; or

(2) If members of the political party of the candidate have presented a petition for nomination of the candidate that has attached to the petition a sheet or sheets containing the signatures of at least one thousand registered voters who declare themselves in the petition as being affiliated with the same political party as the presidential candidate. The petition shall be filed with the secretary of state not later than the thirty-ninth day before the presidential preference primary. The signature sheets shall also contain the residence address and name or number of the precinct of each registered voter whose signature appears thereon and shall be certified in the manner prescribed in RCW 29.79.200 and 29.79.210.

The secretary of state shall place the name of the candidate on the ballot unless the candidate, at least thirty-five days before the presidential preference primary, executes and files with the secretary of state an affidavit stating without qualification that he or she is not now and will not become a candidate for the office of president of the United States at the forthcoming presidential election. The secretary of state shall certify the names of all candidates who will appear on the presidential preference primary ballot to the respective county auditors on or before the fourth Tuesday in April of each presidential election year.

[1989 c 4 § 3 (Initiative Measure No. 99).]

RCW 29.19.045 Procedures--Ballot form and arrangement.

(1) Except where necessary to accommodate the national or state rules of a major political party or where this chapter specifically provides otherwise, the presidential primary must be conducted in substantially the same manner as a state partisan primary under this title.

(2) Except as provided under this chapter or by rule of the secretary of state adopted under RCW 29.19.070, the arrangement and form of presidential primary ballots must be substantially as provided for a partisan primary under this title. Whenever requested by a major political party, a separate ballot containing only the candidates of that party who have qualified under RCW 29.19.030 must be provided for a voter who requests a ballot of that party. A primary ballot, containing the names of all the candidates who have qualified for a place on the ballot under RCW 29.19.030, must be provided for nonaffiliated voters.

(3) The ballot must list alphabetically the names of all candidates for the office of president. The ballot must indicate the political party of each candidate adjacent to the name of that candidate. Each ballot must include a blank space to allow the voter to write in the name of any other candidate.

(4) A presidential primary ballot with votes for more than one candidate is void, and notice to this effect, stated in clear, simple language and printed in large type, must appear on the face of each presidential primary ballot or on or about each voting device.

[1995 1st sp.s. c 20 § 2.]

Notes:

Effective date--1995 1st sp.s. c 20: See note following RCW 29.19.020.

RCW 29.19.055 Allocation of delegates--Party declarations.

(1) A major political party may, under national or state party rules, base the allocation of delegates from this state to the national nominating convention of that party in whole or in part on the participation in precinct caucuses and conventions conducted under the rules of that party.

(2) If requested by a major political party, the secretary of state shall adopt rules under RCW 29.19.070 to provide for any declaration required by that party.

(3) Voters who subscribe to a specific political party declaration under this section must be given ballots that are readily distinguishable from those given to other voters. Votes cast by persons making these declarations must be tabulated and reported separately from other votes cast at the primary and may be used by a major political party in its allocation of delegates under the rules of that party.

(4) For a political party that requires a specific voter declaration under this section, the secretary of state shall prescribe rules for providing, to the state and county committees of that political party, a copy of the declarations or a list of the voters who participated in the presidential nominating process of that party.

[1995 1st sp.s. c 20 § 3.]

Notes:

Effective date--1995 1st sp.s. c 20: See note following RCW 29.19.020.

RCW 29.19.070 Rules.

The secretary of state as chief election officer may make rules in accordance with chapter 34.05 RCW to facilitate the operation, accomplishment, and purpose of this chapter. The secretary of state shall adopt rules consistent with this chapter to comply with national or state political party rules.

[1995 1st sp.s. c 20 § 4; 1989 c 4 § 7 (Initiative Measure No. 99).]

Notes:

Effective date--1995 1st sp.s. c 20: See note following RCW 29.19.020.

RCW 29.19.080 Costs.

Subject to available funds specifically appropriated for this purpose, whenever a presidential primary is held as provided by this chapter, the state of Washington shall assume all costs of holding the primary if it is held alone. If any other election or elections are held at the same time, the state is liable only for a prorated share of the costs. The county auditor shall determine the costs, including the state's prorated share, if applicable, in the same manner as provided under RCW 29.13.045 and shall file a certified claim with the secretary of state. The secretary of state shall include in his or her biennial budget requests sufficient funds to carry out this section. Reimbursements for primary costs must be from appropriations specifically provided by law for that purpose.

[1995 1st sp.s. c 20 § 5; 1989 c 4 § 8 (Initiative Measure No. 99).]

Notes:

Effective date--1995 1st sp.s. c 20: See note following RCW 29.19.020.

RCW 29.19.900 Severability--1989 c 4.

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

[1989 c 4 § 12 (Initiative Measure No. 99).]

Chapter 29.21 RCW
NONPARTISAN PRIMARIES AND ELECTIONS

Sections

29.21.010 Local primaries.
29.21.015 When no local primary permitted--Procedure.
29.21.070 Nonpartisan offices specified.
29.21.410 Special election to fill unexpired term.

Notes:
Contest, ineligibility to hold office at time declared elected as ground for: RCW 29.65.010.
Notice of primary: RCW 29.27.030.

RCW 29.21.010 Local primaries.

All city and town primaries shall be nonpartisan. Primaries for special purpose districts, except those districts that require ownership of property within the district as a prerequisite to voting, shall be nonpartisan. City, town, and district primaries shall be held as provided in RCW 29.13.070.

The purpose of this section is to establish the holding of a primary, subject to the exemptions in RCW 29.21.015, as a uniform procedural requirement to the holding of city, town, and district elections. These provisions supersede any and all other statutes, whether general or special in nature, having different election requirements.

[1990 c 59 § 89; 1977 c 53 § 3; 1975-'76 2nd ex.s. c 120 § 1; 1965 c 123 § 7; 1965 c 9 § 29.21.010. Prior: 1951 c 257 § 7; 1949 c 161 § 3; Rem. Supp. 1949 § 5179-1.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Severability--1975-'76 2nd ex.s. c 120: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 120 § 16.]

RCW 29.21.015 When no local primary permitted--Procedure.

(1) No primary may be held for any single position in any city, town, district, or district court, as required by RCW 29.21.010, if, after the last day allowed for candidates to withdraw,

there are no more than two candidates filed for the position. The county auditor shall, as soon as possible, notify all the candidates so affected that the office for which they filed will not appear on the primary ballot.

(2) No primary may be held for the office of commissioner of a park and recreation district or for the office of cemetery district commissioner.

(3) Names of candidates for offices that do not appear on the primary ballot shall be printed upon the general election ballot in the manner specified by RCW 29.30.025.

[1998 c 19 § 1; 1996 c 324 § 1; 1990 c 59 § 90; 1975-'76 2nd ex.s. c 120 § 2; 1965 c 9 § 29.21.015. Prior: 1955 c 101 § 2; 1955 c 4 § 1.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Severability--1975-'76 2nd ex.s. c 120: See note following RCW 29.21.010.

RCW 29.21.070 Nonpartisan offices specified.

The offices of superintendent of public instruction, justice of the supreme court, judge of the court of appeals, judge of the superior court, and judge of the district court shall be nonpartisan and the candidates therefor shall be nominated and elected as such.

All city, town, and special purpose district elective offices shall be nonpartisan and the candidates therefor shall be nominated and elected as such.

[1990 c 59 § 91; 1987 c 202 § 193; 1971 c 81 § 75; 1965 c 9 § 29.21.070. Prior: (i) 1927 c 155 § 1, part; 1925 ex.s. c 68 § 1, part; 1921 c 116 § 1, part; 1919 c 85 § 1, part; 1911 c 101 § 1, part; 1909 c 82 § 11, part; 1907 c 209 § 38, part; RRS § 5212, part. (ii) 1933 c 85 § 1, part; RRS § 5213-1, part.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Intent--1987 c 202: See note following RCW 2.04.190.

Eligibility of judges: State Constitution Art. 4 § 17.

RCW 29.21.410 Special election to fill unexpired term.

Whenever it shall be necessary to hold a special election to fill an unexpired term of an elective office of any city, town, or district, such special election shall be held in concert with the next general election which is to be held by the respective city, town, or district concerned for the purpose of electing officers to full terms: PROVIDED, That this section shall not apply to any city of the first class whose charter provision relating to elections to fill unexpired terms are inconsistent herewith.

[1972 ex.s. c 61 § 7.]

Notes:

Severability--1972 ex.s. c 61: See note following RCW 29.15.160.

Chapter 29.24 RCW
MINOR PARTIES AND INDEPENDENT CANDIDATES

(Formerly: Nominations other than by primary)

Sections

29.24.010 Definitions--"Convention" and "election jurisdiction."
29.24.020 Nomination by convention or write-in--Dates--Special filing period.
29.24.025 Notice of convention.
29.24.030 Requirements for validity of convention.
29.24.035 Nominating petition--Requirements.
29.24.040 Certificate of nomination--Requisites.
29.24.045 Multiple certificates of nomination.
29.24.055 Presidential electors--Selection at convention.
29.24.060 Certificate of nomination--Checking signatures--Appeal of determination.
29.24.070 Declarations of candidacy required, exceptions--Payment of fees.

RCW 29.24.010 Definitions--"Convention" and "election jurisdiction."

A "convention" for the purposes of this chapter, is an organized assemblage of registered voters representing an independent candidate or candidates or a new or minor political party, organization, or principle. As used in this chapter, the term "election jurisdiction" shall mean the state or any political subdivision or jurisdiction of the state from which partisan officials are elected. This term shall include county commissioner districts or council districts for members of a county legislative authority, counties for county officials who are nominated and elected on a county-wide basis, legislative districts for members of the legislature, congressional districts for members of congress, and the state for president and vice president, members of the United States senate, and state officials who are elected on a state-wide basis.

[1977 ex.s. c 329 § 1; 1965 c 9 § 29.24.010. Prior: 1955 c 102 § 2; prior: 1937 c 94 § 2, part; RRS § 5168, part.]

Notes:
Minor political party defined: RCW 29.01.100.
Voter registration: Chapter 29.07 RCW.

RCW 29.24.020 Nomination by convention or write-in--Dates--Special filing period.

(1) Any nomination of a candidate for partisan public office by other than a major political party may be made only: (a) In a convention held not earlier than the last Saturday in June and not later than the first Saturday in July or during any of the seven days immediately preceding the first day for filing declarations of candidacy as fixed in accordance with RCW 29.68.080; (b) as provided by RCW 29.62.180; or (c) as otherwise provided in this section.

(2) Nominations of candidates for president and vice president of the United States other than by a major political party may be made either at a convention conducted under subsection (1) of this section, or at a similar convention taking place not earlier than the first Sunday in July and not later than seventy days before the general election. Conventions held during this time

period may not nominate candidates for any public office other than president and vice president of the United States, except as provided in subsection (3) of this section.

(3) If a special filing period for a partisan office is opened under RCW 29.15.230, candidates of minor political parties and independent candidates may file for office during that special filing period. The names of those candidates may not appear on the ballot unless they are nominated by convention held no later than five days after the close of the special filing period and a certificate of nomination is filed with the filing officer no later than three days after the convention. The requirements of RCW 29.24.025 do not apply to such a convention. If primary ballots or a voters' pamphlet are ordered to be printed before the deadline for submitting the certificate of nomination and the certificate has not been filed, then the candidate's name will be included but may not appear on the general election ballot unless the certificate is timely filed and the candidate otherwise qualifies to appear on that ballot.

(4) A minor political party may hold more than one convention but in no case shall any such party nominate more than one candidate for any one partisan public office or position. For the purpose of nominating candidates for the offices of president and vice president, United States senator, or a statewide office, a minor party or independent candidate holding multiple conventions may add together the number of signatures of different individuals from each convention obtained in support of the candidate or candidates in order to obtain the number required by RCW 29.24.030. For all other offices for which nominations are made, signatures of the requisite number of registered voters must be obtained at a single convention.

[2001 c 30 § 2; 1989 c 215 § 2; 1977 ex.s. c 329 § 2; 1965 c 9 § 29.24.020. Prior: 1955 c 102 § 3; prior: (i) 1937 c 94 § 1; RRS § 5167. (ii) 1937 c 94 § 4; RRS § 5170. (iii) 1937 c 94 § 10; RRS § 5170-6. (iv) 1907 c 209 § 26, part; RRS § 5203, part.]

NOTES:
Primaries, when held: RCW 29.13.070.

RCW 29.24.025 Notice of convention.

Each minor party or independent candidate must publish a notice in a newspaper of general circulation within the county in which the party or the candidate intends to hold a convention. The notice must appear at least ten days before the convention is to be held, and shall state the date, time, and place of the convention. Additionally, it shall include the mailing address of the person or organization sponsoring the convention.

[1989 c 215 § 1.]

RCW 29.24.030 Requirements for validity of convention.

(1) To be valid, a convention must be attended by at least twenty-five registered voters.

(2) In order to nominate candidates for the offices of president and vice-president of the United States, United States senator, or any state-wide office, a nominating convention shall obtain and submit to the filing officer the signatures of at least two hundred registered voters of the state of Washington. In order to nominate candidates for any other office, a nominating convention shall obtain and submit to the filing officer the signatures of twenty-five persons who

are registered to vote in the jurisdiction of the office for which the nominations are made.

[1989 c 215 § 3; 1977 ex.s. c 329 § 3; 1965 c 9 § 29.24.030. Prior: 1955 c 102 § 4; prior: (i) 1937 c 94 § 2, part; RRS § 5168, part. (ii) 1937 c 94 § 3; RRS § 5169.]

RCW 29.24.035 Nominating petition--Requirements.

A nominating petition submitted under this chapter shall clearly identify the name of the minor party or independent candidate convention as it appears on the certificate of nomination as required by RCW 29.24.040(3). The petition shall also contain a statement that the person signing the petition is a registered voter of the state of Washington and shall have a space for the voter to sign his or her name and to print his or her name and address. No person may sign more than one nominating petition under this chapter for an office for a primary or election.

[2001 c 64 § 1; 2001 c 30 § 3; 1989 c 215 § 5.]

RCW 29.24.040 Certificate of nomination--Requisites.

A certificate evidencing nominations made at a convention must:

(1) Be in writing;

(2) Contain the name of each person nominated, his residence, and the office for which he is named, and if the nomination is for the offices of president and vice-president of the United States, a sworn statement from both nominees giving their consent to the nomination;

(3) Identify the minor political party or the independent candidate on whose behalf the convention was held;

(4) Be verified by the oath of the presiding officer and secretary;

(5) Be accompanied by a nominating petition or petitions bearing the signatures and addresses of registered voters equal in number to that required by RCW 29.24.030;

(6) Contain proof of publication of the notice of calling the convention; and

(7) Be submitted to the appropriate filing officer not later than one week following the adjournment of the convention at which the nominations were made. If the nominations are made only for offices whose jurisdiction is entirely within one county, the certificate and nominating petitions must be filed with the county auditor. If a minor party or independent candidate convention nominates any candidates for offices whose jurisdiction encompasses more than one county, all nominating petitions and the convention certificates must be filed with the secretary of state.

[1989 c 215 § 4; 1977 ex.s. c 329 § 4; 1965 c 9 § 29.24.040. Prior: 1955 c 102 § 5; prior: 1937 c 94 § 5, part; RRS § 5170-1, part.]

Notes:

Requirements of candidates for public office under subversive activities act: Chapter 9.81 RCW.

RCW 29.24.045 Multiple certificates of nomination.

(1) If two or more valid certificates of nomination are filed purporting to nominate

different candidates for the same position using the same party name, the filing officer must give effect to both certificates. If conflicting claims to the party name are not resolved either by mutual agreement or by a judicial determination of the right to the name, the candidates must be treated as independent candidates. Disputes over the right to the name must not be permitted to delay the printing of either ballots or a voters' pamphlet. Other candidates nominated by the same conventions may continue to use the partisan affiliation unless a court of competent jurisdiction directs otherwise.

(2) A person affected may petition the superior court of the county in which the filing officer is located for a judicial determination of the right to the name of a minor political party, either before or after documents are filed with the filing officer. The court shall resolve the conflict between competing claims to the use of the same party name according to the following principles: (a) The prior established public use of the name during previous elections by a party composed of or led by the same individuals or individuals in documented succession; (b) prior established public use of the name earlier in the same election cycle; (c) the nomination of a more complete slate of candidates for a number of offices or in a number of different regions of the state; (d) documented affiliation with a national or statewide party organization with an established use of the name; (e) the first date of filing of a certificate of nomination; and (f) such other indicia of an established right to use of the name as the court may deem relevant. If more than one filing officer is involved, and one of them is the secretary of state, the petition must be filed in the superior court for Thurston county. Upon resolving the conflict between competing claims, the court may also address any ballot designation for the candidate who does not prevail.

[2001 c 30 § 4.]

RCW 29.24.055 Presidential electors--Selection at convention.

A minor political party or independent candidate convention nominating candidates for the offices of president and vice-president of the United States shall, not later than ten days after the adjournment of the convention, submit a list of presidential electors to the office of the secretary of state. The list shall contain the names and the mailing addresses of the persons selected and shall be verified by the presiding officer of the convention.

[1989 c 215 § 6.]

RCW 29.24.060 Certificate of nomination--Checking signatures--Appeal of determination.

Upon the receipt of the certificate of nomination, the officer with whom it is filed shall check the certificate and canvass the signatures on the accompanying nominating petitions to determine if the requirements of RCW 29.24.030 have been met. Once the determination has been made, the filing officer shall notify the presiding officer of the convention and any other persons requesting the notification, of his or her decision regarding the sufficiency of the certificate or the nominating petitions. Any appeal regarding the filing officer's determination must be filed with the superior court of the county in which the certificate or petitions were filed

not later than five days from the date the determination is made, and shall be heard and finally disposed of by the court within five days of the filing. Nominating petitions shall not be available for public inspection or copying.

[1989 c 215 § 7; 1977 ex.s. c 329 § 6; 1965 c 9 § 29.24.060. Prior: 1937 c 94 § 6; RRS § 5170-2.]

RCW 29.24.070 Declarations of candidacy required, exceptions--Payment of fees.

Not later than the Friday immediately preceding the first day for candidates to file, the secretary of state shall notify the county auditors of the names and designations of all minor party and independent candidates who have filed valid convention certificates and nominating petitions with that office. Except for the offices of president and vice-president, persons nominated under this chapter shall file declarations of candidacy as provided by RCW 29.15.010 and 29.15.030. The name of a candidate nominated at a convention shall not be printed upon the primary ballot unless he pays the fee required by law to be paid by candidates for the same office to be nominated at a primary.

[1990 c 59 § 103; 1989 c 215 § 8; 1977 ex.s. c 329 § 7; 1965 c 9 § 29.24.070. Prior: 1955 c 102 § 7; prior: (i) 1937 c 94 § 7, part; RRS § 5170-3, part. (ii) 1907 c 209 § 26, part; RRS § 5203, part.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Chapter 29.27 RCW
CERTIFICATES AND NOTICES

Sections

29.27.020 Certifying primary candidates.
29.27.030 Notice of primary.
29.27.050 Certification of nominees.
29.27.057 Constitutional measures--Ballot title--Formulation, ballot display, certification.
29.27.061 Constitutional measures--Ballot title--Filing.
29.27.065 Constitutional, statewide questions--Notice of ballot title and summary.
29.27.0653 Statewide question--Ballot title--Formulation, ballot display.
29.27.0655 Constitutional, statewide questions--Ballot title--Appeal.
29.27.066 Local measures--Ballot title--Formulation--Advertising.
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29.27.074 Notice of constitutional amendments and state measures--Contents.
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29.27.080 Notice of election--Certification of measures--Validation of certain school bond elections.
29.27.090 Preservation of nominating certificates.
29.27.100 Certificates of election to officers elected in single county or less.
29.27.110 Certificates of election to other officers.
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29.27.130 Certificates of nomination and ballots--Fraud.

29.27.140 Slate of presidential electors.

NOTES:

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recount of votes, certificate of abstract of votes cast: RCW 29.64.040.

registration

registration files, certificate of authenticity of on delivery to polls: RCW 29.07.170.

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weekly transmittal of third cards, certificate to accompany: RCW 29.07.120.

state board of education, certificate of election to: RCW 28A.305.060.

tie votes in final election, certificate of election after decision by lot: RCW 29.62.080.

United States constitutional amendment convention

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delegates, certificate of results, certificates of election: RCW 29.74.100.

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cities of first class, framing charter, notice of election on adoption: RCW 35.22.070.

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incorporation proceedings, notice of election: RCW 35.02.100.

cities and towns under commission form of government, ordinances by initiative petition, notice of election on: RCW 35.17.310.

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contests, notice of hearing on: RCW 29.65.040.

costs of city, town, or district elections, notice of transfer of funds for: RCW 29.13.045.

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removal of county seat, notice of election on: RCW 36.12.030.

roads and bridges, election on issuance of bonds for, 1913 Act, notice of: RCW 36.76.100.
county "Home Rule" charter election: State Constitution Art. 11 § 4 (Amendment 21).
diking districts, election to authorize, notice of: RCW 85.38.060.
diking, drainage, and sewerage improvement districts
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merger with irrigation district, election on, notice of: RCW 85.08.870.
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reorganization into improvement districts
1917 Act, election on, notice of: RCW 85.20.030.
1933 Act, election on, notice of: RCW 85.22.030.
drainage districts, election to authorize, notice of: RCW 85.38.060.
election laws, publication of by secretary of state: RCW 29.04.060.
election notices, county auditor to give: RCW 29.04.020.
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appeal to supreme court, notice of: RCW 29.79.060.
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irrigation and rehabilitation districts
converting irrigation district to, election on, notice of: RCW 87.84.040.
special assessments for, election on, notice of: RCW 87.84.070.
irrigation districts
comprising two hundred thousand or more acres, contracts with United States, election on, notice of: RCW 87.68.060.
dissolution when bonded indebtedness, election on, notice of: RCW 87.53.050.
excluding land from, election on, notice of: RCW 87.03.675.
notices of election generally: RCW 87.03.020 through 87.03.110.
organization of, notice of election for: RCW 87.03.020.
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polls, announcement of opening: RCW 29.48.100.
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reclamation districts of one million acres
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registration
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reregistration on change of residence, notice of apparent fraudulent signature, notice to person registered anew: RCW 29.10.040.
time and places for registration in rural precincts, notice of: RCW 29.07.110.
transfer of registration on change of precinct boundaries, notice to registrant: RCW 29.10.060.

schools
special meetings of voters--Notice of: RCW 28A.320.430.
validating indebtedness, notice of election: RCW 28A.535.030.
soil and water conservation districts, election to form, notice of: RCW 89.08.130.
state board of education, call and notice of election: RCW 28A.305.020.
tie votes in final election, notice of decision by lot: RCW 29.62.080.
United States constitutional amendment convention, governor's proclamation calling: RCW 29.74.010 and 29.74.020.
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formation of, election on, notice of: RCW 57.04.050.
merger of, election on, notice of: RCW 57.36.030.
withdrawal of territory from, election on, notice of: RCW 57.28.100.
when no city primary, notice of: RCW 29.21.015.

RCW 29.27.020 Certifying primary candidates.

On or before the day following the last day for political parties to fill vacancies in the ticket as provided by RCW 29.18.150, the secretary of state shall certify to each county auditor a list of the candidates who have filed declarations of candidacy in his or her office for the primary. For each office, the certificate shall include the name of each candidate, his or her address, and his or her party designation, if any.

[1990 c 59 § 8; 1965 ex.s. c 103 § 4; 1965 c 9 § 29.27.020. Prior: 1949 c 161 § 10, part; 1947 c 234 § 2, part; 1935 c 26 § 1, part; 1921 c 178 § 4, part; 1907 c 209 § 8, part; Rem. Supp. 1949 § 5185, part.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.27.030 Notice of primary.

Not more than ten nor less than three days prior to the primary election the county auditor shall publish notice of such primary in one or more newspapers of general circulation within the county. Said notice shall contain the proper party designations, the names and addresses of all persons who have filed a declaration of candidacy to be voted upon at that primary election, the hours during which the polls will be open, and that the election will be held in the regular polling place in each precinct, giving the address of each polling place: PROVIDED, That the names of all candidates for nonpartisan offices shall be published separately with designation of the offices for which they are candidates but without party designation. This shall be the only notice required for the holding of any primary election.

[1965 c 9 § 29.27.030. Prior: 1949 c 161 § 10, part; 1947 c 234 § 2, part; 1935 c 26 § 1, part; 1921 c 178 § 4, part; 1907 c 209 § 8, part; Rem. Supp. 1949 § 5185, part.]

RCW 29.27.050 Certification of nominees.

No later than the day following the certification of the returns of any primary, the

secretary of state shall certify to the appropriate county auditors, the names of all persons nominated for offices, the returns of which have been canvassed by the secretary of state.

[1990 c 59 § 9; 1965 ex.s. c 103 § 7; 1965 c 9 § 29.27.050. Prior: 1961 c 130 § 19; 1889 p 403 § 9; RRS § 5173.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.27.057 Constitutional measures--Ballot title--Formulation, ballot display, certification.

(1) When a proposed constitutional amendment is to be submitted to the people of the state for state-wide popular vote, the ballot title consists of: (a) A statement of the subject of the amendment; (b) a concise description of the amendment; and (c) a question in the form prescribed in this section. The statement of the subject of a constitutional amendment must be sufficiently broad to reflect the nature of the amendment, sufficiently precise to give notice of the amendment's subject matter, and not exceed ten words. The concise description must contain no more than thirty words, give a true and impartial description of the amendment's essential contents, clearly identify the amendment to be voted on, and not, to the extent reasonably possible, create prejudice either for or against the amendment.

The ballot title for a proposed constitutional amendment must be displayed on the ballot substantially as follows:

"The legislature has proposed a constitutional amendment on (statement of subject). This amendment would (concise description). Should this constitutional amendment be:

Approved . . . . . ☐
Rejected . . . . . ☐ "

(2) When a proposed new constitution is submitted to the people of the state by a constitutional convention for state-wide popular vote, the ballot title consists of: (a) A concise description of the new constitution; and (b) a question in the form prescribed in this section. The concise description must contain no more than thirty words, give a true and impartial description of the new constitution's essential contents, clearly identify the proposed constitution to be voted on, and not, to the extent reasonably possible, create prejudice either for or against the new constitution.

The ballot title for a proposed new constitution must be displayed on the ballot substantially as follows:

"The constitutional convention approved a new proposed state constitution that (concise description). Should this proposed constitution be:

Approved . . . . . ☐

Rejected . . . . . ☐ "

(3) The legislature may specify the statement of subject or concise description, or both, in a constitutional amendment that it submits to the people. If the legislature fails to specify the statement of subject or concise description, or both, the attorney general shall prepare the material that was not specified. The statement of subject and concise description as so provided must be included as part of the ballot title unless changed on appeal.

The attorney general shall specify the concise description for a proposed new constitution that is submitted to the people by a constitutional convention, and the concise description as so provided must be included as part of the ballot title unless changed on appeal.

(4) The secretary of state shall certify to the county auditors the ballot title for a proposed constitution, constitutional amendment, or other state-wide question at the same time and in the same manner as the ballot titles to initiatives and referendums.

[2000 c 197 § 7.]

Notes:

Part headings not law--2000 c 197: See note following RCW 29.79.035.

RCW 29.27.061 Constitutional measures--Ballot title--Filing.

The ballot title for a constitutional amendment or proposed constitution must be filed with the secretary of state in the same manner as the ballot title and summary for a state initiative or referendum are filed.

[2000 c 197 § 8.]

Notes:

Part headings not law--2000 c 197: See note following RCW 29.79.035.

RCW 29.27.065 Constitutional, statewide questions--Notice of ballot title and summary.

Upon the filing of a ballot title under RCW 29.27.057 or 29.27.0653, the secretary of state shall provide notice of the exact language of the ballot title and summary to the chief clerk of the house of representatives, the secretary of the senate, and the prime sponsor of measure.

[2000 c 197 § 9; 1993 c 256 § 11; 1965 c 9 § 29.27.065. Prior: 1953 c 242 § 3.]

NOTES:

Part headings not law--2000 c 197: See note following RCW 29.79.035.

Severability--Effective date--1993 c 256: See notes following RCW 29.79.500.

RCW 29.27.0653 Statewide question--Ballot title--Formulation, ballot display.

(1) If the legislature submits a question to the people for a statewide popular vote that is not governed by RCW 29.79.035 or 29.27.057, the ballot title on the question consists of: (a) A description of the subject; and (b) a question in the form prescribed in this section. The statement of the subject of the question must be sufficiently broad to reflect the subject of the

question, sufficiently precise to give notice of the question's subject matter, and not exceed ten words. The question must contain no more than thirty words.

The ballot title for such a question must be displayed on the ballot substantially as follows:

> "The following question concerning (description of subject) has been submitted to the voters: (Question as submitted).
>
> Yes. . . . . ❑
> No. . . . . ❑"

(2) The legislature may specify the statement of subject for a question and shall specify the question that it submits to the people. If the legislature fails to specify the statement of subject, the attorney general shall prepare the statement of subject. The statement of subject and question as so provided must be included as part of the ballot title unless changed on appeal.

[2000 c 197 § 10.]

NOTES:

Part headings not law--2000 c 197: See note following RCW 29.79.035.

RCW 29.27.0655 Constitutional, statewide questions--Ballot title--Appeal.

If any persons are dissatisfied with the ballot title for a proposed constitution, constitutional amendment, or question submitted under RCW 29.27.0653, they may at any time within ten days from the time of the filing of the ballot title and summary, not including Saturdays, Sundays, or legal holidays, appeal to the superior court of Thurston county by petition setting forth the measure, the ballot title objected to, their objections to it, and praying for amendment of the ballot title. The time of the filing of the ballot title, as used in this section for establishing the time for appeal, is the time the ballot title is first filed with the secretary of state.

A copy of the petition on appeal together with a notice that an appeal has been taken must be served upon the secretary of state, the attorney general, the chief clerk of the house of representatives, and the secretary of the senate. Upon the filing of the petition on appeal, the court shall immediately, or at the time to which a hearing may be adjourned by consent of the appellants, examine the proposed measure, the ballot title filed, and the objections to it and may hear arguments on it, and shall as soon as possible render its decision and certify to and file with the secretary of state a ballot title that it determines will meet the requirements of this chapter. The decision of the superior court is final, and the ballot title so certified will be the established ballot title. The appeal must be heard without cost to either party.

[2000 c 197 § 11.]

NOTES:

Part headings not law--2000 c 197: See note following RCW 29.79.035.

RCW 29.27.066 Local measures--Ballot title--Formulation--Advertising.

(1) Except as provided to the contrary in RCW 82.14.036, 82.46.021, or 82.80.090, the ballot title of any referendum filed on an enactment or portion of an enactment of a local government and any other question submitted to the voters of a local government consists of three elements: (a) An identification of the enacting legislative body and a statement of the subject matter; (b) a concise description of the measure; and (c) a question. The ballot title must conform with the requirements and be displayed substantially as provided under RCW 29.79.035, except that the concise description must not exceed seventy-five words. If the local governmental unit is a city or a town, the concise statement shall be prepared by the city or town attorney. If the local governmental unit is a county, the concise statement shall be prepared by the prosecuting attorney of the county. If the unit is a unit of local government other than a city, town, or county, the concise statement shall be prepared by the prosecuting attorney of the county within which the majority area of the unit is located.

(2) A referendum measure on the enactment of a unit of local government shall be advertised in the manner provided for nominees for elective office.

(3) Subsection (1) of this section does not apply if another provision of law specifies the ballot title for a specific type of ballot question or proposition.

[2000 c 197 § 12; 1993 c 256 § 7. Formerly RCW 29.79.055.]

Notes:

Part headings not law--2000 c 197: See note following RCW 29.79.035.

Severability--Effective date--1993 c 256: See notes following RCW 29.79.500.

RCW 29.27.0665 Local measures--Ballot title--Notice.

Upon the filing of a ballot title of a question to be submitted to the people of a county or municipality, the county auditor shall provide notice of the exact language of the ballot title to the persons proposing the measure, the county or municipality, and to any other person requesting a copy of the ballot title.

[2000 c 197 § 13.]

Notes:

Part headings not law--2000 c 197: See note following RCW 29.79.035.

RCW 29.27.067 Local measures--Ballot title--Appeal.

If any persons are dissatisfied with the ballot title for a local ballot measure that was formulated by the city attorney or prosecuting attorney preparing the same, they may at any time within ten days from the time of the filing of the ballot title, not including Saturdays, Sundays, and legal holidays, appeal to the superior court of the county where the question is to appear on the ballot, by petition setting forth the measure, the ballot title objected to, their objections to it, and praying for amendment of it. The time of the filing of the ballot title, as used in this section in determining the time for appeal, is the time the ballot title is first filed with the county auditor.

A copy of the petition on appeal together with a notice that an appeal has been taken shall be served upon the county auditor and the official preparing the ballot title. Upon the filing of the petition on appeal, the court shall immediately, or at the time to which a hearing may be adjourned by consent of the appellants, examine the proposed measure, the ballot title filed, and the objections to it and may hear arguments on it, and shall as soon as possible render its decision and certify to and file with the county auditor a ballot title that it determines will meet the requirements of this chapter. The decision of the superior court is final, and the ballot title or statement so certified will be the established ballot title. The appeal must be heard without cost to either party.

[2000 c 197 § 14; 1993 c 256 § 12; 1965 c 9 § 29.27.067. Prior: 1953 c 242 § 4.]

Notes:

Part headings not law--2000 c 197: See note following RCW 29.79.035.

Severability--Effective date--1993 c 256: See notes following RCW 29.79.500.

RCW 29.27.072 Notice of constitutional amendments and state measures--Method.

Subject to the availability of funds appropriated specifically for that purpose, the secretary of state shall publish notice of the proposed constitutional amendments and other state measures that are to be submitted to the people at a state general election up to four times during the four weeks immediately preceding that election in every legal newspaper in the state. The secretary of state shall supplement this publication with an equivalent amount of radio and television advertisements.

[1997 c 405 § 1; 1967 c 96 § 1; 1965 c 9 § 29.27.072. Prior: 1961 c 176 § 1.]

RCW 29.27.074 Notice of constitutional amendments and state measures--Contents.

The newspaper and broadcast notice required by Article XXIII, section 1, of the state Constitution and RCW 29.27.072 may set forth all or some of the following information:

(1) A legal identification of the state measure to be voted upon.

(2) The official ballot title of such state measure.

(3) A brief statement explaining the constitutional provision or state law as it presently exists.

(4) A brief statement explaining the effect of the state measure should it be approved.

(5) The total number of votes cast for and against the measure in both the state senate and house of representatives.

No individual candidate or incumbent public official may be referred to or identified in these notices or advertisements.

[1997 c 405 § 2; 1967 c 96 § 2; 1965 c 9 § 29.27.074. Prior: 1961 c 176 § 2.]

RCW 29.27.076 Notice of constitutional amendments and state measures--Explanatory

statement.

The attorney general shall, by the first day of July preceding each general election, prepare the explanatory statements required in RCW 29.27.074. Such statements shall be prepared in clear and concise language and shall avoid the use of legal and other technical terms insofar as possible. Any person dissatisfied with the explanatory statement so prepared may at any time within ten days from the filing thereof in the office of the secretary of state appeal to the superior court of Thurston county by petition setting forth the proposed state measure, the explanatory statement prepared by the attorney general, and his objection thereto and praying for the amendment thereof. A copy of the petition and a notice of such appeal shall be served on the secretary of state and the attorney general. The court shall, upon filing of the petition, examine the proposed state measure, the explanatory statement, and the objections thereto and may hear argument thereon and shall, as soon as possible, render its decision and certify to and file with the secretary of state such explanatory statement as it determines will meet the requirement of RCW 29.27.072 through 29.27.076. The decision of the superior court shall be final and its explanatory statement shall be the established explanatory statement. Such appeal shall be heard without costs to either party.

[1967 c 96 § 3; 1965 c 9 § 29.27.076. Prior: 1961 c 176 § 3.]

RCW 29.27.080 Notice of election--Certification of measures--Validation of certain school bond elections.

(1) Except as provided in RCW 29.81A.060, notice for any state, county, district, or municipal election, whether special or general, shall be given by at least one publication not more than ten nor less than three days prior to the election by the county auditor or the officer conducting the election as the case may be, in one or more newspapers of general circulation within the county. Said legal notice shall contain the title of each office under the proper party designation, the names and addresses of all officers who have been nominated for an office to be voted upon at that election, together with the ballot titles of all measures, the hours during which the polls will be open, and that the election will be held in the regular polling places in each precinct, giving the address of each polling place: PROVIDED, That the names of all candidates for nonpartisan offices shall be published separately with designation of the offices for which they are candidates but without party designation. This shall be the only notice required for a state, county, district, or municipal general or special election and shall supersede the provisions of any and all other statutes, whether general or special in nature, having different requirements for the giving of notice of any general or special elections.

(2) All school district elections held on February 5, 1980, at which the number and proportion of persons required by law voted to authorize bonds or tax levies, are hereby validated regardless of any failure to publish notice of such election. No action challenging the validity of any such election may be brought later than April 15, 1980, or thirty days from June 12, 1980, whichever is later. Notice of provisions of this subsection shall be published within five days after February 28, 1980, in a newspaper of general circulation within each county where a school district election was held on February 5, 1980, and where notice of such election

was not published as provided in subsection (1) of this section.

(3) All school district elections held on May 19, 1998, at which the number and proportion of persons required by law voted to authorize bonds or tax levies, are hereby validated regardless of any failure to publish notice of such election. No action challenging the validity of any such election may be brought later than thirty days after January 29, 1999. Notice of provisions of this subsection shall be published within five days after January 29, 1999, in a newspaper of general circulation within each county where a school district election was held on May 19, 1998, and where notice of such election was not published as provided in subsection (1) of this section.

[1999 c 4 § 1; 1984 c 106 § 12; 1980 c 35 § 8; 1965 c 9 § 29.27.080. Prior: 1955 c 153 § 1; 1951 c 101 § 7; 1949 c 161 § 11; Rem. Supp. 1949 § 5148-3a.]

Notes:

Effective date--1999 c 4: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [January 29, 1999]." [1999 c 4 § 2.]

Effective date--Severability--1984 c 106: See RCW 29.81A.900 and 29.81A.901.

Severability--1980 c 35: See note following RCW 28A.343.300.

RCW 29.27.090 Preservation of nominating certificates.

The secretary of state, county auditor of each county, and clerks of the several municipal corporations shall preserve all certificates of nomination filed in their respective offices for six months. All certificates shall be open to public inspection under proper regulations made by the officer with whom they are filed.

[1965 c 9 § 29.27.090. Prior: 1921 c 178 § 1, part; 1915 c 11 § 1, part; 1907 c 130 § 1, part; 1889 p 402 § 7, part; Code 1881 § 3067, part; 1865 p 30 § 1, part; RRS § 5171, part.]

RCW 29.27.100 Certificates of election to officers elected in single county or less.

Immediately after the ascertainment of the result of an election for an office to be filled by the voters of a single county, or of a precinct, or of a constituency within a county for which he serves as supervisor of elections, the county auditor shall notify the person elected, and upon his demand issue to him a certificate of his election.

[1965 c 9 § 29.27.100. Prior: 1961 c 130 § 8; prior: Code 1881 § 3096, part; 1866 p 6 § 2, part; 1865 p 39 § 7, part; RRS § 5343, part.]

Notes:

Tie votes in final election: RCW 29.62.080.

RCW 29.27.110 Certificates of election to other officers.

Except as provided in the state Constitution, the governor shall issue certificates of election to those elected as senator or representative in the congress of the United States and to

state offices. The secretary of state shall issue certificates of election to those elected to the office of judge of the superior court in judicial districts comprising more than one county and to those elected to either branch of the state legislature in legislative districts comprising more than one county.

[1965 c 9 § 29.27.110. Prior: (i) 1933 c 92 § 1; RRS § 5343-1. (ii) Code 1881 § 3100, part; No RRS.]

Notes:
Judges of their own election and qualification--Quorum: State Constitution Art. 2 § 8.
Returns of elections, canvass, etc.: State Constitution Art. 3 § 4.
Tie votes in final election: RCW 29.62.080.

RCW 29.27.120 Certificate not withheld for informality in returns.

No certificate shall be withheld on account of any defect or informality in the returns of any election, if it can with reasonable certainty be ascertained from such return what office is intended, and who is entitled to such certificate, nor shall any commission be withheld by the governor on account of any defect or informality of any return made to the office of the secretary of state.

[1965 c 9 § 29.27.120. Prior: Code 1881 § 3102; 1865 p 41 § 13; RRS § 5347.]

RCW 29.27.130 Certificates of nomination and ballots--Fraud.

See RCW 29.85.100.

RCW 29.27.140 Slate of presidential electors.

In a year in which the president and vice president of the United States are to be elected, the secretary of state shall include in the certification prepared under RCW 29.27.050 the names of all candidates for president and vice president who, at least fifty days before the general election, have certified a slate of electors to the secretary of state under RCW 29.71.020 and have been nominated either (1) by a major political party, as certified by the appropriate authority under party rules, or (2) by a minor party or as independent candidates under chapter 29.24 RCW. Major or minor political parties or independent presidential candidates may substitute a different candidate for vice president for the one whose name appears on the party's certification or nominating petition at any time before forty-five days before the general election, by certifying the change to the secretary of state. Substitutions must not be permitted to delay the printing of either ballots or a voters' pamphlet. Substitutions are valid only if submitted under oath and signed by the same individual who originally certified the nomination, or his or her documented successor, and only if the substitute candidate consents in writing.

[2001 c 30 § 1.]

Chapter 29.30 RCW

BALLOTS

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RCW 29.30.005 Names on primary ballot.

Except for the candidates for the positions of president and vice-president or for a

partisan or nonpartisan office for which no primary is required, the names of all candidates who have filed for nomination under chapter 29.18 RCW and those independent candidates and candidates of minor political parties who have been nominated under chapter 29.24 RCW shall appear on the appropriate ballot at the primary throughout the jurisdiction in which they are to be nominated.

[1990 c 59 § 93.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.30.010 Uniformity, arrangement, contents required.

Every ballot for a single combination of issues and offices shall be uniform within a precinct and shall identify the type of primary or election, the county, and the date of the primary or election, and the ballot or voting device shall contain instructions on the proper method of recording a vote, including write-in votes. Each position, together with the names of the candidates for that office, shall be clearly separated from other offices or positions in the same jurisdiction. The offices in each jurisdiction shall be clearly separated from each other. No paper ballot or ballot card may be marked in any way that would permit the identification of the person who voted that ballot.

[1990 c 59 § 10; 1986 c 167 § 10; 1977 ex.s. c 361 § 51; 1965 c 9 § 29.30.010. Prior: (i) 1935 c 26 § 2, part; 1933 c 95 § 2, part; 1917 c 71 § 1, part; 1909 c 82 § 3, part; 1907 c 209 § 10, part; RRS § 5187, part. (ii) 1909 c 82 § 5, part; 1907 c 209 § 13, part; RRS § 5190, part.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.
Severability--1986 c 167: See note following RCW 29.01.055.
Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.30.020 Order of offices and issues--Party indication.

(1) The positions or offices on a primary ballot shall be arranged in substantially the following order: United States senator; United States representative; governor; lieutenant governor; secretary of state; state treasurer; state auditor; attorney general; commissioner of public lands; superintendent of public instruction; insurance commissioner; state senator; state representative; county officers; justices of the supreme court; judges of the court of appeals; judges of the superior court; and judges of the district court. For all other jurisdictions on the primary ballot, the offices in each jurisdiction shall be grouped together and be in the order of the position numbers assigned to those offices, if any.

(2) The order of the positions or offices on an election ballot shall be substantially the same as on a primary ballot except that the offices of president and vice president of the United States shall precede all other offices on a presidential election ballot. State ballot issues shall be placed before all offices on an election ballot. The positions on a ballot to be assigned to ballot measures regarding local units of government shall be established by the secretary of state by

rule.

(3) The political party or independent candidacy of each candidate for partisan office shall be indicated next to the name of the candidate on the primary and election ballot. A candidate shall file a written notice with the filing officer within three business days after the close of the filing period designating the political party to be indicated next to the candidate's name on the ballot if either: (a) The candidate has been nominated by two or more minor political parties or independent conventions; or (b) the candidate has both filed a declaration of candidacy declaring an affiliation with a major political party and been nominated by a minor political party or independent convention. If no written notice is filed the filing officer shall give effect to the party designation shown upon the first document filed. A candidate may be deemed nominated by a minor party or independent convention only if all documentation required by chapter 29.24 RCW has been timely filed.

[2001 c 30 § 5; 1990 c 59 § 11; 1977 ex.s. c 361 § 52; 1971 c 81 § 76; 1965 c 9 § 29.30.020. Prior: 1935 c 26 § 2, part; 1933 c 95 § 2, part; 1917 c 71 § 1, part; 1909 c 82 § 3, part; 1907 c 209 § 10, part; RRS § 5187, part.]

NOTES:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.30.025 Order of candidates on ballots.

After the close of business on the last day for candidates to file for office, the filing officer shall, from among those filings made in person and by mail, determine by lot the order in which the names of those candidates will appear on all sample and absentee ballots. In the case of candidates for city, town, and district office, this procedure shall also determine the order for candidate names on the official primary ballot used at the polling place. The determination shall be done publicly and may be witnessed by the media and by any candidate. If no primary is required for any nonpartisan office under RCW 29.15.150 or 29.21.015, the names shall appear on the general election ballot in the order determined by lot.

[1990 c 59 § 80.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.30.040 Primaries--Rotating names of candidates.

At primaries, the names of candidates for federal, state, and county partisan offices, for the office of superintendent of public instruction, and for judicial offices shall, for each office or position, be arranged initially in the order determined under RCW 29.30.025. Additional sets of ballots shall be prepared in which the positions of the names of all candidates for each office or position shall be changed as many times as there are candidates in the office or position in which there are the greatest number of names. As nearly as possible an equal number of ballots shall be prepared after each change. In making the changes of position between each set of ballots, the candidates for each such office in the first position under the office heading shall be moved to

the last position under that office heading, and each other name shall be moved up to the position immediately above its previous position under that office heading. The effect of this rotation of the order of the names shall be that the name of each candidate for an office or position shall appear first, second, and so forth for that office or position on the ballots of a nearly equal number of registered voters in that jurisdiction. In a precinct using voting devices, the names of the candidates for each office shall appear in only one sequence in that precinct. The names of candidates for city, town, and district office on the ballot at the primary shall not be rotated.

[1990 c 59 § 94; 1977 ex.s. c 361 § 54; 1965 c 9 § 29.30.040. Prior: 1909 c 82 § 5, part; 1907 c 209 § 13, part; RRS § 5190, part.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.
Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.30.060 Sample ballots.

Except in each county with a population of one million or more, on or before the fifteenth day before a primary or election, the county auditor shall prepare a sample ballot which shall be made readily available to members of the public. The secretary of state shall adopt rules governing the preparation of sample ballots in counties with a population of one million or more. The rules shall permit, among other alternatives, the preparation of more than one sample ballot by a county with a population of one million or more for a primary or election, each of which lists a portion of the offices and issues to be voted on in that county. The position of precinct committee officer shall be shown on the sample ballot for the general election, but the names of candidates for the individual positions need not be shown.

[1991 c 363 § 33; 1990 c 59 § 12; 1987 c 295 § 3; 1986 c 120 § 3; 1977 ex.s. c 361 § 55; 1965 c 9 § 29.30.060. Prior: (i) 1935 c 26 § 2, part; 1933 c 95 § 2, part; 1917 c 71 § 1, part; 1909 c 82 § 3, part; 1907 c 209 § 10, part; RRS § 5187, part. (ii) 1909 c 82 § 5, part; 1907 c 209 § 13, part; RRS § 5190, part.]

Notes:

Effective dates--1991 c 363 §§ 28, 29, 33, 47, 131: See note following RCW 28A.343.660.
Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.
Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.
Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.30.081 Arrangement of instructions, measures, offices--Order of candidates--Numbering of ballots.

(1) On the top of each ballot there shall be printed instructions directing the voters how to mark the ballot, including write-in votes. After the instructions and before the offices shall be placed the questions of adopting constitutional amendments or any other state measure authorized by law to be submitted to the voters at that election.

(2) The candidate or candidates of the major political party which received the highest number of votes from the electors of this state for the office of president of the United States at the last presidential election shall appear first following the appropriate office heading, the candidate or candidates of the other major political parties shall follow according to the votes

cast for their nominees for president at the last presidential election, and independent candidates and the candidate or candidates of all other parties shall follow in the order of their qualification with the secretary of state.

(3) The names of candidates for president and vice-president for each political party shall be grouped together with a single response position for a voter to indicate his or her choice.

(4) All paper ballots and ballot cards shall be sequentially numbered in such a way to permit removal of such numbers without leaving any identifying marks on the ballot.

[1990 c 59 § 13; 1986 c 167 § 11; 1982 c 121 § 1; 1977 ex.s. c 361 § 60.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.
Severability--1986 c 167: See note following RCW 29.01.055.
Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.30.085 Nonpartisan candidates qualified for general election.

(1) Except as provided in RCW 29.30.086 and in subsection (2) of this section, on the ballot at the general election for a nonpartisan office for which a primary was held, only the names of the candidate who received the greatest number of votes and the candidate who received the next greatest number of votes for that office shall appear under the title of that office, and the names shall appear in that order. If a primary was conducted, no candidate's name may be printed on the subsequent general election ballot unless he or she receives at least one percent of the total votes cast for that office at the preceding primary. On the ballot at the general election for any other nonpartisan office for which no primary was held, the names of the candidates shall be listed in the order determined under RCW 29.30.025.

(2) On the ballot at the general election for the office of justice of the supreme court, judge of the court of appeals, judge of the superior court, or state superintendent of public instruction, if a candidate in a contested primary receives a majority of all the votes cast for that office or position, only the name of that candidate may be printed under the title of the office for that position.

[1992 c 181 § 2; 1990 c 59 § 95.]

Notes:

Effective date--1992 c 181: See note following RCW 29.30.086.
Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.30.086 Disqualified candidates in nonpartisan elections--Special procedures for conduct of election.

This section applies if a candidate for an elective office of a city, town, or special purpose district would, under this chapter, otherwise qualify to have his or her name printed on the general election ballot for the office, but the candidate has been declared to be unqualified to hold the office by a court of competent jurisdiction.

(1) In a case in which a primary is conducted for the office:

(a) If ballots for the general election for the office have not been ordered by the county auditor, the candidate who received the third greatest number of votes for the office at the primary shall qualify as a candidate for general election and that candidate's name shall be printed on the ballot for the office in lieu of the name of the disqualified candidate.

(b) If general election ballots for the office have been so ordered, votes cast for the disqualified candidate at the general election for the office shall not be counted for that office.

(2) In a case in which a primary is not conducted for the office:

(a) If ballots for the general election for the office have not been ordered by the county auditor, the name of the disqualified candidate shall not appear on the general election ballot for the office.

(b) If general election ballots for the office have been so ordered, votes cast for the disqualified candidate at the general election for the office shall not be counted for that office.

(3) If the disqualified candidate is the only candidate to have filed for the office during a regular or special filing period for the office, a void in candidacy for the office exists.

[1992 c 181 § 1.]

Notes:

Effective date--1992 c 181: "This act shall take effect July 1, 1992." [1992 c 181 § 3.]

RCW 29.30.095 Partisan candidates qualified for general election.

The name of a candidate for a partisan office for which a primary was conducted shall not be printed on the ballot for that office at the subsequent general election unless the candidate receives a number of votes equal to at least one percent of the total number cast for all candidates for that position sought and a plurality of the votes cast for the candidates of his or her party for that office at the preceding primary.

[1990 c 59 § 96.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.30.101 Names qualified to appear on election ballot.

The names of the persons certified as nominees by the secretary of state or the county canvassing board shall be printed on the ballot at the ensuing election.

No name of any candidate whose nomination at a primary is required by law shall be placed upon the ballot at a general or special election unless it appears upon the certificate of either (1) the secretary of state, or (2) the county canvassing board, or (3) a minor party convention or the state or county central committee of a major political party to fill a vacancy on its ticket under RCW 29.18.160.

Excluding the office of precinct committee officer or a temporary elected position such as a charter review board member or freeholder, a candidate's name shall not appear more than once upon a ballot for a position regularly nominated or elected at the same election.

[1999 c 298 § 11; 1990 c 59 § 14; 1987 c 295 § 4; 1977 ex.s. c 361 § 58.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.30.111 Property tax levies--Ballot proposition form.

(1) The ballot proposition authorizing a taxing district to impose the regular property tax levies authorized in RCW 36.69.145, 67.38.130, or 84.52.069 shall contain in substance the following:

"Shall the . . . . . (insert the name of the taxing district) be authorized to impose regular property tax levies of . . . . . (insert the maximum rate) or less per thousand dollars of assessed valuation for each of . . . . . (insert the maximum number of years allowable) consecutive years?

Yes . . . . . .☐

No . . . . . .☐"

Each voter shall indicate either "Yes" or "No" on his or her ballot in accordance with the procedures established under this title.

(2) The ballot proposition authorizing a taxing district to impose a permanent regular tax levy under RCW 84.52.069 shall contain the following:

"Shall the . . . . . (insert the name of the taxing district) be authorized to impose a PERMANENT regular property levy of . . . . . (insert the maximum rate) or less per thousand dollars of assessed valuation?

Yes . . . . . .☐

No . . . . . .☐"

[1999 c 224 § 2; 1984 c 131 § 3.]

Notes:

Application--1999 c 224: See note following RCW 84.52.069.

Purpose--1984 c 131 §§ 3-9: "The purpose of sections 3 through 6 of this act is to clarify requirements necessary for voters to authorize certain local governments to impose regular property tax levies for a series of years. Sections 3 through 9 of this act only clarify the existing law to avoid credence being given to an erroneous opinion that has been rendered by the attorney general. As cogently expressed in Attorney General Opinion, Number 14, Addendum, opinions rendered by the attorney general are advisory only and are merely a "prediction of the outcome if the matter were to be litigated." Nevertheless, confusion has arisen from this erroneous opinion." [1984 c 131 § 2.]

RCW 29.30.130 Expense of printing and distributing ballot materials.

The cost of printing ballots, ballot cards, and instructions and the delivery of this material to the precinct election officers shall be an election cost that shall be borne as determined under RCW 29.13.045 and 29.13.047, as appropriate.

[1990 c 59 § 16; 1965 c 9 § 29.30.130. Prior: 1889 p 400 § 1; RRS § 5269.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.
Constituencies to bear all or share of election costs--Procedure to recover: RCW 29.13.045.

RCW 29.30.165 Constitutional, statewide questions--Notice of ballot title and summary.
See RCW 29.27.065.

RCW 29.30.167 Local measures--Ballot title--Appeal.
See RCW 29.27.067.

RCW 29.30.170 Destroying surplus ballots.
See RCW 29.54.010.

RCW 29.30.180 United States presidential electors--Nomination--What names on ballots--How counted.
See RCW 29.71.020.

RCW 29.30.190 United States constitutional amendment conventions--Delegates--Ballots.
See RCW 29.74.080.

RCW 29.30.200 Initiative, referendum--Ballot title--Formulation by attorney general.
See RCW 29.79.040.

RCW 29.30.201 Initiative, referendum--Ballot title--Notice to proponents.
See RCW 29.79.050.

RCW 29.30.203 Initiative, referendum--Ballot title--Appeal to superior court.
See RCW 29.79.060.

RCW 29.30.205 Initiative, referendum--Ballot title--Mailed to proponents.
See RCW 29.79.070.

RCW 29.30.209 Initiative, referendum--Substitute for rejected initiative--Concise description.
See RCW 29.79.290.

RCW 29.30.211 Initiative, referendum--Printing ballot titles on ballots--Order and form.

See RCW 29.79.300.

RCW 29.30.221 Recall--Conduct of election--Form of ballot.

See RCW 29.82.130.

RCW 29.30.230 Ballots--Counterfeiting or unlawful possession.

See RCW 29.85.010.

RCW 29.30.231 Ballots--Officer tampering with.

See RCW 29.85.020.

RCW 29.30.235 Ballots--Unlawful printing or distribution.

See RCW 29.85.040.

RCW 29.30.239 Certificates of nomination and ballots--Fraud as to.

See RCW 29.85.100.

RCW 29.30.240 Divulging ballot count--Penalty.

See RCW 29.85.225.

Chapter 29.33 RCW
VOTING SYSTEMS

(Formerly: Voting machines)

Sections

29.33.020 Authority for use.
29.33.041 Inspection and test by secretary of state--Report.
29.33.051 Submitting system or component for examination.
29.33.061 Independent evaluation.
29.33.081 Approval required--Modification.
29.33.130 Responsibility for maintenance and operation.
29.33.145 Acceptance test.
29.33.300 Requirements of voting devices for approval.
29.33.310 Single district and precinct on voting devices.
29.33.320 Requirements of vote tallying systems for approval.

29.33.330 Record of ballot format--Devices sealed.
29.33.340 Election officials--Instruction, compensation, requirements.
29.33.350 Vote tallying systems--Programming tests.
29.33.360 Operating procedures.

Notes:
Ballots, voting systems--Rules by secretary of state: RCW 29.04.210.
Voting devices, machines--Recording requirements: RCW 29.04.200.

RCW 29.33.020 Authority for use.

At any primary or election in any county, votes may be cast, registered, recorded, or counted by means of voting systems that have been approved under RCW 29.33.041.

[1990 c 59 § 17; 1967 ex.s. c 109 § 12; 1965 c 9 § 29.33.020. Prior: (i) 1913 c 58 § 1, part; RRS § 5300, part. (ii) 1913 c 58 § 18; RRS § 5318.]

NOTES:
Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.33.041 Inspection and test by secretary of state--Report.

The secretary of state shall inspect, evaluate, and publicly test all voting systems or components of voting systems that are submitted for review under RCW 29.33.051. The secretary of state shall determine whether the voting systems conform with all of the requirements of this title, the applicable rules adopted in accordance with this title, and with generally accepted safety requirements. The secretary of state shall transmit a copy of the report of any examination under this section, within thirty days after completing the examination, to the county auditor of each county.

[1990 c 59 § 18; 1982 c 40 § 1.]

Notes:
Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.
Severability--1982 c 40: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 40 § 11.]

RCW 29.33.051 Submitting system or component for examination.

The manufacturer or distributor of a voting system or component of a voting system may submit that system or component to the secretary of state for examination under RCW 29.33.041.

[1990 c 59 § 19; 1982 c 40 § 2.]

Notes:
Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.
Severability--1982 c 40: See note following RCW 29.33.041.

RCW 29.33.061 Independent evaluation.

(1) The secretary of state may rely on the results of independent design, engineering, and performance evaluations in the examination under RCW 29.33.041 if the source and scope of these independent evaluations are specified by rule.

(2) The secretary of state may contract with experts in mechanical or electrical engineering or data processing to assist in examining a voting system or component. The manufacturer or distributor who has submitted a voting system for testing under RCW 29.33.051 shall pay the secretary of state a deposit to reimburse the cost of any contract for consultation under this section and for any other unrecoverable costs associated with the examination of a voting system or component by the manufacturer or distributor who submitted the voting system or component for examination.

[1990 c 59 § 20; 1982 c 40 § 3.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.
Severability--1982 c 40: See note following RCW 29.33.041.

RCW 29.33.081 Approval required--Modification.

If voting systems or devices or vote tallying systems are to be used for conducting a primary or election, only those that have the approval of the secretary of state or had been approved under this chapter or *chapter 29.34 RCW before March 22, 1982, may be used. Any modification, change, or improvement to any voting system or component of a system that does not impair its accuracy, efficiency, or capacity or extend its function, may be made without reexamination or reapproval by the secretary of state under RCW 29.33.041.

[1990 c 59 § 21; 1982 c 40 § 4.]

Notes:

***Reviser's note:** Chapter 29.34 RCW was repealed or recodified in its entirety by 1990 c 59.
Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.
Severability--1982 c 40: See note following RCW 29.33.041.

RCW 29.33.130 Responsibility for maintenance and operation.

The county auditor of a county in which voting systems are used is responsible for the preparation, maintenance, and operation of those systems and may employ and direct persons to perform some or all of these functions.

[1990 c 59 s 22; 1965 c 9 § 29.33.130. Prior: 1955 c 323 § 2; prior: 1935 c 85 § 1, part; 1919 c 163 § 23, part; 1915 c 114 § 5, part; 1913 c 58 § 10, part; RRS § 5309, part.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.33.145 Acceptance test.

An agreement to purchase or lease a voting system or a component of a voting system is subject to that system or component passing an acceptance test sufficient to demonstrate that the equipment is the same as that certified by the secretary of state and that the equipment is operating correctly as delivered to the county.

[1998 c 58 § 1; 1990 c 59 § 23.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.33.300 Requirements of voting devices for approval.

No voting device shall be approved by the secretary of state unless it:

(1) Secures to the voter secrecy in the act of voting;

(2) Permits the voter to vote for any person for any office and upon any measure that he or she has the right to vote for;

(3) Permits the voter to vote for all the candidates of one party or in part for the candidates of one or more other parties;

(4) Correctly registers all votes cast for any and all persons and for or against any and all measures;

(5) Provides that a vote for more than one candidate cannot be cast by one single operation of the voting device or vote tally system except when voting for president and vice-president of the United States; and

(6) Except for functions or capabilities unique to this state, has been tested, certified, and used in at least one other state or election jurisdiction.

[1990 c 59 § 26; 1982 c 40 § 6; 1977 ex.s. c 361 § 66; 1971 ex.s. c 6 § 1; 1967 ex.s. c 109 § 18. Formerly RCW 29.34.080.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Severability--1982 c 40: See note following RCW 29.33.041.

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

Severability--1971 ex.s. c 6: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 6 § 3.]

Ballots, voting systems--Rules by secretary of state: RCW 29.04.210.

Voting devices, machines--Recording requirements: RCW 29.04.200.

RCW 29.33.310 Single district and precinct on voting devices.

The ballot on a single voting device shall not contain the names of candidates for the offices of United States representative, state senator, state representative, county council, or county commissioner in more than one district. In all general elections, primaries, and special

elections, in each polling place the voting devices containing ballots for candidates from each congressional, legislative, or county council or commissioner district shall be grouped together and physically separated from those devices containing ballots for other districts. Each voter shall be directed by the precinct election officers to the correct group of voting devices.

[1990 c 59 § 27; 1989 c 155 § 1; 1987 c 295 § 8; 1983 c 143 § 1. Formerly RCW 29.34.085.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.33.320 Requirements of vote tallying systems for approval.

The secretary of state shall not approve a vote tallying system unless it:

(1) Correctly counts votes on ballots on which the proper number of votes have been marked for any office or issue;

(2) Ignores votes marked for any office or issue where more than the allowable number of votes have been marked, but correctly counts the properly voted portions of the ballot;

(3) Accumulates a count of the specific number of ballots tallied for each precinct, total votes by candidate for each office, and total votes for and against each issue of the ballot in that precinct;

(4) Accommodates rotation of candidates' names on the ballot under RCW 29.30.040;

(5) Produces precinct and cumulative totals in printed form; and

(6) Except for functions or capabilities unique to this state, has been tested, certified, and used in at least one other state or election jurisdiction.

[1990 c 59 § 28; 1982 c 40 § 7; 1967 ex.s. c 109 § 19. Formerly RCW 29.34.090.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Severability--1982 c 40: See note following RCW 29.33.041.

Ballots, voting systems--Rules by secretary of state: RCW 29.04.210.

Voting devices, machines--Recording requirements: RCW 29.04.200.

RCW 29.33.330 Record of ballot format--Devices sealed.

In preparing a voting device for a primary or election, a record shall be made of the ballot format installed in each device and the precinct or portion of a precinct for which that device has been prepared. Except where provided by a rule adopted under RCW 29.04.210, after being prepared for a primary or election, each device shall be sealed with a uniquely numbered seal and provided to the inspector of the appropriate polling place.

[1990 c 59 § 25.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.33.340 Election officials--Instruction, compensation, requirements.

(1) Before each state primary or general election at which voting systems are to be used, the county auditor shall instruct all precinct election officers appointed under RCW 29.45.010, counting center personnel, and political party observers designated under RCW 29.54.025 in the proper conduct of their duties.

(2) The county auditor may waive instructional requirements for precinct election officers, counting center personnel, and political party observers who have previously received instruction and who have served for a sufficient length of time to be fully qualified to perform their duties. The county auditor shall keep a record of each person who has received instruction and is qualified to serve at the subsequent primary or election.

(3) As compensation for the time spent in receiving instruction, each precinct election officer who qualifies and serves at the subsequent primary or election shall receive an additional two hours compensation, to be paid at the same time and in the same manner as compensation is paid for services on the day of the primary or election.

(4) Except for the appointment of a precinct election officer to fill a vacancy under RCW 29.45.040, no inspector or judge may serve at any primary or election at which voting systems are used unless he or she has received the required instruction and is qualified to perform his or her duties in connection with the voting devices. No person may work in a counting center at a primary or election at which a vote tallying system is used unless that person has received the required instruction and is qualified to perform his or her duties in connection with the handling and tallying of ballots for that primary or election. No person may serve as a political party observer unless that person has received the required instruction and is familiar with the operation of the counting center and the vote tallying system and the procedures to be employed to verify the accuracy of the programming for that vote tallying system.

[1990 c 59 § 29; 1977 ex.s. c 361 § 69. Formerly RCW 29.34.143.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.33.350 Vote tallying systems--Programming tests.

At least three days before each state primary or general election, the office of the secretary of state shall provide for the conduct of tests of the programming for each vote tallying system to be used at that primary or general election. The test must verify that the system will correctly count the vote cast for all candidates and on all measures appearing on the ballot at that primary or general election. The office of the secretary of state shall adopt rules specifying the manner of conducting these programming tests. The test shall verify the capability of the vote tallying system to perform all of the functions that can reasonably be expected to occur during conduct of that particular primary or election. If any error is detected, the cause shall be determined and corrected, and an errorless total shall be produced before the primary or election.

Such tests shall be observed by at least one representative from each major political party, if representatives have been appointed by the respective major political parties and are

present at the test, and shall be open to candidates, the press, and the public. The county auditor and any political party observers shall certify that the test has been conducted in accordance with this section. Copies of this certification shall be retained by the secretary of state and the county auditor. All programming materials, test results, and test ballots shall be securely sealed until the day of the primary or general election.

[1998 c 58 § 2; 1990 c 59 § 32; 1977 ex.s. c 361 § 73. Formerly RCW 29.34.163.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.
Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.33.360 Operating procedures.

The secretary of state may publish recommended procedures for the operation of the various vote tallying systems that have been approved. These procedures allow the office of the secretary of state to restrict or define the use of approved systems in elections.

[1998 c 58 § 3; 1990 c 59 § 34; 1977 ex.s. c 361 § 75; 1967 ex.s. c 109 § 32. Formerly RCW 29.34.170.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.
Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

Chapter 29.36 RCW
ABSENTEE VOTING

Sections

29.36.210 When permitted.
29.36.220 Request for single absentee ballot.
29.36.230 Request on behalf of family member.
29.36.240 Ongoing absentee status--Request--Termination.
29.36.250 Special absentee ballots.
29.36.260 Issuance of ballot and other materials.
29.36.270 Date ballots ready.
29.36.280 Delivery of ballot, qualifications for.
29.36.290 Envelopes and instructions.
29.36.300 Observers.
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29.36.320 Report of count.
29.36.330 Credit for voting--Retention of ballots.
29.36.340 Record of requests--Public access.
29.36.350 Challenges.
29.36.360 Rules for accuracy, secrecy, and uniformity--Out-of-state, overseas, service voters.
29.36.370 Penalty.
29.36.900 Captions not law--2001 c 241.

NOTES:
Ballots, date ready: RCW 29.36.270.
Irrigation district elections, absentee voting provisions: RCW 87.03.020 through 87.03.110.

Recount of absentee ballots: RCW 29.64.010.

RCW 29.36.210 When permitted.

Any registered voter of the state or any out-of-state voter, overseas voter, or service voter may vote by absentee ballot in any general election, special election, or primary in the manner provided in this chapter. Out-of-state voters, overseas voters, and service voters are authorized to cast the same ballots, including those for special elections, as a registered voter of the state would receive under this chapter.

[2001 c 241 § 1; 1991 c 81 § 29; 1987 c 346 § 9; 1986 c 167 § 14; 1985 c 273 § 1; 1984 c 27 § 1; 1977 ex.s. c 361 § 76; 1974 ex.s. c 35 § 1; 1971 ex.s. c 202 § 37; 1965 c 9 § 29.36.010. Prior: 1963 ex.s. c 23 § 1; 1955 c 167 § 2; prior: (i) 1950 ex.s. c 8 § 1; 1943 c 72 § 1; 1933 ex.s. c 41 § 1; 1923 c 58 § 1; 1921 c 143 § 1; 1917 c 159 § 1; 1915 c 189 § 1; Rem. Supp. 1943 § 5280. (ii) 1933 ex.s. c 41 § 2, part; 1923 c 58 § 2, part; 1921 c 143 § 2, part; 1917 c 159 § 2, part; 1915 c 189 § 2, part; RRS § 5281, part. Formerly RCW 29.36.010.]

NOTES:

Effective date--1991 c 81: See note following RCW 29.85.010.

Legislative intent--1987 c 346: "By this act the legislature intends to combine and unify the laws and procedures governing absentee voting. These amendments are intended: (1) To clarify and incorporate into a single chapter of the Revised Code of Washington the preexisting statutes under which electors of this state qualify for absentee ballots under state law, federal law, or a combination of both state and federal law, and (2) to insure uniformity in the application, issuance, receipt, and canvassing of these absentee ballots. Nothing in this act is intended to impose any new requirement on the ability of the registered voters or electors of this state to qualify for, receive, or cast absentee ballots in any primary or election." [1987 c 346 § 1.]

Effective date--1987 c 346: "This act shall take effect on January 1, 1988." [1987 c 346 § 25.]

Severability--1986 c 167: See note following RCW 29.01.055.

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.36.220 Request for single absentee ballot.

(1) Except as otherwise provided by law, a registered voter or out-of-state voter, overseas voter, or service voter desiring to cast an absentee ballot at a single election or primary must request the absentee ballot from his or her county auditor no earlier than ninety days nor later than the day before the election or primary at which the person seeks to vote. Except as otherwise provided by law, the request may be made orally in person, by telephone, electronically, or in writing. An application or request for an absentee ballot made under the authority of a federal statute or regulation will be considered and given the same effect as a request for an absentee ballot under this chapter.

(2) A voter requesting an absentee ballot for a primary may also request an absentee ballot for the following general election. A request by an out-of-state voter, overseas voter, or service voter for an absentee ballot for a primary election will be considered as a request for an absentee ballot for the following general election.

(3) In requesting an absentee ballot, the voter shall state the address to which the absentee ballot should be sent. A request for an absentee ballot from an out-of-state voter, overseas voter, or service voter must include the address of the last residence in the state of Washington and either a written application or the oath on the return envelope must include a declaration of the other qualifications of the applicant as an elector of this state. A request for an

absentee ballot from any other voter must state the address at which that voter is currently registered to vote in the state of Washington or the county auditor shall verify that information from the voter registration records of the county.

(4) A request for an absentee ballot from a registered voter who is within this state must be made directly to the auditor of the county in which the voter is registered. An absentee ballot request from a registered voter who is temporarily outside this state or from an out-of-state voter, overseas voter, or service voter may be made either to the appropriate county auditor or to the secretary of state, who shall promptly forward the request to the appropriate county auditor. No person, organization, or association may distribute absentee ballot applications within this state that contain a return address other than that of the appropriate county auditor.

[2001 c 241 § 2.]

RCW 29.36.230 Request on behalf of family member.

A member of a registered voter's family may request an absentee ballot on behalf of and for use by the voter. As a means of ensuring that a person who requests an absentee ballot is requesting the ballot for only that person or a member of the person's immediate family, an auditor may require a person who requests an absentee ballot to identify the date of birth of the voter for whom the ballot is requested and deny a request that is not accompanied by this information.

[2001 c 241 § 3.]

RCW 29.36.240 Ongoing absentee status--Request--Termination.

Any registered voter may apply, in writing, for status as an ongoing absentee voter. Each qualified applicant shall automatically receive an absentee ballot for each ensuing election or primary for which the voter is entitled to vote and need not submit a separate request for each election. Ballots received from ongoing absentee voters shall be validated, processed, and tabulated in the same manner as other absentee ballots.

Status as an ongoing absentee voter shall be terminated upon any of the following events:

(1) The written request of the voter;

(2) The death or disqualification of the voter;

(3) The cancellation of the voter's registration record;

(4) The return of an ongoing absentee ballot as undeliverable; or

(5) Upon placing a voter on inactive status under RCW 29.10.071.

[2001 c 241 § 4; 1999 c 298 § 12; 1993 c 418 § 1; 1991 c 81 § 30; 1987 c 346 § 10; 1986 c 22 § 1; 1985 c 273 § 2. Formerly RCW 29.36.013.]

NOTES:

Effective date--1991 c 81: See note following RCW 29.85.010.

Legislative intent--Effective date--1987 c 346: See notes following RCW 29.36.210.

RCW 29.36.250 Special absentee ballots.

(1) As provided in this section, county auditors shall provide special absentee ballots to

be used for state primary or state general elections. An auditor shall provide a special absentee ballot only to a registered voter who completes an application stating that she or he will be unable to vote and return a regular absentee ballot by normal mail delivery within the period provided for regular absentee ballots.

The application for a special absentee ballot may not be filed earlier than ninety days before the applicable state primary or general election. The special absentee ballot will list the offices and measures, if known, scheduled to appear on the state primary or general election ballot. The voter may use the special absentee ballot to write in the name of any eligible candidate for each office and vote on any measure.

(2) With any special absentee ballot issued under this section, the county auditor shall include a listing of any candidates who have filed before the time of the application for offices that will appear on the ballot at that primary or election and a list of any issues that have been referred to the ballot before the time of the application.

(3) Write-in votes on special absentee ballots must be counted in the same manner provided by law for the counting of other write-in votes. The county auditor shall process and canvass the special absentee ballots provided under this section in the same manner as other absentee ballots under chapters 29.36 and 29.62 RCW.

(4) A voter who requests a special absentee ballot under this section may also request an absentee ballot under RCW 29.36.220(4). If the regular absentee ballot is properly voted and returned, the special absentee ballot is void, and the county auditor shall reject it in whole when special absentee ballots are canvassed.

[2001 c 241 § 5; 1991 c 81 § 35; 1987 c 346 § 21. Formerly RCW 29.36.170.]

NOTES:

Effective date--1991 c 81: See note following RCW 29.85.010.

Legislative intent--Effective date--1987 c 346: See notes following RCW 29.36.210.

RCW 29.36.260 Issuance of ballot and other materials.

(1) The county auditor shall issue an absentee ballot for the primary or election for which it was requested, or for the next occurring primary or election when ongoing absentee status has been requested if the information contained in a request for an absentee ballot or ongoing absentee status received by the county auditor is complete and correct and the applicant is qualified to vote under federal or state law. Otherwise, the county auditor shall notify the applicant of the reason or reasons why the request cannot be accepted. Whenever two or more candidates have filed for the position of precinct committee officer for the same party in the same precinct at a general election held in an even-numbered year, the contest for that position must be presented to absentee voters from that precinct by either including the contest on the regular absentee ballot or a separate absentee ballot. The ballot must provide space designated for writing in the name of additional candidates.

(2) A registered voter may obtain a replacement ballot if the ballot is destroyed, spoiled, lost, or not received by the voter. The voter may obtain the ballot by telephone request, by mail, electronically, or in person. The county auditor shall keep a record of each replacement ballot

provided under this subsection.

(3) A copy of the state voters' and candidates' pamphlet must be sent to registered voters temporarily outside the state, out-of-state voters, overseas voters, and service voters along with the absentee ballot if such a pamphlet has been prepared for the primary or election and is available to the county auditor at the time of mailing. The county auditor shall mail all absentee ballots and related material to voters outside the territorial limits of the United States and the District of Columbia under 39 U.S.C. 3406.

[2001 c 241 § 6; 1991 c 81 § 31. Prior: 1987 c 346 § 11; 1987 c 295 § 9; 1977 ex.s. c 361 § 77; 1974 ex.s. c 73 § 1; 1965 c 9 § 29.36.030; prior: 1963 ex.s. c 23 § 3; 1955 c 167 § 4; prior: (i) 1933 ex.s. c 41 § 2, part; 1923 c 58 § 2, part; 1921 c 143 § 2, part; 1917 c 159 § 2, part; 1915 c 189 § 2, part; RRS § 5281, part. (ii) 1933 ex.s. c 41 § 3, part; 1923 c 58 § 3, part; 1921 c 143 § 3, part; 1917 c 159 § 3, part; 1915 c 189 § 3, part; RRS § 5282, part. Formerly RCW 29.36.030.]

NOTES:

Effective date--1991 c 81: See note following RCW 29.85.010.

Legislative intent--Effective date--1987 c 346: See notes following RCW 29.36.210.

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.36.270 Date ballots ready.

Except where a recount or litigation under RCW 29.04.030 is pending, the county auditor shall have sufficient absentee ballots ready to mail to absentee voters of that county at least twenty days before any primary, general election, or special election.

[1987 c 54 § 1; 1977 ex.s. c 361 § 56; 1965 ex.s. c 103 § 5; 1965 c 9 § 29.30.075. Prior: 1949 c 161 § 10, part; 1947 c 234 § 2, part; 1935 c 26 § 1, part; 1921 c 178 § 4, part; 1907 c 209 § 8, part; Rem. Supp. 1949 § 5185, part. Formerly RCW 29.30.075.]

NOTES:

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.36.280 Delivery of ballot, qualifications for.

The delivery of an absentee ballot for any primary or election shall be subject to the following qualifications:

(1) Only the registered voter personally, or a member of the registered voter's immediate family may pick up an absentee ballot for the voter at the office of the issuing officer unless the voter is a resident of a health care facility, as defined by RCW 70.37.020(3), on election day and applies by messenger for an absentee ballot. In this latter case, the messenger may pick up the voter's absentee ballot.

(2) Except as noted in subsection (1) of this section, the issuing officer shall mail or deliver the absentee ballot directly to each applicant.

[2001 c 241 § 7; 1984 c 27 § 2; 1965 c 9 § 29.36.035. Prior: 1963 ex.s. c 23 § 4. Formerly RCW 29.36.035.]

RCW 29.36.290 Envelopes and instructions.

The county auditor shall send each absentee voter a ballot, a security envelope in which to seal the ballot after voting, a larger envelope in which to return the security envelope, and

instructions on how to mark the ballot and how to return it to the county auditor. The larger return envelope must contain a declaration by the absentee voter reciting his or her qualifications and stating that he or she has not voted in any other jurisdiction at this election, together with a summary of the penalties for any violation of any of the provisions of this chapter. The return envelope must provide space for the voter to indicate the date on which the ballot was voted and for the voter to sign the oath. A summary of the applicable penalty provisions of this chapter must be printed on the return envelope immediately adjacent to the space for the voter's signature. The signature of the voter on the return envelope must affirm and attest to the statements regarding the qualifications of that voter and to the validity of the ballot. For out-of-state voters, overseas voters, and service voters, the signed declaration on the return envelope constitutes the equivalent of a voter registration for the election or primary for which the ballot has been issued. The voter must be instructed to either return the ballot to the county auditor by whom it was issued or attach sufficient first class postage, if applicable, and mail the ballot to the appropriate county auditor no later than the day of the election or primary for which the ballot was issued.

If the county auditor chooses to forward absentee ballots, he or she must include with the ballot a clear explanation of the qualifications necessary to vote in that election and must also advise a voter with questions about his or her eligibility to contact the county auditor. This explanation may be provided on the ballot envelope, on an enclosed insert, or printed directly on the ballot itself. If the information is not included, the envelope must clearly indicate that the ballot is not to be forwarded and that return postage is guaranteed.

[2001 c 241 § 8; 1987 c 346 § 12. Formerly RCW 29.36.045.]

NOTES:

Legislative intent--Effective date--1987 c 346: See notes following RCW 29.36.210.

RCW 29.36.300 Observers.

County auditors must request that observers be appointed by the major political parties to be present during the processing of absentee ballots. The absence of the observers will not prevent the processing of absentee ballots if the county auditor has requested their presence.

[2001 c 241 § 9.]

RCW 29.36.310 Processing incoming ballots.

(1) The opening and subsequent processing of return envelopes for any primary or election may begin on or after the tenth day before the primary or election. The tabulation of absentee ballots must not commence until after 8:00 p.m. on the day of the primary or election.

(2) After opening the return envelopes, the county canvassing board shall place all of the ballots in secure storage until after 8:00 p.m. of the day of the primary or election. Absentee ballots that are to be tabulated on an electronic vote tallying system may be taken from the inner envelopes and all the normal procedural steps may be performed to prepare these ballots for tabulation.

(3) Before opening a returned absentee ballot, the canvassing board, or its designated

representatives, shall examine the postmark, statement, and signature on the return envelope that contains the security envelope and absentee ballot. They shall verify that the voter's signature on the return envelope is the same as the signature of that voter in the registration files of the county. For registered voters casting absentee ballots, the date on the return envelope to which the voter has attested determines the validity, as to the time of voting for that absentee ballot if the postmark is missing or is illegible. For out-of-state voters, overseas voters, and service voters, the date on the return envelope to which the voter has attested determines the validity as to the time of voting for that absentee ballot. For any absentee ballot, a variation between the signature of the voter on the return envelope and the signature of that voter in the registration files due to the substitution of initials or the use of common nicknames is permitted so long as the surname and handwriting are clearly the same.

[2001 c 241 § 10; 1991 c 81 § 32; 1987 c 346 § 14; 1977 ex.s. c 361 § 78; 1973 c 140 § 1; 1965 c 9 § 29.36.060. Prior: 1963 ex.s. c 23 § 5; 1955 c 167 § 7; 1955 c 50 § 2; prior: 1933 ex.s. c 41 § 5, part; 1921 c 143 § 6, part; 1917 c 159 § 4, part; 1915 c 189 § 4, part; RRS § 5285, part. Formerly RCW 29.36.060.]

NOTES:

Effective date--1991 c 81: See note following RCW 29.85.010.

Legislative intent--Effective date--1987 c 346: See notes following RCW 29.36.210.

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

County canvassing board, meeting to process absentee ballots, canvass returns: RCW 29.62.020.

RCW 29.36.320 Report of count.

The absentee ballots must be reported at a minimum on a congressional and legislative district basis. Absentee ballots may be counted by congressional or legislative district or by individual precinct, except as required under RCW 29.62.090(2).

These returns must be added to the total of the votes cast at the polling places.

[2001 c 241 § 11; 1990 c 262 § 2; 1987 c 346 § 15; 1974 ex.s. c 73 § 2; 1965 c 9 § 29.36.070. Prior: 1955 c 50 § 3; prior: 1933 ex.s. c 41 § 5, part; 1921 c 143 § 6, part; 1917 c 159 § 4, part; 1915 c 189 § 4, part; RRS § 5285, part. Formerly RCW 29.36.070.]

NOTES:

Legislative intent--Effective date--1987 c 346: See notes following RCW 29.36.210.

RCW 29.36.330 Credit for voting--Retention of ballots.

Each registered voter casting an absentee ballot will be credited with voting on his or her voter registration record. Absentee ballots must be retained for the same length of time and in the same manner as ballots cast at the precinct polling places.

[2001 c 241 § 12; 1988 c 181 § 3; 1987 c 346 § 16; 1983 c 136 § 1; 1965 c 9 § 29.36.075. Prior: 1961 c 78 § 1. Formerly RCW 29.36.075.]

NOTES:

Legislative intent--Effective date--1987 c 346: See notes following RCW 29.36.210.

RCW 29.36.340 Record of requests--Public access.

Each county auditor shall maintain in his or her office, open for public inspection, a

record of the requests he or she has received for absentee ballots under this chapter.

The information from the requests shall be recorded and lists of this information shall be available no later than twenty-four hours after their receipt.

This information about absentee voters shall be available according to the date of the requests and by legislative district. It shall include the name of each applicant, the address and precinct in which the voter maintains a voting residence, the date on which an absentee ballot was issued to this voter, if applicable, the type of absentee ballot, and the address to which the ballot was or is to be mailed, if applicable.

The auditor shall make copies of these records available to the public for the actual cost of production or copying.

[1991 c 81 § 33; 1987 c 346 § 17; 1973 1st ex.s. c 61 § 1. Formerly RCW 29.36.097.]

NOTES:

Effective date--1991 c 81: See note following RCW 29.85.010.

Legislative intent--Effective date--1987 c 346: See notes following RCW 29.36.210.

RCW 29.36.350 Challenges.

The qualifications of any absentee voter may be challenged at the time the signature on the return envelope is verified and the ballot is processed by the canvassing board. The board has the authority to determine the legality of any absentee ballot challenged under this section. Challenged ballots must be handled in accordance with chapter 29.10 RCW.

[2001 c 241 § 13; 1987 c 346 § 18; 1965 c 9 § 29.36.100. Prior: 1917 c 159 § 5; 1915 c 189 § 5; RRS § 5286. Formerly RCW 29.36.100.]

NOTES:

Legislative intent--Effective date--1987 c 346: See notes following RCW 29.36.210.

RCW 29.36.360 Rules for accuracy, secrecy, and uniformity--Out-of-state, overseas, service voters.

The secretary of state shall adopt rules to:

(1) Establish standards and procedures to prevent fraud and to facilitate the accurate processing and canvassing of absentee ballots and mail ballots;

(2) Establish standards and procedures to guarantee the secrecy of absentee ballots and mail ballots;

(3) Provide uniformity among the counties of the state in the conduct of absentee voting and mail ballot elections; and

(4) Facilitate the operation of the provisions of this chapter regarding out-of-state voters, overseas voters, and service voters.

The secretary of state shall produce and furnish envelopes and instructions for out-of-state voters, overseas voters, and service voters to the county auditors.

[1993 c 417 § 7; 1987 c 346 § 19; 1983 1st ex.s. c 71 § 8. Formerly RCW 29.36.150.]

NOTES:

Legislative intent--Effective date--1987 c 346: See notes following RCW 29.36.210.

RCW 29.36.370 Penalty.

A person who willfully violates any provision of this chapter regarding the assertion or declaration of qualifications to receive or cast an absentee ballot or unlawfully casts a vote by absentee ballot is guilty of a class C felony punishable under RCW 9A.20.021. Except as provided in chapter 29.85 RCW a person who willfully violates any other provision of this chapter is guilty of a misdemeanor.

[2001 c 241 § 14; 1994 c 269 § 2; 1991 c 81 § 34; 1987 c 346 § 20; 1983 1st ex.s. c 71 § 9. Formerly RCW 29.36.160.]

NOTES:

Effective date--1991 c 81: See note following RCW 29.85.010.

Legislative intent--Effective date--1987 c 346: See notes following RCW 29.36.210.

RCW 29.36.900 Captions not law--2001 c 241.

Section captions and part headings used in chapter 241, Laws of 2001 are not part of the law.

[2001 c 241 § 26.]

Chapter 29.38 RCW
ELECTION BY MAIL

Sections

29.38.010 Mail ballot precincts.
29.38.020 Special elections.
29.38.030 Odd-year primaries.
29.38.040 Depositing ballots--Replacement ballots.
29.38.050 Return of voted ballot.
29.38.060 Ballot contents--Counting.
29.38.070 Penalty.
29.38.900 Captions not law--2001 c 241.

RCW 29.38.010 Mail ballot precincts.

The county auditor may designate any precinct having fewer than two hundred active registered voters at the time of closing of voter registration as provided in RCW 29.07.160 as a mail ballot precinct. The county auditor shall notify each registered voter by mail that for all future primaries and elections the voting in his or her precinct will be by mail ballot only. In determining the number of registered voters in a precinct for the purposes of this section, persons who are ongoing absentee voters under RCW 29.36.240 shall not be counted. Nothing in this section may be construed as altering the vote tallying requirements of RCW 29.62.090.

As soon as ballots are available, the county auditor shall mail or deliver a ballot and an envelope, preaddressed to the issuing officer, to each active registered voter. The auditor shall send each inactive voter either a ballot or an application to receive a ballot. The auditor shall determine which of the two is to be sent. If the inactive voter returns a voted ballot, the ballot

shall be counted and the voter's status restored to active. If the inactive voter completes and returns an application, a ballot shall be sent and the voter's status restored to active.

If the precinct exceeds two hundred registered voters, or the auditor determines to return to a polling place election environment, the auditor shall notify each registered voter, by mail, of this and shall provide the address of the polling place to be used.

[2001 c 241 § 15. Prior: 1994 c 269 § 1; 1994 c 57 § 48; 1993 c 417 § 1; 1983 1st ex.s. c 71 § 1; 1974 ex.s. c 35 § 2; 1967 ex.s. c 109 § 6. Formerly RCW 29.36.120.]

NOTES:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

RCW 29.38.020 Special elections.

At any nonpartisan special election not being held in conjunction with a state primary or general election, the county, city, town, or district requesting the election pursuant to RCW 29.13.010 or 29.13.020 may also request that the special election be conducted by mail ballot. The county auditor may honor the request or may determine that the election is not to be conducted by mail ballot. The decision of the county auditor in this regard is final.

For all special elections not being held in conjunction with a state primary or state general election where voting is conducted by mail ballot, the county auditor shall, not less than twenty days before the date of such election, make available to each registered voter a mail ballot. The auditor shall handle inactive voters in the same manner as inactive voters in mail ballot precincts.

[2001 c 241 § 16; 1994 c 57 § 49; 1993 c 417 § 2. Formerly RCW 29.36.121.]

NOTES:

Severability---Effective date--1994 c 57: See notes following RCW 10.64.021.

RCW 29.38.030 Odd-year primaries.

In an odd-numbered year, the county auditor may conduct a primary or a special election by mail ballot concurrently with the primary:

(1) For an office or ballot measure of a special purpose district that is entirely within the county;

(2) For an office or ballot measure of a special purpose district that lies in the county and one or more other counties if the auditor first secures the concurrence of the county auditors of those other counties to conduct the primary in this manner district-wide; and

(3) For a ballot measure or nonpartisan office of a county, city, or town if the auditor first secures the concurrence of the legislative authority of the county, city, or town involved.

The county auditor shall notify an election jurisdiction for which a primary is to be held that the primary will be conducted by mail ballot.

A primary in an odd-numbered year may not be conducted by mail ballot in a precinct with two hundred or more active registered voters if a partisan office or state office or state ballot measure is to be voted upon at that primary in the precinct.

To the extent they are not inconsistent with other provisions of law, the laws governing

the conduct of mail ballot special elections apply to nonpartisan primaries conducted by mail ballot.

[2001 c 241 § 17.]

RCW 29.38.040 Depositing ballots--Replacement ballots.

(1) If a county auditor conducts an election by mail, the county auditor shall designate one or more places for the deposit of ballots not returned by mail. The places designated under this section shall be open on the date of the election for a period of thirteen hours, beginning at 7:00 a.m. and ending at 8:00 p.m.

(2) A registered voter may obtain a replacement ballot as provided in this subsection if the ballot is destroyed, damaged, lost, or not received by the voter. A voter may request a replacement mail ballot in person, by mail, by telephone, or by other electronic transmission for himself or herself and for any member of his or her immediate family. The request must be received by the auditor before 8:00 p.m. on election day. The county auditor shall keep a record of each replacement ballot issued, including the date of the request. Replacement mail ballots may be counted in the final tabulation of ballots only if the original ballot is not received by the county auditor and the replacement ballot meets all requirements for tabulation necessary for the tabulation of regular mail ballots.

[2001 c 241 § 18; 1983 1st ex.s. c 71 § 3. Formerly RCW 29.36.124.]

RCW 29.38.050 Return of voted ballot.

The voter shall return the ballot to the county auditor in the return identification envelope. If mailed, a ballot must be postmarked not later than the date of the primary or election. Otherwise, the ballot must be deposited at the office of the county auditor or the designated place of deposit not later than 8:00 p.m. on the date of the primary or election.

[2001 c 241 § 19; 1993 c 417 § 4; 1983 1st ex.s. c 71 § 4. Formerly RCW 29.36.126.]

RCW 29.38.060 Ballot contents--Counting.

All mail ballots authorized by RCW 29.38.010 or 29.38.020 or 29.38.030 must contain the same offices, names of nominees or candidates, and propositions to be voted upon, including precinct offices, as if the ballot had been voted in person at the polling place. Except as otherwise provided by law, mail ballots must be treated in the same manner as absentee ballots issued at the request of the voter. If electronic vote tallying devices are used, political party observers must be given the opportunity to be present, and a test of the equipment must be performed as required by RCW 29.33.350 before tabulating ballots. Political party observers may select at random ballots to be counted manually as provided by RCW 29.54.025. Any violation of the secrecy of the count is subject to the same penalties as provided for in RCW 29.85.225.

[2001 c 241 § 20; 1993 c 417 § 5; 1990 c 59 § 76; 1983 1st ex.s. c 71 § 5; 1967 ex.s. c 109 § 7. Formerly RCW 29.36.130.]

NOTES:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.38.070 Penalty.

A person who willfully violates any provision of this chapter regarding the conduct of mail ballot primaries or elections is guilty of a class C felony punishable under RCW 9A.20.021.

[2001 c 241 § 21.]

RCW 29.38.900 Captions not law--2001 c 241.

See RCW 29.36.900.

Chapter 29.42 RCW
POLITICAL PARTIES

Sections

29.42.010 Authority--Generally.
29.42.020 State committee.
29.42.030 County central committee--Organization meetings.
29.42.040 Precinct committee officer, eligibility.
29.42.050 Precinct committee officer--Election--Declaration of candidacy, fee--Term--Vacancy.
29.42.060 Precinct office to appear on separate absentee ballot.
29.42.070 Legislative district chair--Election--Term--Removal.

Notes:

Civil service

city firemen, political contributions and services not required--Solicitation and coercion prohibited: RCW 41.08.160.

city police, political contributions and services not required--Solicitation and coercion prohibited: RCW 41.12.160.

sheriff's office, political activities regulated: RCW 41.14.190.

Disclosure of financing: Chapter 42.17 RCW.

Emergency service units, political activity by, prohibited: RCW 38.52.120.

Joint legislative audit and review committee, political party representation limitation: RCW 44.28.010.

Libel and slander: Chapter 9.58 RCW.

Poll books--As public records--Copies to representatives of major political parties: RCW 29.04.100.

Precinct committee officer, notice of election to indicate office: RCW 29.04.020.

Precinct election officers, political affiliation as affecting designation of: Chapter 29.45 RCW.

Public employees, political activities: RCW 41.06.250.

Sabotage: Chapter 9.05 RCW.

Statute law committee, political party representation limitation: RCW 1.08.001.

Subversive activities: Chapter 9.81 RCW.

Write-in voting, political party affiliation to appear: RCW 29.62.180.

RCW 29.42.010 Authority--Generally.

Each political party organization shall have the power to:

(1) Make its own rules and regulations;

(2) Call conventions;

(3) Elect delegates to conventions, state and national;

(4) Fill vacancies on the ticket;

(5) Provide for the nomination of presidential electors; and

(6) Perform all functions inherent in such an organization: PROVIDED, That only major political parties shall have the power to designate candidates to appear on the state primary election ballot as provided in RCW 29.18.150 as now or hereafter amended.

[1977 ex.s. c 329 § 16; 1965 c 9 § 29.42.010. Prior: 1961 c 130 § 2; prior: 1943 c 178 § 1, part; 1939 c 48 § 1, part; 1927 c 200 § 1, part; 1925 ex.s. c 158 § 1, part; 1909 c 82 § 6, part; 1907 c 209 § 22, part; Rem. Supp. 1943 § 5198, part.]

Notes:
Vacancies on ticket--How filled: RCW 29.18.150, 29.18.160.

RCW 29.42.020 State committee.

The state committee of each major political party shall consist of one committeeman and one committeewoman from each county elected by the county committee at its organization meeting. It shall have a chair and vice-chair who must be of opposite sexes. This committee shall meet during January of each odd-numbered year for the purpose of organization at a time and place designated by a sufficient notice to all the newly elected state committeemen and committeewomen by the authorized officers of the retiring committee. For the purpose of this section a notice mailed at least one week prior to the date of the meeting shall constitute sufficient notice. At its organizational meeting it shall elect its chair and vice-chair, and such officers as its bylaws may provide, and adopt bylaws, rules and regulations. It shall have power to:

(1) Call conventions at such time and place and under such circumstances and for such purposes as the call to convention shall designate. The manner, number and procedure for selection of state convention delegates shall be subject to the committee's rules and regulations duly adopted;

(2) Provide for the election of delegates to national conventions;

(3) Fill vacancies on the ticket for any federal or state office to be voted on by the electors of more than one county;

(4) Provide for the nomination of presidential electors; and

(5) Perform all functions inherent in such an organization.

Notwithstanding any provision of this chapter, the committee shall not set rules which shall govern the conduct of the actual proceedings at a party state convention.

[1987 c 295 § 11; 1972 ex.s. c 45 § 1; 1965 c 9 § 29.42.020. Prior: 1961 c 130 § 3; prior: 1943 c 178 § 1, part; 1939 c 48 § 1, part; 1927 c 200 § 1, part; 1925 ex.s. c 158 § 1, part; 1909 c 82 § 6, part; 1907 c 209 § 22, part; Rem. Supp. 1943 § 5198, part.]

RCW 29.42.030 County central committee--Organization meetings.

The county central committee of each major political party shall consist of the precinct committee officers of the party from the several voting precincts of the county. Following each state general election held in even-numbered years, this committee shall meet for the purpose of organization at an easily accessible location within the county, subsequent to the certification of precinct committee officers by the county auditor and no later than the second Saturday of the following January. The authorized officers of the retiring committee shall cause notice of the time and place of such meeting to be mailed to each precinct committee officer at least seventy-two hours prior to the date of the meeting.

At its organization meeting, the county central committee shall elect a chair and vice-chair who must be of opposite sexes; it shall also elect a state committeeman and a state committeewoman.

[1987 c 295 § 12; 1973 c 85 § 1; 1973 c 4 § 5; 1965 c 9 § 29.42.030. Prior: 1961 c 130 § 4; prior: 1943 c 178 § 1, part; 1939 c 48 § 1, part; 1927 c 200 § 1, part; 1925 ex.s. c 158 § 1, part; 1909 c 82 § 6, part; 1907 c 209 § 22, part; Rem. Supp. 1943 § 5198, part.]

Notes:
Precinct election officers, appointment: RCW 29.45.010 and 29.45.030.

RCW 29.42.040 Precinct committee officer, eligibility.

Any member of a major political party who is a registered voter in the precinct may upon payment of a fee of one dollar file his or her declaration of candidacy as prescribed under RCW 29.15.010 with the county auditor for the office of precinct committee officer of his or her party in that precinct. When elected the precinct committee officer shall serve so long as the committee officer remains an eligible voter in that precinct and until a successor has been elected at the next ensuing state general election in the even-numbered year.

[1990 c 59 § 104. Prior: 1987 c 295 § 13; 1987 c 133 § 3; 1973 c 4 § 6; 1965 c 9 § 29.42.040; prior: 1961 c 130 § 5; prior: 1943 c 178 § 1, part; 1939 c 48 § 1, part; 1927 c 200 § 1, part; 1925 ex.s. c 158 § 1, part; 1909 c 82 § 6, part; 1907 c 209 § 22, part; Rem. Supp. 1943 § 5198, part.]

Notes:
Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.
Precinct election officers, list of qualified persons: RCW 29.45.030.

RCW 29.42.050 Precinct committee officer--Election--Declaration of candidacy, fee--Term--Vacancy.

The statutory requirements for filing as a candidate at the primaries shall apply to candidates for precinct committee officer except that the filing period for this office alone shall be extended to and include the Friday immediately following the last day for political parties to fill vacancies in the ticket as provided by RCW 29.18.150, and the office shall not be voted upon at the primaries, but the names of all candidates must appear under the proper party and office designations on the ballot for the general November election for each even-numbered year and the one receiving the highest number of votes shall be declared elected: PROVIDED, That to be

declared elected, a candidate must receive at least ten percent of the number of votes cast for the candidate of the candidate's party receiving the greatest number of votes in the precinct. Any person elected to the office of precinct committee officer who has not filed a declaration of candidacy shall pay the fee of one dollar to the county auditor for a certificate of election. The term of office of precinct committee officer shall be for two years, commencing upon completion of the official canvass of votes by the county canvassing board of election returns. Should any vacancy occur in this office by reason of death, resignation, or disqualification of the incumbent, or because of failure to elect, the respective county chair of the county central committee shall be empowered to fill such vacancy by appointment: PROVIDED, HOWEVER, That in legislative districts having a majority of its precincts in a county with a population of one million or more, such appointment shall be made only upon the recommendation of the legislative district chair: PROVIDED, That the person so appointed shall have the same qualifications as candidates when filing for election to such office for such precinct: PROVIDED FURTHER, That when a vacancy in the office of precinct committee officer exists because of failure to elect at a state general election, such vacancy shall not be filled until after the organization meeting of the county central committee and the new county chair selected as provided by RCW 29.42.030.

[1991 c 363 § 34; 1987 c 295 § 14; 1973 c 4 § 7; 1967 ex.s. c 32 § 2; 1965 ex.s. c 103 § 3; 1965 c 9 § 29.42.050. Prior: 1961 c 130 § 6; prior: 1953 c 196 § 1; 1943 c 178 § 1, part; 1939 c 48 § 1, part; 1927 c 200 § 1, part; 1925 ex.s. c 158 § 1, part; 1909 c 82 § 6, part; 1907 c 209 § 22, part; Rem. Supp. 1943 § 5198, part.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Severability--1967 ex.s. c 32: See note following RCW 29.42.070.

Notice of general election, office to be indicated: RCW 29.04.020.

RCW 29.42.060 Precinct office to appear on separate absentee ballot.

See RCW 29.36.260 and 29.36.320.

RCW 29.42.070 Legislative district chair--Election--Term--Removal.

Within forty-five days after the state-wide general election in even-numbered years, or within thirty days following July 30, 1967, for the biennium ending with the 1968 general elections, the county chair of each major political party shall call separate meetings of all elected precinct committee officers in each legislative district a majority of the precincts of which are within a county with a population of one million or more for the purpose of electing a legislative district chair in such district. The district chair shall hold office until the next legislative district reorganizational meeting two years later, or until a successor is elected.

The legislative district chair can only be removed by the majority vote of the elected precinct committee officers in the chair's district.

[1991 c 363 § 35; 1987 c 295 § 15; 1967 ex.s. c 32 § 1.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Severability--1967 ex.s. c 32: "If any provision of this 1967 amendatory act, or its application to any

person or circumstance is held invalid, the remainder of the 1967 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1967 ex.s. c 32 § 3.]
Precinct committee officer, filling vacancy: RCW 29.42.050.

Chapter 29.45 RCW
PRECINCT ELECTION OFFICERS

Sections

29.45.010 Appointment of judges and inspector.
29.45.020 Appointment of clerks--Party representation--Hour to report.
29.45.030 Nomination.
29.45.040 Vacancies--How filled--Inspector's authority.
29.45.050 One set of precinct election officers, exceptions--Counting board--Receiving board.
29.45.060 Duties--Generally.
29.45.065 Application to other primaries or elections.
29.45.070 Inspector as chairman--Authority.
29.45.080 Oaths of officers required.
29.45.090 Oath of inspectors, form.
29.45.100 Oath of judges, form.
29.45.110 Oath of clerks, form.
29.45.120 Compensation.

Notes:
Contests, misconduct of precinct election board
irregularity must be material to result: RCW 29.65.060.
members as grounds for: RCW 29.65.010.
number of votes affected--Enough to change result: RCW 29.65.070.
District election officials, see particular district, elections in.
Forms for declaration of death of registered voter, precinct election officers to have: RCW 29.10.090.
Poll-site ballot counting device precincts, precinct election officers' duties: RCW 29.48.080.
Precinct election officers' duties before, during, and after polls open: Chapters 29.48, 29.51, and 29.54 RCW.
Term of county and precinct officers: RCW 36.16.020.
Violations by election officers, penalties: Chapter 29.85 RCW.
Voting systems, preparation for voting: Chapter 29.33 RCW.

RCW 29.45.010 Appointment of judges and inspector.

(1) At least ten days prior to any primary or election, general or special, the county auditor shall appoint one inspector and two judges of election for each precinct (or each combination of precincts temporarily consolidated as a single precinct for that primary or election), other than those precincts designated as vote-by-mail precincts pursuant to *RCW 29.36.120. Except as provided in subsection (3) of this section, the persons appointed shall be among those whose names are contained on the lists furnished under RCW 29.45.030 by the chairpersons of the county central committees of the political parties entitled to representation thereon. Such precinct election officers, whenever possible, should be residents of the precinct

in which they serve.

(2) The county auditor may delete from the lists of names submitted to the auditor by the chairpersons of the county central committees under RCW 29.45.030: (a) The names of those persons who indicate to the auditor that they cannot or do not wish to serve as precinct election officers for the primary or election or who otherwise cannot so serve; and (b) the names of those persons who lack the ability to conduct properly the duties of an inspector or judge of election after training in that proper conduct has been made available to them by the auditor. The lists which are submitted to the auditor in a timely manner under RCW 29.45.030, less the deletions authorized by this subsection, constitute the official nomination lists for inspectors and judges of election.

(3) If the number of persons whose names are on the official nomination list for a political party is not sufficient to satisfy the requirements of subsection (4) of this section as it applies to that political party or is otherwise insufficient to provide the number of precinct election officials required from that political party, the auditor shall notify the chair of the party's county central committee regarding the deficiency. The chair may, within five business days of being notified by the auditor, add to the party's nomination list the names of additional persons belonging to that political party who are qualified to serve on the election boards. To the extent that, following this procedure, the number of persons whose names appear on the official nomination lists of the political parties is insufficient to provide the number of election inspectors and judges required for a primary or election, the auditor may appoint a properly trained person whose name does not appear on such a list as an inspector or judge of election for a precinct.

(4) The county auditor shall designate the inspector and one judge in each precinct from that political party which polled the highest number of votes in the county for its candidate for president at the last preceding presidential election and one judge from that political party polling the next highest number of votes in the county for its candidate for president at the same election. The provisions of this subsection apply only if the number of names on the official nomination list for inspectors and judges of election for a political party is sufficient to satisfy the requirements imposed by this subsection.

(5) Except as provided in RCW 29.45.040 for the filling of vacancies, this shall be the exclusive method for the appointment of inspectors and judges to serve as precinct election officers at any primary or election, general or special, and shall supersede the provisions of any and all other statutes, whether general or special in nature, having different requirements.

[1991 c 106 § 1; 1983 1st ex.s. c 71 § 7; 1965 ex.s. c 101 § 1; 1965 c 9 § 29.45.010. Prior: (i) 1935 c 165 § 2, part; RRS § 5147-1, part. (ii) Code 1881 § 3068, part; 1865 p 30 § 2, part; RRS § 5158, part. (iii) 1907 c 209 § 15, part; RRS § 5192, part. (iv) 1895 c 156 § 6, part; 1889 p 407 § 20, part; RRS § 5277, part. (v) 1947 c 182 § 1, part; Rem. Supp. 1947 § 5166-10, part; prior: 1945 c 164 § 3, part; 1941 c 180 § 1, part; 1935 c 5 § 1, part; 1933 ex.s. c 29 § 1, part; prior: 1933 c 79 § 1, part; 1927 c 279 § 2, part; 1923 c 53 § 3, part; 1921 c 61 § 5, part; Rem. Supp. 1945 § 5147, part.]

NOTES:

***Reviser's note:** RCW 29.36.120 was recodified as RCW 29.38.010 pursuant to 2001 c 241 § 25.

RCW 29.45.020 Appointment of clerks--Party representation--Hour to report.

At the same time the officer having jurisdiction of the election appoints the inspector and two judges as provided in RCW 29.45.010, he may appoint one or more persons to act as clerks if in his judgment such additional persons are necessary, except that in precincts in which voting machines are used, the judges of election shall perform the duties required to be performed by clerks.

Each clerk appointed shall represent a major political party: PROVIDED, That the political party representation of a single set of precinct election officers shall, whenever possible, be equal but, in any event, no single political party shall be represented by more than a majority of one at each polling place.

The election officer having jurisdiction of the election may designate at what hour the clerks shall report for duty. The hour may vary among the precincts according to the judgment of the appointing officer.

[1965 ex.s. c 101 § 2; 1965 c 9 § 29.45.020. Prior: 1955 c 168 § 4; prior: (i) 1915 c 114 § 4, part; 1913 c 58 § 9, part; RRS § 5308, part. (ii) 1895 c 156 § 1, part; Code 1881 § 3069, part; 1865 p 31 § 3, part; RRS § 5159, part.]

RCW 29.45.030 Nomination.

The precinct committee officer of each major political party shall certify to the officer's county chair a list of those persons belonging to the officer's political party qualified to act upon the election board in the officer's precinct.

By the first day of June each year, the chair of the county central committee of each major political party shall certify to the officer having jurisdiction of the election a list of those persons belonging to the county chair's political party in each precinct who are qualified to act on the election board therein.

The county chair shall compile this list from the names certified by the various precinct committee officers unless no names or not [a] sufficient [number of] names have been certified from a precinct, in which event the county chair may include therein the names of qualified members of the county chair's party selected by the county chair. The county chair shall also have the authority to substitute names of persons recommended by the precinct committee officers if in the judgment of the county chair such persons are not qualified to serve as precinct election officers.

[1991 c 106 § 2; 1987 c 295 § 16; 1965 ex.s. c 101 § 3; 1965 c 9 § 29.45.030. Prior: (i) 1907 c 209 § 15, part; RRS § 5192, part. (ii) 1935 c 165 § 2, part; RRS § 5147-1, part.]

RCW 29.45.040 Vacancies--How filled--Inspector's authority.

If no election officers have been appointed for a precinct, or if at the hour for opening the polls none of those appointed is present at the polling place therein, the voters present may appoint the election board for that precinct. One of the judges may perform the duties of clerk of election. The inspector shall have the power to fill any vacancy that may occur in the board of

judges, or by absence or refusal to serve of either of the clerks after the polls shall have been opened.

[1965 c 9 § 29.45.040. Prior: (i) Code 1881 § 3075, part; 1865 p 32 § 9, part; RRS § 5165, part. (ii) Code 1881 § 3068, part; 1865 p 30 § 2, part; RRS § 5158, part. (iii) 1907 c 209 § 15, part; RRS § 5192, part.]

RCW 29.45.050 One set of precinct election officers, exceptions--Counting board--Receiving board.

There shall be but one set of election officers at any one time in each precinct except as provided in this section.

In every precinct using paper ballots having two hundred or more registered voters there shall be appointed, and in every precinct having less than two hundred registered voters there may be appointed, at a state primary or state general election, two or more sets of precinct election officers as provided in RCW 29.04.020 and 29.45.010. The officer in charge of the election may appoint one or more counting boards at his discretion, when he decides that because of a long or complicated ballot or because of the number of expected voters, there is need of additional counting board or boards to improve the speed and accuracy of the count.

In making such appointments, one or more sets of precinct election officers shall be designated as the counting board or boards, the first of which shall consist of an inspector, two judges, and a clerk and the second set, if activated, shall consist of two judges and two clerks. The duties of the counting board or boards shall be the count of ballots cast and the return of the election records and supplies to the officer having jurisdiction of the election.

One set of precinct election officers shall be designated as the receiving board which shall have all other powers and duties imposed by law for such elections. Nothing in this section prevents the county auditor from appointing relief or replacement precinct election officers at any time during election day. Relief or replacement precinct election officers must be of the same political party as the officer they are relieving or replacing.

[1994 c 223 § 91; 1973 c 102 § 2; 1965 ex.s. c 101 § 4; 1965 c 9 § 29.45.050. Prior: 1955 c 148 § 2; prior: (i) 1923 c 53 § 4, part; 1921 c 61 § 6, part; RRS § 5148, part. (ii) 1921 c 170 § 4, part; RRS § 5153, part.]

RCW 29.45.060 Duties--Generally.

The inspector and judges of election in each precinct shall conduct the elections therein and receive, deposit, and count the ballots cast thereat and make returns to the proper canvassing board or officer except that when two or more sets of precinct election officers are appointed as provided in RCW 29.45.050, the ballots shall be counted by the counting board or boards as provided in RCW 29.54.015, 29.54.018, and 29.85.225.

[1990 c 59 § 74; 1973 c 102 § 3; 1965 ex.s. c 101 § 5; 1965 c 9 § 29.45.060. Prior: 1955 c 148 § 3; prior: (i) 1923 c 53 § 4, part; 1921 c 61 § 6, part; RRS § 5148, part. (ii) 1921 c 170 § 4, part; RRS § 5153, part.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.45.065 Application to other primaries or elections.

All of the provisions of RCW 29.45.050 and 29.45.060 relating to counting boards may be applied on an optional basis to any other primary or election, regular or special, at the discretion of the officer in charge of the election.

[1973 c 102 § 5.]

RCW 29.45.070 Inspector as chairman--Authority.

The inspector shall be chairman of the board and after its organization shall have power to administer all necessary oaths which may be required in the progress of the election.

[1965 c 9 § 29.45.070. Prior: Code 1881 § 3075, part; 1865 p 32 § 9, part; RRS § 5165, part.]

RCW 29.45.080 Oaths of officers required.

The inspector, judges, and clerks of election, before entering upon the duties of their offices, shall take and subscribe the prescribed oath or affirmation which shall be administered to them by any person authorized to administer oaths and verified under the hand of the person by whom such oath or affirmation is administered. If no such person is present, the inspector shall administer the same to the judges and clerks, and one of the judges shall administer the oath to the inspector.

The county auditor shall furnish two copies of the proper form of oath to each precinct election officer, one copy thereof, after execution, to be placed and transmitted with the election returns.

[1965 c 9 § 29.45.080. Prior: (i) Code 1881 § 3070; 1865 p 31 § 4; RRS § 5160. (ii) 1895 c 156 § 2, part; Code 1881 § 3074, part; 1865 p 32 § 8, part; RRS § 5164, part.]

RCW 29.45.090 Oath of inspectors, form.

The following shall be the form of the oath or affirmation to be taken by each inspector:

"I, A B, do swear (or affirm) that I will duly attend to the ensuing election, during the continuance thereof, as an inspector, and that I will not receive any ballot or vote from any person other than such as I firmly believe to be entitled to vote at such election, without requiring such evidence of the right to vote as is directed by law; nor will I vexatiously delay the vote of, or refuse to receive, a ballot from any person whom I believe to be entitled to vote; but that I will in all things truly, impartially, and faithfully perform my duty therein to the best of my judgment and abilities; and that I am not, directly nor indirectly, interested in any bet or wager on the result of this election."

[1965 c 9 § 29.45.090. Prior: Code 1881 § 3071; 1865 p 31 § 5; RRS § 5161.]

RCW 29.45.100 Oath of judges, form.

The following shall be the oath or affirmation of each judge:

"We, A B, do swear (or affirm) that we will as judges duly attend the ensuing election, during the continuance thereof, and faithfully assist the inspector in carrying on the same; that we will not give our consent to the receipt of any vote or ballot from any person, other than one whom we firmly believe to be entitled to vote at such election; and that we will make a true and perfect return of the said election and will in all things truly, impartially, and faithfully perform our duty respecting the same to the best of our judgment and abilities; and that we are not directly nor indirectly interested in any bet or wager on the result of this election."

[1965 c 9 § 29.45.100. Prior: Code 1881 § 3072; 1865 p 31 § 6; RRS § 5162.]

RCW 29.45.110 Oath of clerks, form.

The following shall be the form of the oath to be taken by the clerks:

"We, and each of us, A B, do swear (or affirm) that we will impartially and truly write down the name of each elector who votes at the ensuing election, and also the name of the county and precinct wherein the elector resides; that we will carefully and truly write down the number of votes given for each candidate at the election as often as his name is read to us by the inspector and in all things truly and faithfully perform our duty respecting the same to the best of our judgment and abilities, and that we are not directly nor indirectly interested in any bet or wager on the result of this election."

[1965 c 9 § 29.45.110. Prior: Code 1881 § 3073; 1865 p 32 § 7; RRS § 5163.]

RCW 29.45.120 Compensation.

The fees of officers of election shall be as follows:

To the judges and clerks of an election not less than the minimum hourly wage per hour as provided under RCW 49.46.020 as now or hereafter amended, the exact amount to be fixed by the respective boards of county commissioners for each county. To inspectors, the rate paid to judges and clerks plus an additional two hours' compensation. The precinct election officer picking up the election supplies and returning the election returns to the county auditor shall be entitled to additional compensation, the exact amount to be determined by the respective boards of county commissioners for each county.

[1971 ex.s. c 124 § 2; 1965 c 9 § 29.45.120. Prior: 1961 c 43 § 1; 1951 c 67 § 1; 1945 c 186 § 1; 1919 c 163 § 13; 1895 c 20 § 1; Code 1881 § 3151; 1866 p 8 § 9; 1865 p 52 § 12; Rem. Supp. 1945 § 5166. See also 1907 c 209 § 15; RRS § 5192.]

Notes:

Severability--1971 ex.s. c 124: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 124 § 3.]

Chapter 29.48 RCW
POLLING PLACE REGULATIONS BEFORE POLLS OPEN

Sections

29.48.005 Polling place--May be located outside precinct.
29.48.007 Polling place--Use of county, municipality, or special district facilities.
29.48.010 Voting booths.
29.48.020 Time for arrival of officers.
29.48.030 Delivery of supplies.
29.48.035 Additional supplies for paper ballots.
29.48.045 Poll-site ballot counting devices.
29.48.070 Inspection of voting equipment.
29.48.080 Initialization of counting devices.
29.48.090 Duty to display flag.
29.48.100 Announcement opening the polls.

Notes:

Delivery of registration files: RCW 29.07.170.
Election laws provided to officers of election: RCW 29.04.060.
Forms available when polls open
statements that registered voter is deceased: RCW 29.10.090.
statements that voter has changed residence: RCW 29.10.130, 29.10.150, 29.10.170.
Poll books: RCW 29.04.100.
Precinct election officers, appointment of and oaths: Chapter 29.45 RCW.
Violations and penalties for actions taken before polls open: Chapter 29.85 RCW.

RCW 29.48.005 Polling place--May be located outside precinct.

Polling places for the various voting precincts may be located outside the boundaries of the respective precincts, when the officers conducting the primary or election shall deem it feasible: PROVIDED, That such polling places shall be located within a reasonable distance of their respective precincts. The purpose of this section is to furnish adequate voting facilities at readily accessible and identifiable locations and nothing herein shall be construed as affecting the number, method of selection or duties of precinct election officers.

[1965 c 9 § 29.48.005. Prior: 1951 c 123 § 1.]

RCW 29.48.007 Polling place--Use of county, municipality, or special district facilities.

The legislative authority of each county, municipality, and special district shall, at the request of the county auditor, make their facilities available for use as polling places for primaries, special elections, and state general elections held within that county. When, in the judgment of the county auditor, a facility of a county, municipality, or special district would provide a location for a polling place that would best satisfy the requirements of chapter 29.57 RCW, he or she shall notify the legislative authority of that county, municipality, or district of

the number of facilities needed for use as polling places. Payment for polling places and any other conditions or obligations regarding these polling places shall be provided for by contract between the county auditor and the county, municipality, or district.

[1985 c 205 § 14; 1965 c 9 § 29.48.007. Prior: 1955 c 201 § 1.]

Notes:

Effective dates--1985 c 205: See note following RCW 29.57.070.

RCW 29.48.010 Voting booths.

The county auditor shall provide in each polling place a sufficient number of voting booths or voting devices along with any supplies necessary to enable the voter to mark or register his or her choices on the ballot and within which the voters may cast their votes in secrecy.

[1999 c 158 § 4; 1994 c 57 § 51; 1990 c 59 § 35; 1965 c 9 § 29.48.010. Prior: 1907 c 130 § 2, part; 1889 p 408 § 21, part; RRS § 5278, part.]

Notes:

Severability--Effective date--1994 c 57: See notes following RCW 10.64.021.

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.48.020 Time for arrival of officers.

The precinct election officers for each precinct shall meet at the designated polling place at the time set by the county auditor.

[1977 ex.s. c 361 § 80; 1965 c 9 § 29.48.020. Prior: 1957 c 195 § 6; prior: 1913 c 58 § 12, part; RRS § 5312, part.]

Notes:

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

Clerks, hour to report: RCW 29.45.020.

RCW 29.48.030 Delivery of supplies.

No later than the day before a primary or election, the county auditor shall provide to the inspector or one of the judges of each precinct or to one of the inspectors of a polling place where more than one precinct will be voting, all of the ballots, precinct lists of registered voters, and other supplies necessary for conducting the election or primary.

[1990 c 59 § 36; 1977 ex.s. c 361 § 81; 1971 ex.s. c 202 § 40; 1965 c 9 § 29.48.030. Prior: (i) 1921 c 178 § 8; Code 1881 § 3078; 1865 p 34 § 3; RRS § 5322. (ii) 1919 c 163 § 20, part; 1895 c 156 § 9, part; 1889 p 411 § 28, part; RRS § 5293, part. (iii) 1907 c 209 § 20; RRS § 5196. (iv) 1913 c 138 § 29, part; RRS § 5425, part. (v) 1915 c 124 § 1; 1895 c 156 § 5; 1893 c 91 § 1; 1889 p 407 § 18; RRS § 5275. (vi) 1921 c 68 § 1, part; RRS § 5320, part. (vii) 1895 c 156 § 6, part; 1889 p 407 § 20; RRS § 5277, part. (viii) 1895 c 156 § 2, part; Code 1881 § 3074; 1865 p 32 § 8; RRS § 5164, part. (ix) 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part. (x) 1935 c 20 § 5, part; 1921 c 178 § 6, part; 1915 c 114 § 2, part; 1913 c 58 § 7, part; RRS § 5306, part. (xi) 1854 p 67 § 16; No RRS. (xii) 1854 p 67 § 17, part; No RRS. (xiii) 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part. (xiv) 1915 c 14 § 6, part; 1913 c 58 § 11, part; RRS § 5311, part. (xv) 1933 c 1 § 10, part; RRS § 5114-10, part. (xvi) Code 1881 §

3093, part; RRS § 5338, part. (xvii) 1903 c 85 § 1, part; RRS § 3339, part.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.48.035 Additional supplies for paper ballots.

In precincts where votes are cast on paper ballots, the following supplies, in addition to those specified in RCW 29.48.030 as now or hereafter amended, shall be provided:

(1) Two tally books in which the names of the candidates shall be listed in the order in which they appear on the sample ballots and in each case have the proper party designation at the head thereof;

(2) Two certificates or two sample ballots prepared as blanks, for recording of the unofficial results by the precinct election officers.

[1977 ex.s. c 361 § 82.]

Notes:

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.48.045 Poll-site ballot counting devices.

Whenever poll-site ballot counting devices are used, the devices may either be included with the supplies required in RCW 29.48.030 or they may be delivered to the polling place separately. All poll-site ballot counting devices must be sealed with a unique numbered seal at the time of final preparation and logic and accuracy testing. A log must be made of all seal numbers and device numbers used.

[1999 c 158 § 5.]

RCW 29.48.070 Inspection of voting equipment.

Before opening the polls for a precinct, the voting equipment shall be inspected to determine if it has been properly prepared for voting. If the voting equipment is capable of direct tabulation of each voter's choices, the precinct election officers shall verify that no votes have been registered for any issue or office to be voted on at that primary or election. Any ballot box shall be carefully examined by the judges of election to determine that it is empty. The ballot box shall then be sealed or locked. The ballot box shall not be opened before the certification of the primary or election except in the manner and for the purposes provided under this title.

[1990 c 59 § 37; 1965 c 9 § 29.48.070. Prior: 1854 p 67 § 17, part; No RRS.]

Notes:

Reviser's note: As part of the 1965 reenactment of Title 29 RCW, the phrase "except in the manner and for the purposes otherwise provided by law" was added to harmonize with other sections. See, for example, RCW 29.54.030 and 29.54.045.

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.48.080 Initialization of counting devices.

In precincts where poll-site ballot counting devices are used the election officers, before initializing the device for voting, shall proceed as follows:

(1) They shall see that the device is placed where it can be conveniently attended by the election officers and conveniently operated by the voters;

(2) They shall see whether the number or other designating mark on the device's seal agrees with the control number provided by the elections department. If they do not agree they shall at once notify the elections department and delay initializing the device. The polls may be opened pending reexamination of the device;

(3) If the numbers do agree, they shall proceed to initialize the device and see whether the public counter registers "000." If the counter is found to register a number other than "000," one of the judges shall at once set the counter at "000" and confirm that the ballot box is empty;

(4) Before processing any ballots through a poll-site ballot counting device a zero report must be produced. The inspector and at least one of the judges shall carefully verify that zero ballots have been run through the poll-site ballot counting device and that all vote totals for each office are zero. If the totals are not zero, the inspector shall either reset the device to zero or contact the elections department to reset the device and allow voting to continue using the auxiliary or emergency device.

[1999 c 158 § 6; 1965 c 9 § 29.48.080. Prior: 1957 c 195 § 7; prior: 1913 c 58 § 12, part; RRS § 5312, part.]

RCW 29.48.090 Duty to display flag.

At all primaries and elections the flag of the United States shall be conspicuously displayed in front of each polling place.

[1965 c 9 § 29.48.090. Prior: 1921 c 68 § 1, part; RRS § 5320, part.]

RCW 29.48.100 Announcement opening the polls.

The precinct election officers, immediately before they start to issue ballots or permit a voter to vote, shall announce at the place of voting that the polls for that precinct are open.

[1990 c 59 § 38; 1965 c 9 § 29.48.100. Prior: Code 1881 § 3077; 1865 p 34 § 2; RRS § 5321.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Opening and closing polls: RCW 29.13.080.

Chapter 29.51 RCW
POLLING PLACE REGULATIONS DURING VOTING HOURS

Sections

29.51.010 Interference with voter prohibited.

29.51.020 Acts prohibited in vicinity of polling place--Prohibited practices as to ballots--Penalty.
29.51.030 Electioneering by election officers forbidden--Penalty.
29.51.050 Issuing ballot to voter--Challenge.
29.51.060 Signature required to vote--Procedure if voter unable to sign name.
29.51.070 Record of participation.
29.51.100 Casting vote.
29.51.115 Incorrectly marked ballots--Poll-site ballot counting devices.
29.51.125 Determination of who has and who has not voted.
29.51.150 Voting devices--Periodic examination.
29.51.155 Failure of poll-site ballot counting device.
29.51.173 Effect of term limitations on write-in voting.
29.51.175 Votes by stickers, printed labels, rejected.
29.51.180 Taking papers into voting booth.
29.51.185 Double voting prohibited.
29.51.190 Official ballots--Vote only once--Incorrectly marked ballots.
29.51.200 Handicapped voters.
29.51.215 Handicapped voters--Penalty.
29.51.221 Refusing to leave voting booth--Penalty.
29.51.230 Unlawful acts by voters--Penalty.
29.51.240 Polls open continuously--Announcement of closing.
29.51.250 Voters in polling place at closing time.

NOTES:
Candidate giving or purchasing liquor during voting hours prohibited: RCW 66.44.265.
Employer's duty to provide time to vote: RCW 49.28.120.
Polling place regulations during voting hours and after closing: Chapter 29.54 RCW.
Subversive activities, disqualification from voting or holding office: RCW 9.81.040.
Violations and penalties for acts committed during voting hours: Chapter 29.85 RCW.
Voting systems, use of during voting hours: Chapter 29.33 RCW.

RCW 29.51.010 Interference with voter prohibited.

No person may interfere with a voter in any way within the polling place. This does not prevent the voter from receiving assistance in preparing his or her ballot as provided in RCW 29.51.200.

[1990 c 59 § 39; 1965 c 9 § 29.51.010. Prior: 1907 c 130 § 2, part; 1889 p 408 § 21, part; RRS § 5278, part.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.51.020 Acts prohibited in vicinity of polling place--Prohibited practices as to ballots--Penalty.

(1) On the day of any primary or general or special election, no person may, within a polling place, or in any public area within three hundred feet of any entrance to such polling place:

(a) Suggest or persuade or attempt to suggest or persuade any voter to vote for or against any candidate or ballot measure;

(b) Circulate cards or handbills of any kind;

(c) Solicit signatures to any kind of petition; or

(d) Engage in any practice which interferes with the freedom of voters to exercise their franchise or disrupts the administration of the polling place.

(2) No person may obstruct the doors or entries to a building in which a polling place is located or prevent free access to and from any polling place. Any sheriff, deputy sheriff, or municipal law enforcement officer shall prevent such obstruction, and may arrest any person creating such obstruction.

(3) No person may:

(a) Except as provided in RCW 29.54.037, remove any ballot from the polling place before the closing of the polls; or

(b) Solicit any voter to show his or her ballot.

(4) No person other than an inspector or judge of election may receive from any voter a voted ballot or deliver a blank ballot to such elector.

(5) Any violation of this section is a gross misdemeanor, punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021, and the person convicted may be ordered to pay the costs of prosecution.

[1991 c 81 § 20; 1990 c 59 § 75; 1984 c 35 § 1; 1983 1st ex.s. c 33 § 1; 1965 c 9 § 29.51.020. Prior: (i) 1947 c 35 § 1, part; 1889 p 412 § 33, part; Rem. Supp. 1947 § 5298, part. (ii) 1895 c 156 § 7, part; 1889 p 409 § 22, part; Code 1881 § 3079, part; 1865 p 34 § 4, part; RRS § 5279, part.]

Notes:

Effective date--1991 c 81: See note following RCW 29.85.010.

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.51.030 Electioneering by election officers forbidden--Penalty.

Any election officer who does any electioneering on primary or election day, shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding one hundred dollars and pay the costs of prosecution.

[1965 c 9 § 29.51.030. Prior: 1947 c 35 § 1, part; 1889 p 412 § 33, part; Rem. Supp. 1947 § 5298, part.]

RCW 29.51.050 Issuing ballot to voter--Challenge.

A voter desiring to vote shall give his or her name to the precinct election officer who has the precinct list of registered voters. This officer shall announce the name to the precinct election officer who has the copy of the poll book for that precinct. If the right of this voter to participate in the primary or election is not challenged, the voter shall be issued a ballot or permitted to enter a voting booth or to operate a voting device. The number of the ballot or the voter shall be recorded by the precinct election officers. If the right of the voter to participate is challenged, RCW 29.10.125 and 29.10.127 apply to that voter.

[1990 c 59 § 40; 1965 c 9 § 29.51.050. Prior: (i) 1895 c 156 § 7, part; 1889 p 409 § 22, part; Code 1881 § 3079, part; 1865 p 34 § 4, part; RRS § 5279, part. (ii) 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.51.060 Signature required to vote--Procedure if voter unable to sign name.

If any person appears to vote at any primary or election as a registered voter in the jurisdiction where the primary or election is being held, the precinct election officers shall require the voter to sign his or her name and current address subject to penalties of perjury in one of the precinct lists of registered voters. If the person registered using a mark or can no longer sign his or her name, the election officers shall require the person offering to vote to be identified by another registered voter.

As soon as it is determined that the person is qualified to vote, one of the precinct election officers shall enter the voter's name in a second poll book.

[1990 c 59 § 41; 1971 ex.s. c 202 § 41; 1967 ex.s. c 109 § 9; 1965 ex.s. c 156 § 5; 1965 c 9 § 29.51.060. Prior: 1933 c 1 § 24; RRS § 5114-24.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Forms, secretary of state to design--Availability to public: RCW 29.10.150.

Poll books--As public records--Copies furnished, uses restricted: RCW 29.04.100.

RCW 29.51.070 Record of participation.

As each voter casts his or her vote, the precinct election officers shall insert in the poll books or precinct list of registered voters opposite that voter's name, a notation to credit the voter with having participated in that primary or election.

[1990 c 59 § 42; 1971 ex.s. c 202 § 42; 1965 c 9 § 29.51.070. Prior: (i) 1895 c 156 § 7, part; 1889 p 409 § 22, part; Code 1881 § 3079, part; 1865 p 34 § 4, part; RRS § 5279, part. (ii) 1933 c 1 § 25; RRS § 5114-25. (iii) 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.51.100 Casting vote.

On signing the precinct list of registered voters or being issued a ballot, the voter shall, without leaving the polling place, proceed to one of the voting booths or voting devices to cast his or her vote. If the voter was issued a ballot, he or she shall remove the number from the ballot, place the ballot in the ballot box, and return the number to the precinct election officers or shall deliver it to the precinct election officers who shall remove the number from the ballot and place the ballot in the ballot box.

[1990 c 59 § 43; 1988 c 181 § 4; 1965 ex.s. c 101 § 15; 1965 c 9 § 29.51.100. Prior: (i) 1947 c 77 § 2, part; 1895 c 156 § 8, part; 1889 p 409 § 23, part; Rem. Supp. 1947 § 5288, part. (ii) 1889 p 410 § 24, part; RRS § 5289, part.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.51.115 Incorrectly marked ballots--Poll-site ballot counting devices.

Each poll-site ballot counting device must be programmed to return all blank ballots and overvoted ballots to the voter for private reexamination. The election officer shall take whatever steps are necessary to ensure that the secrecy of the ballot is maintained. The precinct election officer shall provide information and instruction on how to properly mark the ballot. The voter may remark the original ballot, may request a new ballot under RCW 29.51.190, or may choose to complete a special ballot envelope and return the ballot as a special ballot.

[1999 c 158 § 7.]

RCW 29.51.125 Determination of who has and who has not voted.

At any election, general or special, or at any primary, any political party or committee may designate a person other than a precinct election officer, for each polling place to check a list of registered voters of the precinct to determine who has and who has not voted: PROVIDED, That such lists shall be furnished by the party or committee concerned.

[1977 ex.s. c 361 § 83; 1965 c 9 § 29.51.125. Prior: 1963 ex.s. c 24 § 1.]

Notes:

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

"Major political party" defined: RCW 29.01.090.

Poll books--As public records--Copies to representatives of major political parties: RCW 29.04.100.

RCW 29.51.150 Voting devices--Periodic examination.

The precinct election officers shall periodically examine the voting devices to determine if they have been tampered with.

[1990 c 59 § 45; 1965 c 9 § 29.51.150. Prior: 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.51.155 Failure of poll-site ballot counting device.

If a poll-site ballot counting device fails to operate at any time during polling hours, voting must continue, and the ballots must be deposited for later tabulation in a secure ballot compartment separate from the tabulated ballots.

[1999 c 158 § 8.]

RCW 29.51.173 Effect of term limitations on write-in voting.

Nothing in RCW 43.01.015, 44.04.015, 29.68.015, or 29.68.016 prohibits a qualified voter of this state from casting a ballot for any person by writing the name of that person on the ballot in accordance with *RCW 29.51.170 or from having such a ballot counted or tabulated, nor does anything in RCW 43.01.015, 44.04.015, 29.68.015, or 29.68.016 prohibit a person from standing or campaigning for an elective office by means of a write-in campaign.

[1993 c 1 § 6 (Initiative Measure No. 573, approved November 3, 1992).]

Notes:

***Reviser's note:** RCW 29.51.170 was recodified as RCW 29.62.180 pursuant to 1995 c 158 § 3.

Preamble--Severability--1993 c 1 (Initiative Measure No. 573): See notes following RCW 43.01.015.

RCW 29.51.175 Votes by stickers, printed labels, rejected.

Votes cast by stickers or printed labels are not valid for any purpose and shall be rejected. Votes cast by sticker or label shall not affect the validity of other offices or issues on the voter's ballot.

[1990 c 59 § 46; 1965 ex.s. c 101 § 16.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.51.180 Taking papers into voting booth.

Any voter may take into the voting booth or voting device any printed or written material to assist in casting his or her vote. The voter shall not use this material to electioneer and shall remove the material when he or she leaves the polls.

[1990 c 59 § 47; 1965 c 9 § 29.51.180. Prior: 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.51.185 Double voting prohibited.

A registered voter shall not be allowed to vote in the precinct in which he or she is registered at any election or primary for which that voter has cast an absentee ballot. A registered voter who has requested an absentee ballot for a primary or special or general election but chooses to vote at the voter's precinct polling place in that primary or election shall cast a ballot in the manner prescribed by RCW 29.10.127 for challenged ballots. The canvassing board shall not count the ballot if it finds that the voter has also voted by absentee ballot in that primary or election.

[1987 c 346 § 13; 1965 c 9 § 29.36.050. Prior: 1955 c 167 § 6; prior: 1933 ex.s. c 41 § 4; 1921 c 143 § 5; RRS § 5284. Formerly RCW 29.36.050.]

NOTES:

Legislative intent--Effective date--1987 c 346: See notes following RCW 29.36.210.

RCW 29.51.190 Official ballots--Vote only once--Incorrectly marked ballots.

No ballots may be used in any polling place other than those prepared by the county auditor. No voter is entitled to vote more than once at a primary or a general or special election, except that if a voter incorrectly marks a ballot, he or she may return it and be issued a new ballot. The precinct election officers shall void the incorrectly marked ballot and return it to the county auditor.

[1990 c 59 § 48; 1965 c 9 § 29.51.190. Prior: (i) 1889 p 410 § 25; RRS § 5290. (ii) 1935 c 26 § 3, part; 1921 c 177 § 1, part; 1919 c 163 § 15, part; 1917 c 71 § 2, part; 1909 c 82 § 4, part; 1907 c 209 § 12, part; RRS § 5189, part. (iii) 1895 c 156 § 7, part; 1889 p 409 § 22, part; Code 1881 § 3079, part; 1865 p 34 § 4, part; RRS § 5279, part. (iv) 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part. (v) 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.51.200 Handicapped voters.

Voting shall be secret except to the extent necessary to assist sensory or physically handicapped voters.

If any voter declares in the presence of the election officers that because of sensory or physical handicap he is unable to register or record his vote, he may designate a person of his choice or two election officers from opposite political parties to enter the voting machine booth with him and record his vote as he directs.

[1981 c 34 § 1; 1965 ex.s. c 101 § 17; 1965 c 9 § 29.51.200. Prior: (i) 1915 c 114 § 7, part; 1913 c 58 § 13, part; RRS § 5313, part. (ii) 1947 c 35 § 1, part; 1889 p 412 § 33, part; Rem. Supp. 1947 § 5298, part. Former law: 1901 c 135 § 6; 1889 p 410 § 26.]

Notes:

Handicapped persons, accessibility of polling places: Chapter 29.57 RCW.

RCW 29.51.215 Handicapped voters--Penalty.

Any person violating any provision of RCW 29.51.200, as now or hereafter amended, shall be punished as for a misdemeanor.

[1981 c 34 § 2; 1965 c 9 § 29.51.215. Prior: 1935 c 100 § 2; RRS § 5291-2. Formerly RCW 29.85.250.]

RCW 29.51.221 Refusing to leave voting booth--Penalty.

Deliberately impeding other voters from casting their votes by refusing to leave a voting booth or voting device is a misdemeanor and is subject to the penalties provided in chapter 9A.20 RCW. The precinct election officers may provide assistance in the manner provided by

RCW 29.51.200 to any voter who requests it.

[1990 c 59 § 49.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.51.230 Unlawful acts by voters--Penalty.

It shall be unlawful for a voter to:

(1) Show his ballot after it is marked to any person in such a way as to reveal the contents thereof or the name of any candidate for whom he has marked his vote;

(2) Receive a ballot from any person other than the election officer having charge of the ballots;

(3) Vote or offer to vote any ballot except one that he has received from the election officer having charge of the ballots;

(4) Place any mark upon his ballot by which it may afterward be identified as the one voted by him;

(5) Fail to return to the election officers any ballot he received from an election officer.

A violation of any provision of this section shall be a misdemeanor, punishable by a fine not exceeding one hundred dollars, plus costs of prosecution.

[1965 c 9 § 29.51.230. Prior: 1947 c 35 § 1, part; 1889 p 412 § 33, part; Rem. Supp. 1947 § 5298, part.]

RCW 29.51.240 Polls open continuously--Announcement of closing.

The polls for a precinct shall remain open continuously until the time specified under RCW 29.13.080. At that time, the precinct election officers shall announce that the polls for that precinct are closed.

[1990 c 59 § 50; 1965 c 9 § 29.51.240. Prior: 1919 c 163 § 16, part; 1907 c 209 § 17, part; RRS § 5194, part.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Opening and closing polls: RCW 29.13.080.

RCW 29.51.250 Voters in polling place at closing time.

If at the time of closing the polls, there are any voters in the polling place who have not voted, they shall be allowed to vote after the polls have been closed.

[1990 c 59 § 51; 1965 c 9 § 29.51.250. Prior: 1919 c 163 § 16, part; 1907 c 209 § 17, part; RRS § 5194, part.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Opening and closing polls: RCW 29.13.080.

Chapter 29.54 RCW
POLLING PLACE REGULATIONS DURING VOTING HOURS AND AFTER CLOSING

Sections

29.54.010	Unused ballots.
29.54.015	Duties of election officers immediately upon closing.
29.54.018	Tabulation of paper ballots before close of polls.
29.54.025	Counting center, direction and observation of proceedings--Manual count of certain precincts.
29.54.037	Ballot pick up, delivery, and transportation.
29.54.042	Tabulation continuous.
29.54.050	Rejection of ballots or parts--Write-in votes.
29.54.060	Questions on legality of ballot--Preservation and return.
29.54.075	Ballot containers, sealing, opening.
29.54.085	Counting ballots--Official returns.
29.54.093	Poll-site ballot counting devices--Memory packs.
29.54.097	Poll-site ballot counting devices--Results.
29.54.105	Returns, precinct and cumulative--Delivery to canvassing board.
29.54.121	Sealing of voting devices--Exceptions.
29.54.170	Voting systems--Maintenance of documents.

Notes:
Polling place regulations during voting hours: Chapter 29.51 RCW.
Return of registration files after election: RCW 29.07.180.
Violations and penalties for acts during voting hours and after closing: Chapter 29.85 RCW.

RCW 29.54.010 Unused ballots.

At each precinct immediately after the last qualified voter has cast his or her vote, the precinct election officers shall identify and seal all unused ballots for that precinct and seal them in a container to be returned to the county auditor.

[1990 c 59 § 52; 1977 ex.s. c 361 § 84; 1965 ex.s. c 101 § 6; 1965 c 9 § 29.54.010. Prior: 1893 c 91 § 2; RRS § 5332.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.54.015 Duties of election officers immediately upon closing.

Immediately after the close of the polls and the completion of voting, the precinct election officers shall count the number of voted ballots and make a record of any discrepancy between this number and the number of voters who signed the poll book for that precinct or polling place, complete the certifications in the poll book, prepare the ballots for transfer to the counting center if necessary, and seal the voting devices.

[1990 c 59 § 53.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.54.018 Tabulation of paper ballots before close of polls.

(1) Paper ballots may be tabulated at the precinct polling place before the closing of the polls under rules adopted by the secretary of state. The tabulation of ballots, paper or otherwise, shall be open to the public, but no persons except those employed and authorized by the county auditor may touch a ballot card or ballot container or operate vote tallying equipment.

(2) The results of the tabulation of paper ballots at the polls shall be delivered to the county auditor as soon as the tabulation is complete.

[1990 c 59 § 54.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Divulging ballot count: RCW 29.85.225.

RCW 29.54.025 Counting center, direction and observation of proceedings--Manual count of certain precincts.

(1) The counting center in a county using voting systems shall be under the direction of the county auditor and shall be observed by one representative from each major political party, if representatives have been appointed by the respective major political parties and these representatives are present while the counting center is operating. The proceedings shall be open to the public, but no persons except those employed and authorized by the county auditor may touch any ballot or ballot container or operate a vote tallying system.

(2) In counties in which ballots are not counted at the polling place, the political party observers, upon mutual agreement, may request that a precinct be selected at random on receipt of the ballots from the polling place and that a manual count be made of the number of ballots and of the votes cast on any office or issue. The ballots for that precinct shall then be counted by the vote tallying system, and this result shall be compared to the results of the manual count. This may be done as many as three times during the tabulation of ballots on the day of the primary or election.

(3) In counties using poll-site ballot counting devices, the political party observers, upon mutual agreement, may choose as many as three precincts and request that a manual count be made of the number of ballots and the votes cast on any office or issue. The results of this count will be compared to the count of the precinct made by the poll-site ballot counting device. These selections must be made no later than thirty minutes after the close of the polls. The manual count must be completed within forty-eight hours after the close of the polls. The process must take place at a location designated by the county auditor for that purpose. The political party observers must receive timely notice of the time and location, and have the right to be present.

However, the process must proceed as scheduled if the observers are unable to attend.

[1999 c 158 § 9; 1990 c 59 § 30; 1977 ex.s. c 361 § 71. Formerly RCW 29.34.153.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.
Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.54.037 Ballot pick up, delivery, and transportation.

(1) At the direction of the county auditor, a team or teams composed of a representative of at least two major political parties shall stop at designated polling places and pick up the sealed containers of voted, untallied ballots for delivery to the counting center. There may be more than one delivery from each polling place. Two precinct election officials, representing two major political parties, shall seal the voted ballots in containers furnished by the county auditor and properly identified with his or her address with uniquely prenumbered seals.

(2) At the counting center or the collection stations where the sealed ballot containers are delivered by the designated representatives of the major political parties, the county auditor or a designated representative of the county auditor shall receive the sealed ballot containers, record the time, date, precinct name or number, and seal number of each ballot container.

[1999 c 158 § 10; 1990 c 59 § 31; 1977 ex.s. c 361 § 72. Formerly RCW 29.34.157.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.
Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.54.042 Tabulation continuous.

Except as provided by rule under RCW 29.04.210, on the day of the primary or election, the tabulation of ballots at the polling place or at the counting center shall proceed without interruption or adjournment until all of the ballots cast at the polls at that primary or election have been tabulated.

[1990 c 59 § 58.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.54.050 Rejection of ballots or parts--Write-in votes.

A ballot is invalid and no votes on that ballot may be counted if it is found folded together with another ballot or it is marked so as to identify the voter.

Those parts of a ballot are invalid and no votes may be counted for those issues or offices where more votes are cast for the office or issue than are permitted by law; write-in votes do not contain all of the information required under RCW 29.62.180; or that issue or office is not marked with sufficient definiteness to determine the voter's choice or intention. No write-in vote may be rejected due to a variation in the form of the name if the election board or the canvassing board can determine the issue for or against which or the person and the office for which the

voter intended to vote.

[1999 c 158 § 13; 1999 c 157 § 4; 1990 c 59 § 56; 1977 ex.s. c 361 § 88; 1973 1st ex.s. c 121 § 2; 1965 ex.s. c 101 § 11; 1965 c 9 § 29.54.050. Prior: (i) Code 1881 § 3091; 1865 p 38 § 2; RRS § 5336. (ii) 1895 c 156 § 10; 1889 p 411 § 29; RRS § 5294. (iii) 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part. (iv) 1895 c 156 § 11, part; 1886 p 128 § 1, part; Code 1881 § 3079, part; 1865 p 34 § 4, part; RRS § 5323, part.]

Notes:

Reviser's note: This section was amended by 1999 c 157 § 4 and by 1999 c 158 § 13, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.54.060 Questions on legality of ballot--Preservation and return.

Whenever the precinct election officers or the counting center personnel have a question about the validity of a ballot or the votes for an office or issue that they are unable to resolve, they shall prepare and sign a concise record of the facts in question or dispute. These ballots shall be delivered to the canvassing board for processing. All ballots shall be preserved in the same manner as valid ballots for that primary or election.

[1990 c 59 § 57; 1977 ex.s. c 361 § 89; 1965 c 9 § 29.54.060. Prior: Code 1881 § 3080, part; 1865 p 34 § 5, part; RRS § 5324, part.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.54.075 Ballot containers, sealing, opening.

Immediately after their tabulation, all ballots counted at a ballot counting center must be sealed in containers that identify the primary or election and be retained for at least sixty days. All ballots tallied by poll-site ballot counting devices must be returned to the elections department in sealed ballot containers on election day. Counties composed entirely of islands or portions of counties composed of islands shall collect the ballots within twenty-four hours of the close of the polls.

Ballots tabulated in poll-site ballot counting devices must be sealed by two of the election precinct officers at the polling place, and a log of the seal and the names of the people sealing the container must be completed. One copy of this log must be retained by the inspector, one copy must be placed in the ballot transfer case, and one copy must be transported with the ballots to the elections department, where the seal number must be verified by the county auditor or a designated representative. Ballots may be transported by one election employee if the container is sealed at the poll and then verified when returned to the elections department. Auditors using poll-site ballot counting devices may conduct early pickup of counted ballots on election day.

In the presence of major party observers who are available, ballots may be removed from the sealed containers at the elections department and consolidated into one sealed container for storage purposes. The containers may only be opened by the canvassing board as part of the

canvass, or to conduct recounts, or under RCW 29.54.025(3), or by order of the superior court in a contest or election dispute. If the canvassing board opens a ballot container, it shall make a full record of the additional tabulation or examination made of the ballots. This record shall be added to any other record of the canvassing process in that county.

[1999 c 158 § 14; 1990 c 59 § 59.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.54.085 Counting ballots--Official returns.

(1) The ballots picked up from the precincts during the polling hours may be counted only at the counting center before the polls have closed. Election returns from the count of these ballots must be held in secrecy until the polls have been closed as provided by RCW 29.54.018.

(2) Upon breaking the seals and opening the ballot containers from the precincts, all voted ballots shall be manually inspected for damage, write-in votes, and incorrect or incomplete marks. If it is found that any ballot is damaged so that it cannot properly be counted by the vote tallying system, a true duplicate copy shall be made of the damaged ballot in the presence of witnesses and substituted for the damaged ballot. All damaged ballots shall be kept by the county auditor until sixty days after the primary or election.

(3) The returns produced by the vote tallying system, to which have been added the counts of questioned ballots, write-in votes, and absentee votes, constitute the official returns of the primary or election in that county.

[1999 c 158 § 15; 1990 c 59 § 33; 1977 ex.s. c 361 § 74. Formerly RCW 29.34.167.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.54.093 Poll-site ballot counting devices--Memory packs.

The programmed memory pack for each poll-site ballot counting device must be sealed into the device during final preparation and logic and accuracy testing. Except in the case of a device breakdown, the memory pack must remain sealed in the device until after the polls have closed and all reports and telephonic or electronic transfer of results are completed. After all reporting is complete the precinct election officers responsible for transferring the sealed voted ballots under RCW 29.54.075 shall ensure that the memory pack is returned to the elections department. If the entire poll-site ballot counting device is returned, the memory pack must remain sealed in the device. If the poll-site ballot counting device is to remain at the polling place, the precinct election officer shall break the seal on the device and remove the memory pack and seal and return it along with the irregularly voted ballots and special ballots to the elections department on election day.

[1999 c 158 § 11.]

RCW 29.54.097 Poll-site ballot counting devices--Results.

After the close of the polls, counties employing poll-site ballot counting devices may telephonically or electronically transmit the accumulated tally for each device to a central reporting location. Before making a telephonic or electronic transmission the precinct election officer must create a printed record of the results of the election for that poll site. During the canvassing period the results transmitted telephonically or electronically must be considered unofficial until a complete reconciliation of the results has been performed. This reconciliation may be accomplished by a direct loading of the results from the memory pack into the central accumulator, or a comparison of the report produced at the poll site on election night with the results received by the central accumulating device.

[1999 c 158 § 12.]

RCW 29.54.105 Returns, precinct and cumulative--Delivery to canvassing board.

The county auditor shall produce cumulative and precinct returns for each primary and election and deliver them to the canvassing board for verification and certification. The precinct and cumulative returns of any primary or election are public records under chapter 42.17 RCW.

[1990 c 59 § 60.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.54.121 Sealing of voting devices--Exceptions.

Except for reopening to make a recanvass, the registering mechanism of each mechanical voting device used in any primary or election shall remain sealed until ten days after the completion of the canvass of that primary or election in that county. Except where provided by a rule adopted under RCW 29.04.210, voting devices used in a primary or election shall remain sealed until ten days after the completion of the canvass of that primary or election in that county.

[1990 c 59 § 24; 1965 c 9 § 29.33.230. Prior: 1917 c 7 § 1, part; 1913 c 58 § 15, part; RRS § 5315, part. Formerly RCW 29.33.230.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.54.170 Voting systems--Maintenance of documents.

In counties using voting systems, the county auditor shall maintain the following documents for at least sixty days after the primary or election:

(1) Sample ballot formats together with a record of the format or formats assigned to each precinct;

(2) All programming material related to the control of the vote tallying system for that primary or election; and

(3) All test materials used to verify the accuracy of the tabulating equipment as required by RCW 29.33.350.

[1990 c 59 § 61; 1977 ex.s. c 361 § 94.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

Chapter 29.57 RCW
ACCESSIBILITY OF POLLING PLACES AND REGISTRATION FACILITIES

(Formerly: Polling places--Accessibility for handicapped persons)

Sections

29.57.010 Intent--Duties of county auditors.
29.57.040 Public buildings used as polling places--Conditions.
29.57.050 Review by and recommendations of disabled voters.
29.57.070 Inaccessible polling places--Auditors' list.
29.57.090 Alternative polling places or procedures.
29.57.100 Polling places--Accessibility required, exceptions.
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29.57.160 Costs for modifications--Alternatives--Election costs.
29.57.170 Implementing rules.

Notes:

Handicapped voters: RCW 29.51.200, 29.51.215.

RCW 29.57.010 Intent--Duties of county auditors.

The intent of this chapter is to require state and local election officials to designate and use polling places in all elections and permanent registration locations which are accessible to elderly and handicapped persons. County auditors shall:

(1) Make modifications such as installation of temporary ramps or relocation of polling places within buildings, where appropriate;

(2) Designate new, accessible polling places to replace those that are inaccessible; and

(3) Continue to use polling places and voter registration locations which are accessible to elderly and handicapped persons.

[1999 c 298 § 13; 1985 c 205 § 1; 1979 ex.s. c 64 § 1.]

RCW 29.57.040 Public buildings used as polling places--Conditions.

Each state agency and entity of local government shall permit the use of any of its buildings and the most suitable locations therein as polling places when required by a county auditor to provide accessible places in each precinct.

[1979 ex.s. c 64 § 4.]

RCW 29.57.050 Review by and recommendations of disabled voters.

County auditors shall, as feasible, solicit and use the assistance of disabled voters in reviewing sites and recommending inexpensive remedies to improve accessibility.

[1979 ex.s. c 64 § 5.]

RCW 29.57.070 Inaccessible polling places--Auditors' list.

No later than April 1st of each even-numbered year, each county auditor shall submit to the secretary of state a list showing the number of polling places in the county and specifying any that have been found inaccessible. The auditor shall indicate the reasons for inaccessibility, and what efforts have been made pursuant to this chapter to locate alternative polling places or to make the existing facilities temporarily accessible.

If a county auditor's list shows, for two consecutive reporting periods, that no polling places have been found inaccessible, the auditor need not submit further reports unless the secretary of state specifically reinstates the requirement for that county. Notice of reinstatement must be in writing and delivered at least sixty days before the reporting date.

[1999 c 298 § 14; 1985 c 205 § 3.]

Notes:

Effective dates--1985 c 205: "(1) Sections 1, 2, and 13 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

(2) Sections 15 and 16 of this act shall take effect as provided by Article II, section 1(c) of the state Constitution.

(3) Sections 3 through 12 and 14 of this act shall take effect on January 1, 1986." [1985 c 205 § 18.]

RCW 29.57.090 Alternative polling places or procedures.

The secretary of state shall establish procedures to assure that, in any primary or election, any handicapped or elderly voter assigned to an inaccessible polling place will, upon advance request of that voter, either be permitted to vote at an alternative accessible polling place not overly inconvenient to that voter or be provided with an alternative means of casting a ballot on the day of the primary or election. The county auditor shall make any accommodations in voting procedures necessary to allow the use of alternative polling places by elderly or handicapped voters under this section.

[1999 c 298 § 15; 1985 c 205 § 5.]

Notes:

Effective dates--1985 c 205: See note following RCW 29.57.070.

RCW 29.57.100 Polling places--Accessibility required, exceptions.

Each polling place must be accessible unless:

(1) The county auditor has determined that it is inaccessible, that no alternative accessible polling place is available, that no temporary modification of that polling place or any alternative polling place is possible, and that the county auditor has complied with the procedures established under RCW 29.57.090; or

(2) The secretary of state determines that a state of emergency exists that would otherwise interfere with the efficient administration of the primary or election.

[1999 c 298 § 16; 1985 c 205 § 6.]

Notes:

Effective dates--1985 c 205: See note following RCW 29.57.070.

RCW 29.57.130 Voting and registration instructions and information.

(1) Each county auditor shall provide voting and registration instructions, printed in large type, to be conspicuously displayed at each polling place and permanent registration facility.

(2) The county auditor shall make information available for deaf persons throughout the state by telecommunications.

[1999 c 298 § 17; 1985 c 205 § 9.]

Notes:

Effective dates--1985 c 205: See note following RCW 29.57.070.

RCW 29.57.140 County auditor--Public notice of availability of services.

The county auditor shall provide public notice of the availability of registration and voting aids, assistance to elderly and handicapped persons, and procedures for voting by absentee ballot calculated to reach elderly and handicapped persons not later than public notice of the closing of registration for a primary or election.

[1999 c 298 § 18; 1985 c 205 § 10.]

Notes:

Effective dates--1985 c 205: See note following RCW 29.57.070.

RCW 29.57.150 County auditors--Notice of accessibility.

Each county auditor shall include a notice of the accessibility of polling places in the notice of election published under RCW 29.27.030 and 29.27.080.

[1999 c 298 § 19; 1985 c 205 § 11.]

Notes:

Effective dates--1985 c 205: See note following RCW 29.57.070.

RCW 29.57.160 Costs for modifications--Alternatives--Election costs.

(1) County auditors shall seek alternative polling places or other low-cost alternatives including, but not limited to, procedural changes and assistance from local disabled groups, service organizations, and other private sources before incurring costs for modifications under this chapter.

(2) The cost of those modifications to buildings or other facilities, including signs designating handicapped accessible parking and entrances, that are necessary to permit the use of those facilities for polling places under this chapter or any procedures established under RCW 29.57.090 shall be treated as election costs and prorated under RCW 29.13.045.

[1999 c 298 § 20; 1985 c 205 § 12.]

Notes:

Effective dates--1985 c 205: See note following RCW 29.57.070.

RCW 29.57.170 Implementing rules.

The secretary of state shall adopt rules to facilitate the implementation of this chapter.

[1985 c 205 § 13.]

Chapter 29.60 RCW
ADMINISTRATION OF ELECTIONS

Sections

29.60.010 Election administration and certification board--Generally.
29.60.020 Powers and duties of board.
29.60.030 Duties of secretary of state.
29.60.040 Training of election administrators.
29.60.050 Denial of certification--Review and appeal.
29.60.060 Election review section.
29.60.070 Review of county election procedures.
29.60.080 Powers and duties of county auditor and review staff.
29.60.090 Election assistance and clearinghouse program.

RCW 29.60.010 Election administration and certification board--Generally.

(1) The Washington state election administration and certification board is established and has the responsibilities and authorities prescribed by this chapter. The board is composed of the following members:

(a) The secretary of state or the secretary's designee;

(b) The state director of elections or the director's designee;

(c) Four county auditors appointed by the Washington state association of county auditors or their alternates who are county auditors designated by the association to serve as such

alternates, each appointee and alternate to serve at the pleasure of the association;

(d) One member from each of the two largest political party caucuses of the house of representatives designated by and serving at the pleasure of the legislative leader of the respective caucus;

(e) One member from each of the two largest political party caucuses of the senate designated by and serving at the pleasure of the legislative leader of the respective caucus; and

(f) One representative from each major political party, as defined by RCW 29.01.090, designated by and serving at the pleasure of the chair of the party's state central committee.

(2) The board shall elect a chair from among its number; however, neither the secretary of state nor the state director of elections nor their designees may serve as the chair of the board. A majority of the members appointed to the board constitutes a quorum for conducting the business of the board. Chapter 42.30 RCW, the open public meetings act, and RCW 42.32.030 regarding minutes of meetings, apply to the meetings of the board.

(3) Members of the board shall serve without compensation. The secretary of state shall reimburse members of the board, other than those who are members of the legislature, for travel expenses in accordance with RCW 43.03.050 and 43.03.060. Members of the board who are members of the legislature shall be reimbursed as provided in chapter 44.04 RCW.

[1992 c 163 § 3.]

RCW 29.60.020 Powers and duties of board.

(1) The secretary of state and the board created in RCW 29.60.010 shall jointly adopt rules, in the manner specified for the adoption of rules under the administrative procedure act, chapter 34.05 RCW, governing:

(a) The training of persons officially designated by major political parties as elections observers under this title, and the training and certification of election administration officials and personnel;

(b) The policies and procedures for conducting election reviews under RCW 29.60.070; and

(c) The policies and standards to be used by the board in reviewing and rendering decisions regarding appeals filed under RCW 29.60.070.

The initial policies and standards adopted under (c) of this subsection shall be adopted concurrently with adoption of the initial policies and procedures adopted under (b) of this subsection.

(2) The board created in RCW 29.60.010 shall review appeals filed under RCW 29.60.050 or 29.60.070. A decision of the board regarding such an appeal shall be supported by not less than a majority of the members appointed to the board. A decision of the board regarding an appeal filed under RCW 29.60.070 concerning an election review conducted under that section is final. If a decision of the board regarding an appeal filed under RCW 29.60.050 includes a recommendation that a certificate be issued, the certificate shall be issued by the secretary of state as recommended by the board.

(3) The board created in RCW 29.60.010 may adopt rules governing its procedures.

[1992 c 163 § 4.]

RCW 29.60.030 Duties of secretary of state.

The secretary of state shall:

(1) Establish and operate, or provide by contract, training and certification programs for state and county elections administration officials and personnel, including training on the various types of election law violations and discrimination, and training programs for political party observers which conform to the rules for such programs established under RCW 29.60.020;

(2) Administer tests for state and county officials and personnel who have received such training and issue certificates to those who have successfully completed the training and passed such tests;

(3) Maintain a record of those individuals who have received such training and certificates; and

(4) Provide the staffing and support services required by the board created under RCW 29.60.010.

[2001 c 41 § 11; 1992 c 163 § 5.]

NOTES:

Effective date--1992 c 163 §§ 5-13: "Sections 5 through 13 of this act shall take effect July 1, 1993." [1992 c 163 § 15.]

RCW 29.60.040 Training of election administrators.

A person having responsibility for the administration or conduct of elections, other than precinct election officers, shall, within eighteen months of undertaking those responsibilities or within eighteen months of July 1, 1993, whichever is later, receive general training regarding the conduct of elections and specific training regarding their responsibilities and duties as prescribed by this title or by rules adopted by the secretary of state under this title. Included among those persons for whom such training is mandatory are the following:

(1) Secretary of state elections division personnel;

(2) County elections administrators under RCW 36.22.220;

(3) County canvassing board members;

(4) Persons officially designated by each major political party as elections observers; and

(5) Any other person or group charged with election administration responsibilities if the person or group is designated by rule adopted by the secretary of state as requiring the training.

The secretary of state shall reimburse election observers in accordance with RCW 43.03.050 and 43.03.060 for travel expenses incurred to receive training required under subsection (4) of this section.

Neither this section nor RCW 29.60.030 may be construed as requiring an elected official to receive training or a certificate of training as a condition for seeking or holding elective office or as a condition for carrying out constitutional duties.

[1992 c 163 § 6.]

Notes:

Effective date--1992 c 163 §§ 5-13: See note following RCW 29.60.030.

RCW 29.60.050 Denial of certification--Review and appeal.

(1) A decision of the secretary of state to deny certification under RCW 29.60.030 shall be entered in the manner specified for orders under the administrative procedure act, chapter 34.05 RCW. Such a decision shall not be effective for a period of twenty days following the date of the decision, during which time the person denied certification may file a petition with the secretary of state requesting the secretary to reconsider the decision and to grant certification. The petitioner shall include, in the petition, an explanation of the reasons why the initial decision is incorrect and certification should be granted, and may include a request for a hearing on the matter. The secretary of state shall reconsider the matter if the petition is filed in a proper and timely manner. If a hearing is requested, the secretary of state shall conduct the hearing within sixty days after the date on which the petition is filed. The secretary of state shall render a final decision on the matter within ninety days after the date on which the petition is filed.

(2) Within twenty days after the date on which the secretary of state makes a final decision denying a petition under this section, the petitioner may appeal the denial to the board created in RCW 29.60.010. In deciding appeals, the board shall restrict its review to the record established when the matter was before the secretary of state. The board shall affirm the decision if it finds that the record supports the decision and that the decision is not inconsistent with other decisions of the secretary of state in which the same standards were applied and certification was granted. Similarly, the board shall reverse the decision and recommend to the secretary of state that certification be granted if the board finds that such support is lacking or that such inconsistency exists.

(3) Judicial review of certification decisions shall be as prescribed under RCW 34.05.510 through 34.05.598, but shall be limited to the review of board decisions denying certification.

[1992 c 163 § 7.]

Notes:

Effective date--1992 c 163 §§ 5-13: See note following RCW 29.60.030.

RCW 29.60.060 Election review section.

An election review section is established in the elections division of the office of the secretary of state. Permanent staff of the elections division, trained and certified as required by RCW 29.60.040, shall perform the election review functions prescribed by RCW 29.60.070. The staff may also be required to assist in training, certification, and other duties as may be assigned by the secretary of state to ensure the uniform and orderly conduct of elections in this state.

[1992 c 163 § 8.]

Notes:

Effective date--1992 c 163 §§ 5-13: See note following RCW 29.60.030.

RCW 29.60.070 Review of county election procedures.

(1)(a) The election review staff of the office of the secretary of state shall conduct a review of election-related policies, procedures, and practices in an affected county or counties:

(i) If the unofficial returns of a primary or general election for a position in the state legislature indicate that a mandatory recount is likely for that position; or

(ii) If unofficial returns indicate a mandatory recount is likely in a state-wide election or an election for federal office.

Reviews conducted under (ii) of this subsection shall be performed in as many selected counties as time and staffing permit. Reviews conducted as a result of mandatory recounts shall be performed between the time the unofficial returns are complete and the time the recount is to take place, if possible.

(b) In addition to conducting reviews under (a) of this subsection, the election review staff shall also conduct such a review in a county periodically, in conjunction with a county primary or special or general election, at the direction of the secretary of state or at the request of the county auditor. If any resident of this state believes that an aspect of a primary or election has been conducted inappropriately in a county, the resident may file a complaint with the secretary of state. The secretary shall consider such complaints in scheduling periodic reviews under this section.

(c) Before an election review is conducted in a county, the secretary of state shall provide the county auditor of the affected county and the chair of the state central committee of each major political party with notice that the review is to be conducted. When a periodic review is to be conducted in a county at the direction of the secretary of state under (b) of this subsection, the secretary shall provide the affected county auditor not less than thirty days' notice.

(2) Reviews shall be conducted in conformance with rules adopted under RCW 29.60.020. In performing a review in a county under this chapter, the election review staff shall evaluate the policies and procedures established for conducting the primary or election in the county and the practices of those conducting it. As part of the review, the election review staff shall issue to the county auditor and the members of the county canvassing board a report of its findings and recommendations regarding such policies, procedures, and practices. A review conducted under this chapter shall not include any evaluation, finding, or recommendation regarding the validity of the outcome of a primary or election or the validity of any canvass of returns nor does the election review staff have any jurisdiction to make such an evaluation, finding, or recommendation under this title.

(3) The county auditor of the county in which a review is conducted under this section or a member of the canvassing board of the county may appeal the findings or recommendations of the election review staff regarding the review by filing an appeal with the board created under RCW 29.60.010.

[1997 c 284 § 1; 1992 c 163 § 9.]

Notes:

Effective date--1992 c 163 §§ 5-13: See note following RCW 29.60.030.

RCW 29.60.080 Powers and duties of county auditor and review staff.

The county auditor may designate any person who has been certified under this chapter, other than the auditor, to participate in a review conducted in the county under this chapter. Each county auditor and canvassing board shall cooperate fully during an election review by making available to the reviewing staff any material requested by the staff. The reviewing staff shall have full access to ballot pages, absentee voting materials, any other election material normally kept in a secure environment after the election, and other requested material. If ballots are reviewed by the staff, they shall be reviewed in the presence of the canvassing board or its designees. Ballots shall not leave the custody of the canvassing board. During the review and after its completion, the review staff may make appropriate recommendations to the county auditor or canvassing board, or both, to bring the county into compliance with the training required under this chapter, and the laws or rules of the state of Washington, to safeguard election material or to preserve the integrity of the elections process.

[1992 c 163 § 10.]

Notes:

Effective date--1992 c 163 §§ 5-13: See note following RCW 29.60.030.

RCW 29.60.090 Election assistance and clearinghouse program.

The secretary of state shall establish within the elections division an election assistance and clearinghouse program, which shall provide regular communication between the secretary of state, local election officials, and major and minor political parties regarding newly enacted elections legislation, relevant judicial decisions affecting the administration of elections, and applicable attorney general opinions, and which shall respond to inquiries from elections administrators, political parties, and others regarding election information. This section does not empower the secretary of state to offer legal advice or opinions, but the secretary may discuss the construction or interpretation of election law, case law, or legal opinions from the attorney general or other competent legal authority.

[1992 c 163 § 11.]

Notes:

Effective date--1992 c 163 §§ 5-13: See note following RCW 29.60.030.

Chapter 29.62 RCW
CANVASSING THE RETURNS

Sections

29.62.010 Rules for canvassing--Statement of returns--Resolving ties.
29.62.015 County canvassing board--Membership, delegation of authority, public meetings.
29.62.020 County canvassing board--Absentee ballots--Unofficial returns.
29.62.030 Procedure when member a candidate.
29.62.040 County canvassing board--Canvassing procedure--Penalty.
29.62.050 Recanvass--Generally.
29.62.080 Tie votes in final election.
29.62.090 Abstract by election officer--Transmittal to secretary of state.

29.62.100 Secretary of state--Primary returns--State offices, etc.
29.62.120 Secretary of state to canvass final returns--Scope.
29.62.130 Canvass of vote on state-wide measures.
29.62.160 Vacancy in United States house of representatives, primary to elect nominees--Canvass of--Certification of nominees.
29.62.170 United States constitutional amendment conventions--Delegates--Ascertaining election result.
29.62.180 Write-in voting--Declaration of candidacy--Counting of vote.

NOTES:
Absentee ballots
challenges, canvassing board's power: RCW 29.36.350.
credit for voting--Retention of ballots: RCW 29.36.330.
processing of incoming ballots: RCW 29.36.310.
reporting of count: RCW 29.36.320.
Cemetery districts, formation of, election on, canvass: RCW 68.52.170.
Cities and towns
commission form of government, under, election on abandonment of, canvass: RCW 35.17.450.
consolidation, canvass of votes on: RCW 35.10.240.
disincorporation, canvass of returns: RCW 35.07.080.
reduction of city limits, canvass of returns of election on: RCW 35.16.030.
Conduct of elections--Canvass: RCW 29.13.040.
Counties, bond elections, certification of votes--Canvass: RCW 39.40.030.
Fire protection district, election to form, declaration election results--Resolution: RCW 52.02.110.
Irrigation district elections, canvass of: RCW 87.03.020 through 87.03.110.
Liquor, local option, election on, canvass: RCW 66.40.120.
Metropolitan park districts, bond elections, certification of votes--Canvass: RCW 39.40.030.
Port districts, bond elections, certification of votes--Canvass: RCW 39.40.030.
Questions on legality of ballots, preservation and return: RCW 29.54.060.
Recall elections, ascertaining the result: RCW 29.82.140.
Reclamation districts of one million acres
election to authorize issuance of negotiable bonds of general improvement or divisional district, canvass: RCW 89.30.538.
election to form, canvass: RCW 89.30.100.
Rejection of ballots or parts of ballots: RCW 29.54.050.
United States presidential electors, canvassing returns for: RCW 29.71.030.
Votes by stickers, printed label, rejected: RCW 29.51.175.
Water-sewer districts, withdrawal of territory from, election on, canvass: RCW 57.28.100.
Write-in voting: RCW 29.62.180.

RCW 29.62.010 Rules for canvassing--Statement of returns--Resolving ties.

Every canvassing board or officer responsible for canvassing and certifying the returns of any primary or election shall:

(1) Adopt administrative rules to facilitate and govern the canvassing process in that jurisdiction;

(2) For each primary and election, prepare and sign a statement of the returns for each office, candidate, and issue voted on in that jurisdiction;

(3) If, at a partisan primary, two or more candidates of the same party receive the greatest, and identical, number of votes for an office, resolve the tie vote by lot;

(4) If, at a nonpartisan or judicial primary, two or more candidates receive the second greatest, and identical, number of votes for that office or position, resolve the tie vote by lot.

[1990 c 59 § 62; 1965 c 9 § 29.62.010. Prior: 1961 c 130 § 10; prior: (i) 1907 c 209 § 24, part; RRS § 5201, part. (ii) Code 1881 § 3096, part; 1866 p 6 § 2, part; 1865 p 39 § 7, part; RRS § 5343, part.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.62.015 County canvassing board--Membership, delegation of authority, public meetings.

(1) The county canvassing board consists of three members, designated in writing and filed in the office of the county auditor not later than the day before the first day duties are to be undertaken by the board, as follows:

(a) The county auditor shall designate one member, who shall be the auditor or a deputy auditor;

(b) The county prosecutor shall designate one member, who shall be the prosecutor or a deputy prosecutor; and

(c) The chair of the county legislative authority shall designate one member, who shall be a member of the county legislative authority.

(2) The members designated to the county canvassing board may not include individuals who are candidates for an office to be voted upon at the primary or election to be canvassed, unless no other individuals qualify under subsection (1) of this section.

(3) The county canvassing board may, under rules adopted by the secretary of state, delegate in writing, or at a public meeting, the performance of any task assigned by law to the board. The rules shall not authorize delegation of the responsibility of certifying the returns of a primary or election, of determining the validity of challenged ballots, or of determining the validity of special ballots referred to them by the county auditor.

(4) Meetings of the county canvassing board are public meetings under chapter 42.30 RCW.

[1995 c 139 § 1.]

RCW 29.62.020 County canvassing board--Absentee ballots--Unofficial returns.

(1) At least every third day after a special election, primary, or general election and before certification of the election results, except Sundays and legal holidays, the county auditor shall convene the county canvassing board or their designees to process absentee ballots and canvass the votes cast at that special election, primary, or general election, if the county auditor is in possession of more than twenty-five ballots that have yet to be canvassed. The county auditor may use his or her discretion in determining when to convene the canvassing board or their designees during the final four days before the certification of election results in order to protect the secrecy of any ballot.

Each absentee ballot previously not canvassed that was received by the county auditor two days or more before the convening of the canvassing board or their designees and that either was received by the county auditor before the closing of the polls on the day of the special election, primary, or general election for which it was issued, or that bears a date of mailing on or before the special election, primary, or general election for which it was issued, must be processed at that time. The tabulation of votes that results from that day's canvass must be made available to the general public immediately upon completion of the canvass.

(2) On the tenth day after a special election or a primary and on the fifteenth day after a general election, the canvassing board shall complete the canvass and certify the results. Each absentee ballot that was returned before the closing of the polls on the date of the primary or election for which it was issued, and each absentee ballot with a date of mailing on or before the date of the primary or election for which it was issued and received on or before the date on which the primary or election is certified, shall be included in the canvass report.

(3) At the request of any caucus of the state legislature, the county auditor shall transmit copies of all unofficial returns of state and legislative primaries or elections prepared by or for the county canvassing board to either the secretary of the senate or the chief clerk of the house.

[1999 c 259 § 4; 1995 c 139 § 2; 1987 c 54 § 2; 1965 c 9 § 29.62.020. Prior: 1957 c 195 § 15; prior: 1919 c 163 § 21, part; Code 1881 § 3095, part; 1868 p 20 § 1, part; 1865 p 39 § 6, part; RRS § 5340, part.]

NOTES:
Absentee ballots, canvassing: RCW 29.36.310.

RCW 29.62.030 Procedure when member a candidate.

If the primary or election is one at which a member, or the officer designating a member, of the canvassing board is a candidate for an office, decisions regarding the determination of a voter's intent with respect to a vote cast for that specific office shall be made by the other two members of the board not designated by that officer. If the two disagree, the vote shall not be counted unless the number of those votes could affect the result of the primary or election, in which case the secretary of state or a designee shall make the decision on those votes. This section does not restrict participation in decisions as to the acceptance or rejection of entire ballots, unless the office in question is the only one for which the voter cast a vote.

[1995 c 139 § 3; 1965 c 9 § 29.62.030. Prior: 1957 c 195 § 16; prior: (i) Code 1881 § 3098; 1865 p 39 § 8; RRS § 5345. (ii) 1919 c 163 § 21, part; Code 1881 § 3095, part; 1868 p 20 § 1, part; 1865 p 39 § 6, part; RRS § 5340, part.]

RCW 29.62.040 County canvassing board--Canvassing procedure--Penalty.

Before canvassing the returns of a primary or election, the chairman of the county legislative authority shall administer an oath to the county auditor attesting to the authenticity of the information presented to the canvassing board. This oath must be signed by the county auditor and filed with the returns of the primary or election.

The county canvassing board shall proceed to verify the results from the precincts and the absentee ballots. The board shall execute a certificate of the results of the primary or election

signed by all members of the board. Failure to certify the returns, if they can be ascertained with reasonable certainty, is a misdemeanor.

[1990 c 59 § 63; 1965 c 9 § 29.62.040. Prior: 1957 c 195 § 17; prior: (i) 1919 c 163 § 21, part; Code 1881 § 3095, part; 1868 p 20 § 1, part; 1865 p 39 § 6, part; RRS § 5340, part. (ii) 1893 c 112 § 2; RRS § 5342. (iii) 1903 c 85 § 1, part; Code 1881 § 3094, part; 1865 p 38 § 4, part; RRS § 5339, part.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.62.050 Recanvass--Generally.

Whenever the canvassing board finds that there is an apparent discrepancy or an inconsistency in the returns of a primary or election, the board may recanvass the ballots or voting devices in any precincts of the county. The canvassing board shall correct any error and document the correction of any error that it finds.

[1990 c 59 § 64; 1965 c 9 § 29.62.050. Prior: 1951 c 193 § 1; 1917 c 7 § 1, part; 1913 c 58 § 15, part; RRS § 5315, part.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Voting systems: Chapter 29.33 RCW.

RCW 29.62.080 Tie votes in final election.

If the requisite number of any federal, state, county, city, district, or precinct officers shall not be elected by reason of two or more persons having an equal and highest number of votes for one and the same office, the official empowered by state law to issue the original certificate of election shall give notice to the several persons so having the highest and equal number of votes to attend at the appropriate office at the time to be appointed by said official, who shall then and there proceed publicly to decide by lot which of the persons so having an equal number of votes shall be declared duly elected, and the said official shall make out and deliver to the person thus duly declared elected a certificate of his election as hereinbefore provided.

[1965 c 9 § 29.62.080. Prior: 1961 c 130 § 13; prior: (i) Code 1881 § 3097; 1866 p 7 § 3; RRS § 5344. (ii) Code 1881 § 3104; 1865 p 41 § 15; RRS § 5349.]

RCW 29.62.090 Abstract by election officer--Transmittal to secretary of state.

(1) Immediately after the official results of a state primary or general election in a county are ascertained, the county auditor or other election officer shall make an abstract of the number of registered voters in each precinct and of all the votes cast in the county at such state primary or general election for and against state measures and for each candidate for federal, state, and legislative office or for any other office which the secretary of state is required by law to canvass. The abstract must be entered on blanks furnished by the secretary of state or on

compatible computer printouts approved by the secretary of state, and the cumulative report of the election and a copy of the certificate of the election transmitted to the secretary of state immediately, through electronic means and mailed with the abstract of votes no later than the next business day following the certification by the county canvassing board.

(2) After each general election, the county auditor or other election officer shall provide to the secretary of state a report of the number of absentee ballots cast in each precinct for and against state measures and for each candidate for federal, state, and legislative office or for any other office which the secretary of state is required by law to canvass. The report may be included in the abstract required by this section or may be transmitted to the secretary of state separately, but in no event later than March 31st of the year following the election. Absentee ballot results may be incorporated into votes cast at the polls for each precinct or may be reported separately on a precinct-by-precinct basis.

(3) If absentee ballot results are not incorporated into votes cast at the polls, the county auditor or other election official may aggregate results from more than one precinct if the auditor, pursuant to rules adopted by the secretary of state, finds that reporting a single precinct's absentee ballot results would jeopardize the secrecy of a person's ballot. To the extent practicable, precincts for which absentee results are aggregated must be contiguous.

[2001 c 225 § 2; 1999 c 298 § 21; 1990 c 262 § 1; 1977 ex.s. c 361 § 96; 1965 c 9 § 29.62.090. Prior: (i) 1895 c 156 § 12; Code 1881 § 3101; 1865 p 40 § 12; RRS § 5346. (ii) Code 1881 § 3103; 1865 p 41 § 14; RRS § 5348.]

NOTES:

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.62.100 Secretary of state--Primary returns--State offices, etc.

The secretary of state shall, as soon as possible but in any event not later than the third Tuesday following the primary, canvass and certify the returns of all primary elections as to candidates for state offices, United States senators and representatives in congress, and all other candidates whose district extends beyond the limits of a single county.

[1977 ex.s. c 361 § 97; 1965 c 9 § 29.62.100. Prior: 1961 c 130 § 11; prior: 1907 c 209 § 24, part; RRS § 5201, part.]

Notes:

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.62.120 Secretary of state to canvass final returns--Scope.

As soon as the returns have been received from all the counties of the state, but not later than the thirtieth day after the election, the secretary of state shall make a canvass of such of the returns as are not required to be canvassed by the legislature and make out a statement thereof, file it in his office and transmit a certified copy thereof to the governor.

[1965 c 9 § 29.62.120. Prior: Code 1881 § 3100, part; No RRS.]

RCW 29.62.130 Canvass of vote on state-wide measures.

The votes on proposed amendments to the state Constitution, recommendations for the calling of constitutional conventions and other questions submitted to the people shall be counted, canvassed and returned by the regular precinct election officers and by the county auditors and canvassing boards in the manner provided by law for counting, canvassing and returning votes for candidates for state offices. It shall be the duty of the secretary of state in the presence of the governor, within thirty days after any such election, to canvass the votes upon each question and certify to the governor the result thereof, and the governor shall forthwith issue his proclamation giving the whole number of votes cast in the state for and against such measure and declaring the result: PROVIDED, That if the vote cast upon an initiative or referendum measure is equal to less than one-third of the total vote cast at the election, the governor shall proclaim the measure to have failed for that reason.

[1965 c 9 § 29.62.130. Prior: (i) 1913 c 138 § 30; RRS § 5426. (ii) 1917 c 23 § 1; RRS § 5341.]

RCW 29.62.160 Vacancy in United States house of representatives, primary to elect nominees--Canvass of--Certification of nominees.

See RCW 29.68.120.

RCW 29.62.170 United States constitutional amendment conventions--Delegates--Ascertaining election result.

See RCW 29.74.100.

RCW 29.62.180 Write-in voting--Declaration of candidacy--Counting of vote.

(1) For any office at any election or primary, any voter may write in on the ballot the name of any person for an office who has filed as a write-in candidate for the office in the manner provided by RCW 29.04.180 and such vote shall be counted the same as if the name had been printed on the ballot and marked by the voter. No write-in vote made for any person who has not filed a declaration of candidacy pursuant to RCW 29.04.180 is valid if that person filed for the same office, either as a regular candidate or a write-in candidate, at the preceding primary. Any abbreviation used to designate office, position, or political party shall be accepted if the canvassing board can determine, to their satisfaction, the voter's intent.

(2) The number of write-in votes cast for each office must be recorded and reported with the canvass for the election.

(3) Write-in votes cast for an individual candidate for an office need not be tallied if the total number of write-in votes cast for the office is not greater than the number of votes cast for the candidate apparently nominated or elected, and the write-in votes could not have altered the outcome of the primary or election. In the case of write-in votes for state-wide office or for any office whose jurisdiction encompasses more than one county, write-in votes for an individual candidate must be tallied whenever the county auditor is notified by either the office of the secretary of state or another auditor in a multicounty jurisdiction that it appears that the write-in

votes could alter the outcome of the primary or election.

(4) In the case of state-wide offices or jurisdictions that encompass more than one county, if the total number of write-in votes cast for an office within a county is greater than the number of votes cast for a candidate apparently nominated or elected in a primary or election, the auditor shall tally all write-in votes for individual candidates for that office and notify the office of the secretary of state and the auditors of the other counties within the jurisdiction, that the write-in votes for individual candidates should be tallied.

[1999 c 157 § 3; 1995 c 158 § 2; 1988 c 181 § 5; 1973 1st ex.s. c 121 § 1; 1967 ex.s. c 109 § 28; 1965 ex.s. c 101 § 14; 1965 c 9 § 29.51.170. Prior: (i) 1931 c 14 § 1; 1909 c 82 § 12; RRS § 5213. (ii) 1933 c 85 § 2; RRS § 5213-2. (iii) 1905 c 39 § 1, part; 1889 p 405 § 15, part; RRS § 5272, part. Formerly RCW 29.51.170.]

Chapter 29.64 RCW
STATUTORY RECOUNTS

Sections

29.64.010 Application for recount--Requirements--Application of chapter.
29.64.015 Mandatory recount.
29.64.020 Deposit of fees--Notice--Public proceeding.
29.64.030 Recounting the votes--Observers--Request to stop.
29.64.035 Partial recount requiring complete recount.
29.64.040 Amended abstracts.
29.64.051 Limitation on recounts.
29.64.060 Expenses of recount--Charges.
29.64.070 Rules.
29.64.080 Statewide measures--Mandatory recount--Cost at state expense.
29.64.090 Statewide measures--Mandatory recount--Funds for additional expenses.
29.64.900 Short title--Construction.

RCW 29.64.010 Application for recount--Requirements--Application of chapter.

An officer of a political party or any person for whom votes were cast in a primary who was not declared nominated may file a written application for a recount of the votes or a portion of the votes cast at that primary for all persons for whom votes were cast for nomination to that office.

An officer of a political party or any person for whom votes were cast at any election may file a written application for a recount of the votes or a portion of the votes cast at that election for all candidates for election to that office.

Any group of five or more registered voters may file a written application for a recount of the votes or a portion of the votes cast upon any question or issue. They shall designate one of the members of the group as chairman and shall indicate the voting residence of each member of the group.

An application for a recount of the votes cast for an office or on a ballot measure must be filed with the officer with whom filings are made for the jurisdiction.

An application for a recount must specify whether the recount will be done manually or

by the vote tally system. A recount done by the vote tally system must use programming that recounts and reports only the office or ballot measure in question. The county shall also provide for a test of the logic and accuracy of that program.

An application for a recount shall be filed within three business days after the county canvassing board or secretary of state has declared the official results of the primary or election for the office or issue for which the recount is requested.

This chapter applies to the recounting of votes cast by paper ballots and to the recounting of votes recorded on ballots counted by a vote tally system.

[2001 c 225 § 3; 1987 c 54 § 3; 1977 ex.s. c 361 § 98; 1965 c 9 § 29.64.010. Prior: 1963 ex.s. c 25 § 1; 1961 c 50 § 1; 1955 c 215 § 1.]

NOTES:

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.64.015 Mandatory recount.

(1) If the official canvass of all of the returns for any office at any primary or election reveals that the difference in the number of votes cast for a candidate apparently nominated or elected to any office and the number of votes cast for the closest apparently defeated opponent is less than two thousand votes and also less than one-half of one percent of the total number of votes cast for both candidates, the county canvassing board shall conduct a recount of all votes cast on that position.

(a) Whenever such a difference occurs in the number of votes cast for candidates for a position the declaration of candidacy for which was filed with the secretary of state, the secretary of state shall, within three business days of the day that the returns of the primary or election are first certified by the canvassing boards of those counties, direct those boards to recount all votes cast on the position.

(b) If the difference in the number of votes cast for the apparent winner and the closest apparently defeated opponent is less than one hundred fifty votes and also less than one-fourth of one percent of the total number of votes cast for both candidates, the votes shall be recounted manually or as provided in subsection (3) of this section.

(2) A mandatory recount shall be conducted in the manner provided by RCW 29.64.020, 29.64.030, and 29.64.040. No cost of a mandatory recount may be charged to any candidate.

(3) The apparent winner and closest apparently defeated opponent for an office for which a manual recount is required under subsection (1)(b) of this section may select an alternative method of conducting the recount. To select such an alternative, the two candidates shall agree to the alternative in a signed, written statement filed with the election official for the office. The recount shall be conducted using the alternative method if: It is suited to the balloting system that was used for casting the votes for the office; it involves the use of a vote tallying system that is approved for use in this state by the secretary of state; and the vote tallying system is readily available in each county required to conduct the recount. If more than one balloting system was used in casting votes for the office, an alternative to a manual recount may be selected for each system.

[2001 c 225 § 4; 1993 c 377 § 1; 1991 c 90 § 2; 1987 c 54 § 4; 1965 c 9 § 29.64.015. Prior: 1963 ex.s. c 25 § 2.]

NOTES:

Finding, purpose--1991 c 90: "The legislature finds that it is in the public interest to determine the winner of close contests for elective offices as expeditiously and as accurately as possible. It is the purpose of this act to provide procedures which promote the prompt and accurate recounting of votes for elective offices and which provide closure to the recount process." [1991 c 90 § 1.]

RCW 29.64.020 Deposit of fees--Notice--Public proceeding.

An application for a recount shall state the office for which a recount is requested and whether the request is for all or only a portion of the votes cast in that jurisdiction of that office. The person filing an application for a manual recount shall, at the same time, deposit with the county canvassing board or secretary of state, in cash or by certified check, a sum equal to twenty-five cents for each ballot cast in the jurisdiction or portion of the jurisdiction for which the recount is requested as security for the payment of any costs of conducting the recount. If the application is for a machine recount, the deposit must be equal to fifteen cents for each ballot. These charges shall be determined by the county canvassing board or boards under RCW 29.64.060.

The county canvassing board shall determine a time and a place or places at which the recount will be conducted. This time shall be less than three business days after the day upon which: The application was filed with the board; the request for a recount or directive ordering a recount was received by the board from the secretary of state; or the returns are certified which indicate that a recount is required under RCW 29.64.015 for an issue or office voted upon only within the county. Not less than two days before the date of the recount, the county auditor shall mail a notice of the time and place of the recount to the applicant or affected parties and, if the recount involves an office, to any person for whom votes were cast for that office. The county auditor shall also notify the affected parties by either telephone, fax, e-mail, or other electronic means at the time of mailing. At least three attempts must be made over a two-day period to notify the affected parties or until the affected parties have received the notification. Each attempt to notify affected parties must request a return response indicating that the notice has been received. Each person entitled to receive notice of the recount may attend, witness the recount, and be accompanied by counsel.

Proceedings of the canvassing board are public under chapter 42.30 RCW. Subject to reasonable and equitable guidelines adopted by the canvassing board, all interested persons may attend and witness a recount.

[2001 c 225 § 5; 1991 c 81 § 36; 1987 c 54 § 5; 1977 ex.s. c 361 § 99; 1965 c 9 § 29.64.020. Prior: 1961 c 50 § 2; 1955 c 215 § 2.]

NOTES:

Effective date--1991 c 81: See note following RCW 29.85.010.

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.64.030 Recounting the votes--Observers--Request to stop.

(1) At the time and place established for a recount, the canvassing board or its duly

authorized representatives, in the presence of all witnesses who may be in attendance, shall open the sealed containers containing the ballots to be recounted, and shall recount the votes for the offices or issues for which the recount has been ordered. Ballots shall be handled only by the members of the canvassing board or their duly authorized representatives.

Witnesses shall be permitted to observe the ballots and the process of tabulating the votes, but they shall not be permitted to handle the ballots. The canvassing board shall not permit the tabulation of votes for any nomination, election, or issue other than the ones for which a recount was applied for or required.

(2) At any time before the ballots from all of the precincts listed in the application for the recount have been recounted, the applicant may file with the board a written request to stop the recount.

(3) The recount may be observed by persons representing the candidates affected by the recount or the persons representing both sides of an issue that is being recounted. The observers may not make a record of the names, addresses, or other information on the ballots, poll books, or applications for absentee ballots unless authorized by the superior court. The secretary of state or county auditor may limit the number of observers to not less than two on each side if, in his or her opinion, a greater number would cause undue delay or disruption of the recount process.

[2001 c 225 § 6; 1991 c 81 § 37; 1990 c 59 § 65; 1965 c 9 § 29.64.030. Prior: 1961 c 50 § 3; 1955 c 215 § 3.]

NOTES:

Effective date--1991 c 81: See note following RCW 29.85.010.

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.64.035 Partial recount requiring complete recount.

When a partial recount of votes cast for an office or issue changes the result of the election, the canvassing board or the secretary of state, if the office or issue is being recounted at his or her direction, shall order a complete recount of all ballots cast for the office or issue for the jurisdiction in question.

This recount will be conducted in a manner consistent with RCW 29.64.015.

[2001 c 225 § 7.]

RCW 29.64.040 Amended abstracts.

Upon completion of the canvass of a recount, the canvassing board shall prepare and certify an amended abstract showing the votes cast in each precinct for which the recount was conducted. Copies of the amended abstracts must be transmitted to the same officers who received the abstract on which the recount was based.

If the nomination, election, or issue for which the recount was conducted was submitted only to the voters of a county, the canvassing board shall file the amended abstract with the original results of that election or primary.

If the nomination, election, or issue for which a recount was conducted was submitted to the voters of more than one county, the secretary of state shall canvass the amended abstracts

and shall file an amended abstract with the original results of that election. An amended abstract certified under this section supersedes any prior abstract of the results for the same offices or issues at the same primary or election.

[2001 c 225 § 8; 1990 c 59 § 66; 1965 c 9 § 29.64.040. Prior: 1955 c 215 § 4.]

NOTES:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.64.051 Limitation on recounts.

After the original count, canvass, and certification of results, the votes cast in any single precinct may not be recounted and the results recertified more than twice.

[2001 c 225 § 9; 1991 c 90 § 3.]

NOTES:

Finding, purpose--1991 c 90: See note following RCW 29.64.015.

RCW 29.64.060 Expenses of recount--Charges.

The canvassing board shall determine the expenses for conducting a recount of votes.

The cost of the recount shall be deducted from the amount deposited by the applicant for the recount at the time of filing the request for the recount, and the balance shall be returned to the applicant. If the costs of the recount exceed the deposit, the applicant shall pay the difference. No charges may be deducted by the canvassing board from the deposit for a recount if the recount changes the result of the nomination or election for which the recount was ordered.

[2001 c 225 § 10; 1990 c 59 § 68; 1977 ex.s. c 361 § 100; 1965 c 9 § 29.64.060. Prior: 1955 c 215 § 6.]

NOTES:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.64.070 Rules.

The secretary of state, as chief election officer, shall adopt rules in accordance with chapter 34.05 RCW to facilitate and clarify procedures contained in this chapter.

[1991 c 81 § 38; 1965 c 9 § 29.64.070. Prior: 1955 c 215 § 7.]

Notes:

Effective date--1991 c 81: See note following RCW 29.85.010.

RCW 29.64.080 Statewide measures--Mandatory recount--Cost at state expense.

When the official canvass of returns of any election reveals that the difference in the number of votes cast for the approval of a statewide measure and the number of votes cast for the rejection of such measure is less than two thousand votes and also less than one-half of one percent of the total number of votes cast on such measure, the secretary of state shall direct that a recount of all votes cast on such measure be made on such measure, in the manner provided by RCW 29.64.030 and 29.64.040, and the cost of such recount will be at state expense.

[2001 c 225 § 11; 1973 c 82 § 1.]

RCW 29.64.090 Statewide measures--Mandatory recount--Funds for additional expenses.

Each county auditor shall file with the secretary of state a statement listing only the additional expenses incurred whenever a mandatory recount of the votes cast on a state measure is made as provided in RCW 29.64.080. The secretary of state shall include in his biennial budget request a provision for sufficient funds to carry out the provisions of this section. Payments hereunder shall be from appropriations specifically provided for such purpose by law.

[1977 ex.s. c 144 § 5; 1973 c 82 § 2.]

RCW 29.64.900 Short title--Construction.

This chapter shall be known as the statutory recount act and shall in no way affect or supersede the election contest statutes as contained in chapter 29.65 RCW.

[1965 c 9 § 29.64.900. Prior: 1955 c 215 § 8.]

Chapter 29.65 RCW
CONTESTS

Sections

29.65.010 Commencement by registered voter--Causes for.
29.65.020 Affidavit of error or omission--Time for filing--Contents--Witnesses.
29.65.040 Hearing date--Issuance of citation--Service.
29.65.050 Witnesses to attend--Hearing of contest--Judgment.
29.65.055 Costs, how awarded.
29.65.060 Misconduct of board--Irregularity must be material to result.
29.65.070 Misconduct of board--Number of votes affected--Enough to change result.
29.65.080 Illegal votes--Allegation of in statement of contest.
29.65.090 Illegal votes--List required for testimony.
29.65.100 Illegal votes--Number of votes affected--Enough to change result.
29.65.120 Nullification of election certificate--When effective.

Notes:
Contest of election of member of state legislature: RCW 44.04.100.
Statutory recount act not to affect or supersede election contest statutes: RCW 29.64.900.

RCW 29.65.010 Commencement by registered voter--Causes for.

Any registered voter may contest the right of any person declared elected to an office to be issued a certificate of election for any of the following causes:

(1) For misconduct on the part of any member of any precinct election board involved therein;

(2) Because the person whose right is being contested was not at the time he was declared elected eligible to that office;

(3) Because the person whose right is being contested was previous to the election convicted of a felony by a court of competent jurisdiction, his conviction not having been reversed nor his civil rights restored after the conviction;

(4) Because the person whose right is being contested gave a bribe or reward to a voter or to an inspector or judge of election for the purpose of procuring his election, or offered to do so;

(5) On account of illegal votes.

(a) Illegal votes include but are not limited to the following:

(i) More than one vote cast by a single voter;

(ii) A vote cast by a person disqualified under Article VI, section 3 of the state Constitution.

(b) Illegal votes do not include votes cast by improperly registered voters who were not properly challenged pursuant to RCW 29.10.125 and 29.10.127.

All election contests shall proceed under RCW 29.04.030.

[1983 1st ex.s. c 30 § 6; 1977 ex.s. c 361 § 101; 1965 c 9 § 29.65.010. Prior: 1959 c 329 § 26; prior: (i) Code 1881 § 3105; 1865 p 42 § 1; RRS § 5366. (ii) Code 1881 § 3109; 1865 p 43 § 5; RRS § 5370.]

NOTES:

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

Civil rights

loss of: State Constitution Art. 6 § 3, RCW 29.10.097.

restoration of: RCW 9.92.066, 9.94A.637, 9.94A.885, 9.95.260, chapter 9.96 RCW.

RCW 29.65.020 Affidavit of error or omission--Time for filing--Contents--Witnesses.

An affidavit of an elector with respect to RCW 29.04.030(6) must be filed with the appropriate court no later than ten days following the issuance of a certificate of election and shall set forth specifically:

(1) The name of the contestant and that he is a registered voter in the county, district or precinct, as the case may be, in which the office is to be exercised;

(2) The name of the person whose right is being contested;

(3) The office;

(4) The particular causes of the contest.

No statement of contest shall be dismissed for want of form if the particular causes of contest are alleged with sufficient certainty. The person charged with the error or omission shall be given the opportunity to call any witness, including the candidate to whom he has issued or intends to issue the certificate of election.

[1977 ex.s. c 361 § 102; 1965 c 9 § 29.65.020. Prior: (i) Code 1881 § 3110; 1865 p 43 § 6; RRS § 5371. (ii) Code 1881 § 3112; 1865 p 44 § 8; RRS § 5373.]

Notes:

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.65.040 Hearing date--Issuance of citation--Service.

Upon such affidavit being filed, it shall be the duty of the clerk to inform the judge of the appropriate court, who may give notice, and order a session of the court to be held at the usual place of holding said court, on some day to be named by him, not less than ten nor more than twenty days from the date of such notice, to hear and determine such contested election: PROVIDED, That if no session be called for the purpose, such contest shall be determined at the first regular session of court after such statement is filed.

The clerk of the court shall also at the time issue a citation for the person charged with the error or omission, to appear at the time and place specified in the notice, which citation shall be delivered to the sheriff and be served upon the party in person; or if he cannot be found, by leaving a copy thereof at the house where he last resided.

[1977 ex.s. c 361 § 103; 1965 c 9 § 29.65.040. Prior: (i) Code 1881 § 3113; 1865 p 44 § 9; RRS § 5374. (ii) Code 1881 § 3114; 1865 p 45 § 10; RRS § 5375.]

Notes:

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.65.050 Witnesses to attend--Hearing of contest--Judgment.

The clerk shall issue subpoenas for witnesses in such contested election at the request of either party, which shall be served by the sheriff or constable, as other subpoenas, and the superior court shall have full power to issue attachments to compel the attendance of witnesses who shall have been duly subpoenaed to attend if they fail to do so.

The court shall meet at the time and place designated to determine such contested election by the rules of law and evidence governing the determination of questions of law and fact, so far as the same may be applicable, and may dismiss the proceedings if the statement of the cause or causes of contest is insufficient, or for want of prosecution. After hearing the proofs and allegations of the parties, the court shall pronounce judgment in the premises, either confirming or annulling and setting aside such election, according to the law and right of the case.

If in any such case it shall appear that another person than the one returned has the highest number of legal votes, said court shall declare such person duly elected.

[1965 c 9 § 29.65.050. Prior: (i) Code 1881 § 3115; 1865 p 45 § 11; RRS § 5376. (ii) Code 1881 § 3116; 1865 p 45 § 12; RRS § 5377. (iii) Code 1881 § 3117; 1865 p 45 § 13; RRS § 5378. FORMER PARTS OF SECTION: (i) Code 1881 § 3119; 1865 p 45 § 15; RRS § 5379, now codified in RCW 29.65.055. (ii) Code 1881 § 3120; 1865 p 45 § 16; RRS § 5380, now codified in RCW 29.65.055.]

RCW 29.65.055 Costs, how awarded.

If the proceedings are dismissed for insufficiency, want of prosecution, or the election is by the court confirmed, judgment shall be rendered against the party contesting such election for costs, in favor of the party charged with error or omission.

If such election is annulled and set aside, judgment for costs shall be rendered against the party charged with the error or omission and in favor of the party alleging the same.

[1977 ex.s. c 361 § 104; 1965 c 9 § 29.65.055. Prior: (i) Code 1881 § 3119; 1865 p 45 § 15; RRS § 5379; formerly RCW 29.65.050, part. (ii) Code 1881 § 3120; 1865 p 45 § 16; RRS § 5380, formerly RCW 29.65.050, part.]

Notes:

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.65.060 Misconduct of board--Irregularity must be material to result.

No irregularity or improper conduct in the proceedings of any election board or any member thereof shall amount to such malconduct as to annul or set aside any election unless the irregularity or improper conduct was such as to procure the person whose right to the office may be contested, to be declared duly elected although he did not receive the highest number of legal votes.

[1965 c 9 § 29.65.060. Prior: Code 1881 § 3106; 1865 p 43 § 2; RRS § 5367.]

RCW 29.65.070 Misconduct of board--Number of votes affected--Enough to change result.

When any election for an office exercised in and for a county is contested on account of any malconduct on the part of any election board, or any member thereof, the election shall not be annulled and set aside upon any proof thereof, unless the rejection of the vote of such precinct or precincts will change the result as to such office in the remaining vote of the county.

[1965 c 9 § 29.65.070. Prior: Code 1881 § 3107; 1865 p 43 § 3; RRS § 5368.]

RCW 29.65.080 Illegal votes--Allegation of in statement of contest.

When the reception of illegal votes is alleged as a cause of contest, it shall be sufficient to state generally that illegal votes were cast, which, if given to the person whose election is contested in the specified precinct or precincts, will, if taken from him, reduce the number of his legal votes below the number of legal votes given to some other person for the same office.

[1965 c 9 § 29.65.080. Prior: Code 1881 § 3111, part; 1865 p 44 § 7, part; RRS § 5372, part.]

RCW 29.65.090 Illegal votes--List required for testimony.

No testimony shall be received as to any illegal votes unless the party contesting the election delivers to the opposite party, at least three days before trial, a written list of the number of illegal votes and by whom given, which he intends to prove on such trial. No testimony shall be received as to any illegal votes, except as to such as are specified in the list.

[1965 c 9 § 29.65.090. Prior: Code 1881 § 3111, part; 1865 p 44 § 7, part; RRS § 5372, part.]

RCW 29.65.100 Illegal votes--Number of votes affected--Enough to change result.

No election shall be set aside on account of illegal votes, unless it appears that an amount

of illegal votes has been given to the person whose right is being contested, which, if taken from him, would reduce the number of his legal votes below the number of votes given to some other person for the same office, after deducting therefrom the illegal votes which may be shown to have been given to such other person.

[1965 c 9 § 29.65.100. Prior: Code 1881 § 3108; 1865 p 43 § 4; RRS § 5369.]

RCW 29.65.120 Nullification of election certificate--When effective.

If an election is set aside by the judgment of the superior court and if no appeal is taken therefrom within ten days, the certificate issued shall be thereby rendered void.

[1965 c 9 § 29.65.120. Prior: Code 1881 § 3123, part; 1865 p 46 § 19, part; RRS § 5382, part.]

Chapter 29.68 RCW
UNITED STATES CONGRESSIONAL ELECTIONS

Sections

29.68.015	United States house of representatives--Term limits.
29.68.016	United States senate--Term limits.
29.68.070	Vacancy in senatorship--Filling.
29.68.080	Vacancy in congress--Special election.
29.68.100	Vacancy in congress--Notices of special primary and special election.
29.68.120	Vacancy in congress--Canvass of primary and special vacancy election--Certification of nominees.
29.68.130	Vacancy in congress--General, primary election laws to apply--Time deadlines, modifications.

RCW 29.68.015 United States house of representatives--Term limits.

No person is eligible to appear on the ballot or file a declaration of candidacy for the United States house of representatives who, by the end of the then current term of office will have served, or but for resignation would have served, as a member of the United States house of representatives during six of the previous twelve years.

[1993 c 1 § 4 (Initiative Measure No. 573, approved November 3, 1992).]

Notes:

Contingent effective date--1993 c 1 (Initiative Measure No. 573): "RCW 29.68.015 and 29.68.016, regarding candidates for federal legislative office, are not effective until nine states other than Washington have passed laws limiting ballot access or terms of federal legislative office, or both, based on length of service in federal legislative office." [1993 c 1 § 8 (Initiative Measure No. 573, approved November 3, 1992).]

Preamble--Severability--1993 c 1 (Initiative Measure No. 573): See notes following RCW 43.01.015.

RCW 29.68.016 United States senate--Term limits.

No person is eligible to appear on the ballot or file a declaration of candidacy for the

United States senate who, by the end of the then current term of office will have served, or but for resignation would have served, as a member of the United States senate during twelve of the previous eighteen years.

[1993 c 1 § 5 (Initiative Measure No. 573, approved November 3, 1992).]

Notes:

Contingent effective date--1993 c 1 (Initiative Measure No. 573): See note following RCW 29.68.015.
Preamble--Severability--1993 c 1 (Initiative Measure No. 573): See notes following RCW 43.01.015.

RCW 29.68.070 Vacancy in senatorship--Filling.

When a vacancy occurs in the representation of this state in the senate of the United States, the governor shall make a temporary appointment to that office until the people fill the vacancy by election as provided in this chapter.

[1985 c 45 § 3; 1965 c 9 § 29.68.070. Prior: 1921 c 33 § 1; RRS § 3798.]

Notes:

Legislative intent--1985 c 45: See note following RCW 29.13.047.
Special procedures for primary for United States senate vacancy in 1983: Chapter 1, Laws of 1983 3rd ex. sess. (uncodified).
Vacancies in public office, how caused: RCW 42.12.010.

RCW 29.68.080 Vacancy in congress--Special election.

(1) Whenever a vacancy occurs in the office of United States representative or United States senator from this state or any congressional district of this state, the governor shall order a special election to fill the vacancy.

(2) Within ten days of such vacancy occurring, he or she shall issue a writ of election fixing a date for the special vacancy election not less than ninety days after the issuance of the writ, fixing a date for the primary for nominating candidates for the special vacancy election not less than thirty days before the day fixed for holding the special vacancy election, fixing the dates for the special filing period, and designating the term or part of the term for which the vacancy exists. If the vacancy is in the office of United States representative, the writ of election shall specify the congressional district that is vacant.

(3) If the vacancy occurs less than six months before a state general election and before the second Friday following the close of the filing period for that general election, the special primary and special vacancy elections shall be held in concert with the state primary and state general election in that year.

(4) If the vacancy occurs on or after the first day for filing under RCW 29.15.020 and on or before the second Friday following the close of the filing period, a special filing period of three normal business days shall be fixed by the governor and notice thereof given to all media, including press, radio, and television within the area in which the vacancy election is to be held, to the end that, insofar as possible, all interested persons will be aware of such filing period. The last day of the filing period shall not be later than the third Tuesday before the primary at which

candidates are to be nominated. The names of candidates who have filed valid declarations of candidacy during this three-day period shall appear on the approaching primary ballot.

(5) If the vacancy occurs later than the second Friday following the close of the filing period, a special primary and special vacancy election to fill the position shall be held after the next state general election but, in any event, no later than the ninetieth day following the November election.

(6) As used in this chapter, "county" means, in the case of a vacancy in the office of United States senator, any or all of the counties in the state and, in the case of a vacancy in the office of United States representative, only those counties wholly or partly within the congressional district in which the vacancy has occurred.

[1990 c 59 § 105; 1985 c 45 § 4; 1973 2nd ex.s. c 36 § 3; 1965 c 9 § 29.68.080. Prior: 1915 c 60 § 1; 1909 ex.s. c 25 § 1; RRS § 3799.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Legislative intent--1985 c 45: See note following RCW 29.13.047.

Vacancies in public office, how caused: RCW 42.12.010.

RCW 29.68.100 Vacancy in congress--Notices of special primary and special election.

After calling a special primary and special vacancy election to fill a vacancy in the office of United States representative or United States senator from this state, the governor shall immediately notify the secretary of state who shall, in turn, immediately notify the county auditor of each county wholly or partly within which the vacancy exists.

Each county auditor shall publish notices of the special primary and the special vacancy election at least once in any legal newspaper published in the county, as provided by RCW 29.27.030 and 29.27.080 respectively.

[1985 c 45 § 5; 1973 2nd ex.s. c 36 § 5; 1965 c 9 § 29.68.100. Prior: 1909 ex.s. c 25 § 2, part; RRS § 3800, part.]

Notes:

Legislative intent--1985 c 45: See note following RCW 29.13.047.

RCW 29.68.120 Vacancy in congress--Canvass of primary and special vacancy election--Certification of nominees.

(1) The canvass of the votes cast at a special primary for a United States representative or senator shall be completed in each county within ten days after the primary. The returns shall be transmitted immediately to the secretary of state, who shall certify the returns in the manner provided by RCW 29.62.100. As soon as possible after the canvass, the secretary of state shall certify the names of the nominees to the county auditors.

(2) The canvass of the votes cast at a special vacancy election for a United States representative or senator shall be completed in each county within fifteen days after the vacancy election. The returns shall be transmitted immediately to the secretary of state, who shall certify the returns in the manner provided in RCW 29.62.120.

[1985 c 45 § 6; 1983 c 3 § 46; 1973 2nd ex.s. c 36 § 7; 1965 c 9 § 29.68.120. Prior: 1909 ex.s. c 25 § 3, part; RRS § 3801, part.]

Notes:

Legislative intent--1985 c 45: See note following RCW 29.13.047.

RCW 29.68.130 Vacancy in congress--General, primary election laws to apply--Time deadlines, modifications.

The general election laws and laws relating to partisan primaries shall apply to the special primaries and vacancy elections provided for in RCW 29.68.080 through 29.68.120 to the extent that they are not inconsistent with the provisions of these sections. Statutory time deadlines relating to availability of absentee ballots, certification, canvassing, and related procedures that cannot be met in a timely fashion may be modified for the purposes of a specific primary or vacancy election under this chapter by the secretary of state through emergency rules adopted under RCW 29.04.080.

[1985 c 45 § 7; 1965 c 9 § 29.68.130. Prior: 1909 ex.s. c 25 § 4; RRS § 3802.]

Notes:

Legislative intent--1985 c 45: See note following RCW 29.13.047.

Chapter 29.69B RCW
CONGRESSIONAL DISTRICTS AND APPORTIONMENT

Reviser's note: The following material represents the congressional portion of the redistricting plan filed with the legislature by the Washington State Redistricting Commission on January 1, 1992, and as amended by Senate Concurrent Resolution No. 8421 under RCW 44.05.100. For state legislative districts, see chapter 44.07C RCW.

WASHINGTON STATE REDISTRICTING COMMISSION

REDISTRICTING PLAN

A PLAN Relating to the redistricting of state legislative and congressional districts.

BE IT APPROVED BY THE REDISTRICTING COMMISSION OF THE STATE OF WASHINGTON:

Sec. 1. It is the intent of the commission to reapportion and redistrict the congressional and legislative districts of the state of Washington in accordance with the Constitution and laws of the United States and the state of Washington.

Sec. 2. The definitions set forth in RCW 44.05.020 apply throughout this plan, unless the context requires otherwise.

Sec. 3. In every case the population of the congressional and legislative districts described by this plan has been ascertained on the basis of the total number of persons found inhabiting such areas as of January 1, 1990, in accordance with the 1990 federal decennial census data submitted pursuant to P.L. 94-171.

Sec. 4. (a) Any area not specifically included within the boundaries of any of the districts as described in this plan and which is completely surrounded by a particular district, shall be a part of that district. Any such area not completely surrounded by a particular district shall be a part of the district having the smallest number of inhabitants and having territory contiguous to such area.

(b) Any area described in this plan as specifically embraced in two or more noninclusive districts shall be a part of the adjacent district having the smallest number of inhabitants and shall not be a part of the other district or districts.

(c) Any area specifically mentioned as embraced within a district but separated from such district by one or more other districts, shall be assigned as though it had not been included in any district specifically described.

(d) The 1990 United States federal decennial census data submitted pursuant to P.L. 94-171 shall be used for determining the number of inhabitants under this plan.

(e) If any court of competent jurisdiction requires nonresident military personnel that were not included in the United States census bureau data to be included, these persons shall be included in the population of the district or districts from which the persons were excluded.

Sec. 5. For purposes of this plan, districts shall be described in terms of:

(1) Official United States census bureau tracts, block numbering areas, block groups, blocks, or census county divisions established by the United States bureau of the census in the 1990 federal decennial census;

(2) Counties, municipalities, or other political subdivisions as they existed on January 1, 1990;

(3) Any natural or artificial boundaries or monuments including but not limited to rivers, streams, or lakes as they existed on January 1, 1990;

(4) Roads, streets, or highways as they existed on January 1, 1990.

Sec. 6. The following abbreviations used in this plan have the following meanings:

(1) "T" means "census tract";

(2) "BG" means "census block group";

(3) "B" means "block";

(4) "BNA" means "block numbering area"; and

(5) "Division" or "div." means "census county division".

Sec. 7. For election of members of the legislature, the territory of the state shall be divided into forty-nine districts. Two members of the house of representatives shall be elected from and run at large within each legislative district. One member of the senate shall be elected from each legislative district.

Sec. 8. The legislative districts described by this plan shall be those recorded electronically as "PLAN PRCOM - 019L", maintained in computer files designated as FINAL-LEG, which are public records of the

commission. As soon as practicable after approval and submission of this plan to the legislature, the commission shall publish PLAN PRCOM - 019L in conformity with the description terminology set forth in sec. 6.

Sec. 9. For election of members of Congress, the territory of the state shall be divided into nine districts. The congressional districts described by this plan shall be those recorded electronically as "PLAN PRCOM - 0 C", maintained in computer files designated as FINAL-CON, which are public records of the commission. As soon as practicable after approval and submission of this plan to the legislature, the commission shall publish PLAN PRCOM - 0 C in conformity with the description terminology set forth in sec. 6.

Sec. 10. The commission intends that existing law shall continue to govern such matters as the terms and dates of election for members of the senate to be elected from each district, the status of "hold-over" senators, and the elections to fill vacancies, when required, provided that districts referred to in existing law and designated by number (without regard to any letter following that number) shall refer to districts of the same number described in this plan, beginning with the next elections in 1992.

Sec. 11. This commission intends that this plan supersede the district boundaries established by chapter 288, Laws of 1981 and chapter 17, Laws of 1983, and acknowledges that it is inconsistent with certain provisions of existing law, including but not limited to RCW 44.07B.001, RCW 44.07B.002, RCW 44.07B.005 through RCW 44.07B.800, RCW 44.07B.840, and RCW 29.69A.001 through RCW 29.69A.080.

District 1: King: Tract 0004: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115; Block Group 2: Block 201, Block 202, Block 217, Block 218, Block 220, Block 221, Block 222, Block 223; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 308, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 413, Block 414, Block 415; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515; Block Group 6: Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612; Block Group 7: Block 701, Block 702, Block 704, Block 706, Block 707, Block 708, Block 709, Block 710, Block 711, Block 712, Block 713, Block 714, Block 715, Block 716, Block 717, Block 718, Block 719, Block 720; Tract 0005: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 112; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 210, Block 211, Block 212; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411; Tract 0013: Block Group 3: Block 310, Block 311, Block 312, Block 313, Block 314, Block 315; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405; Tract 0014: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212; Block Group 3: Block 301, Block 304, Block 306, Block 307, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511; Block Group 6: Block 601, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615; Tract 0015, Tract 0016: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 310, Block 315, Block 316, Block 319; Block Group 4: Block 401, Block 402, Block 403, Block

404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411; Block Group 5: Block 501, Block 502, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510; Tract 0017: Block Group 1: Block 101, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121; Block Group 2: Block 201, Block 202, Block 203, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 216; Block Group 3: Block 307, Block 308, Block 311, Block 312, Block 317, Block 318; Block Group 4: Block 401, Block 402, Block 408, Block 409, Block 415; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615, Block 616, Block 617; 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Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 314, Block 316; Tract 0202: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 110, Block 111, Block 112; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 210, Block 212, Block 213; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 310, Block 311; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 406, Block 408, Block 409, Block 411; Tract 0203: Block Group 1: Block 102, Block 103, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113; Block Group 2: Block 201, Block 202, Block 205, Block 206, Block 207, Block 208, Block 209, Block 212, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 307, Block 308, Block 309, Block 310, Block 311; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 408, Block 409, Block 410, Block 411; Block Group 5: Block 501, Block 502, Block 503, Block 505, Block 506, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515; Tract 0204: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110A, Block 110B, Block 111, Block 112, Block 113, Block 114A, Block 114B, Block 115A, Block 115B, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122A, Block 122B, Block 122C; Block Group 2: Block 201, Block 202A, Block 202B, Block 202C, Block 203, Block 204, Block 205, Block 206A, Block 206B, Block 206C, Block 206D, Block 206E, Block 206F, Block 206G, Block 207A, Block 207B, Block 207C, Block 208, Block 209, Block 210, Block 211, Block 212, Block 220, Block 221; Block Group 3: Block 301, Block 302, Block 303, Block 305, Block 315, Block 316; Block Group 4: Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508A, Block 508B, Block 509, Block 510, Block 511; Block Group 6: Block 601, Block 602A, Block 602B, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612; Tract 0205: Block Group 1: Block 101, Block 102, Block 103, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 409, Block 410; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 508, Block 509, Block 510, Block 511; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block

608; Tract 0206: Block Group 1: Block 105, Block 106, Block 107, Block 108, Block 109, Block 110; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 308; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507; Tract 0207, Tract 0208: Block Group 1: Block 105, Block 106, Block 107, Block 108, Block 110, Block 111, Block 112; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 208, Block 209; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 310; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 413, Block 414; Tract 0209: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 113, Block 116, Block 117, Block 118; 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Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 321; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412; Tract 0238.02: Block Group 2: Block 202; Tract 0240: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 213, Block 214, Block 215, Block 216; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 316, Block 317, Block 318; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506A, Block 506B, Block 507, Block 508, Block 509, Block 511, Block 512, Block 513, Block 514; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615, Block 616, Block 617, Block 619, Block 622, Block 623; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 706, Block 707, Block 708, Block 709, Block 710, Block 711, Block 712, Block 713, Block 716, Block 717; Tract 0241, Tract 0242, Tract 0323.06, Tract 0323.07, Tract 0323.08, Tract 0323.09, Tract 0323.10; Kitsap: Tract 0901.01, Tract 0901.02, Tract 0902, Tract 0903, Tract 0903.99, Tract 0904, Tract 0905, Tract 0906.01, Tract 0906.02, Tract 0907, Tract 0908, Tract 0909, Tract 0910, Tract 0911, Tract 0912.01, Tract 0912.02, Tract 0913, except Block Group 3: Block 316, Block 331; Tract 0914, Tract 0915, Tract 0917, except Block Group 2: Block 205; Tract 0920: Block Group 2: Block 217, Block 218; Snohomish: Tract 0416.04: Block Group 2: Block 207, Block 209; Tract 0417: Block Group 2: Block 210; Block Group 3: Block 303, Block 306, Block 307, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321; Block Group 4: Block 401B, Block 402B, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411; Tract 0418.04: Block Group 1: Block 103, Block 104, Block 105, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116; Tract 0419.01: Block Group 3: Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 310; Block Group 9: Block 907; Tract 0420.02: Block Group 1: Block 106; Block Group 2: Block 201, Block 202, Block 203, Block 204; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305; Block Group 4: Block 401, Block 402; Tract 0420.03, Tract 0420.04, except Block Group 2: Block 201; Block Group 3: Block 303; Tract 0501, Tract 0502, Tract 0503, Tract 0504.01, Tract

0504.02, Tract 0505, Tract 0506, Tract 0507, Tract 0508, Tract 0509, Tract 0510, Tract 0511, Tract 0512, Tract 0513, Tract 0514, Tract 0515, Tract 0516, Tract 0517, Tract 0518.01, Tract 0518.02, Tract 0519.05, Tract 0519.06, Tract 0519.07, Tract 0519.08, Tract 0519.09, Tract 0519.10, Tract 0519.11, Tract 0519.12, Tract 0520.01, Tract 0520.02, Tract 0520.03, Tract 0521.06, Tract 0521.07, Tract 0521.08, Tract 0521.09.

District 2: Island, San Juan, Skagit, Snohomish: Tract 0401.98, Tract 0402, Tract 0403, Tract 0404, Tract 0405, Tract 0406, Tract 0407, Tract 0408, Tract 0409, Tract 0410, Tract 0411, Tract 0412, Tract 0413, Tract 0414, Tract 0415, Tract 0416.01, Tract 0416.03, Tract 0416.04: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406; Block Group 9: Block 901; Tract 0417: Block Group 1: Block 101, Block 102, Block 103A, Block 103B, Block 104, Block 105A, Block 105B, Block 106, Block 107, Block 108A, Block 108B, Block 109, Block 110A, Block 110B, Block 111A, Block 111B, Block 112, Block 113, Block 114A, Block 114B, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120; Block Group 2: Block 201A, Block 201B, Block 202, Block 203, Block 204, Block 205, Block 206, Block 208, Block 209, Block 213, Block 214; Block Group 3: Block 301, Block 302, Block 304, Block 305, Block 308, Block 309, Block 310; Block Group 4: Block 401A, Block 402A, Block 402C, Block 403; Tract 0418.01, Tract 0418.03, Tract 0418.04: Block Group 1: Block 101, Block 102, Block 106, Block 107, Block 108, Block 109, Block 110; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505; Tract 0419.01: Block Group 2: Block 201, Block 202; Block Group 3: Block 301, Block 308, Block 309, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316; Block Group 9: Block 901A, Block 901B, Block 901C, Block 901D, Block 901E, Block 902, Block 903, Block 904, Block 905, Block 906, Block 908, Block 909, Block 910, Block 911; Tract 0419.02, Tract 0420.01, Tract 0420.02: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 107, Block 108, Block 109; Tract 0420.04; Block Group 2: Block 201; Block Group 3: Block 303; Tract 0521.04, Tract 0521.05, Tract 0522.01, Tract 0522.02, Tract 0523.01, Tract 0523.02, Tract 0524, Tract 0525.01, Tract 0525.02, Tract 0526.01, Tract 0526.02, Tract 0527.01, Tract 0527.02, Tract 0527.03, Tract 0528.02, Tract 0528.03, Tract 0528.04, Tract 0529.01, Tract 0529.02, Tract 0530.98, Tract 0531, Tract 0532, Tract 0533, Tract 0534, Tract 0535.01, Tract 0535.02, Tract 0536, Tract 0537, Tract 0538; Whatcom.

District 3: Clark: Tract 0401, Tract 0402, Tract 0403, Tract 0404.01: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507; Tract 0404.02: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107A, Block 107B, Block 108A, Block 108B, Block 109, Block 110, Block 111, Block 112A, Block 112B, Block 113A, Block 113B, Block 114A, Block 114B, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207; Block Group 3: Block 301A, Block 301B, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307A, Block 307B, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324, Block 325, Block 326, Block 327A, Block 327B, Block 328, Block 329, Block 330, Block 331, Block 332, Block 333, Block 334, Block 335, Block 336, Block 337, Block 338, Block 339, Block 340, Block 341; Block Group 4: Block 401A, Block 401B, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418A,

Block 418B, Block 418C, Block 418D, Block 419, Block 420A, Block 420B, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426, Block 427, Block 428A, Block 428B, Block 428C, Block 428D, Block 429, Block 430, Block 431, Block 432; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512A, Block 512B, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521, Block 522, Block 523, Block 524; Tract 0405.01, Tract 0405.02, Tract 0405.03, Tract 0406.01, Tract 0406.02, Tract 0407.02: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207; Block Group 5: Block 501, Block 502, Block 503, Block 504; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606; Block Group 7: Block 701, Block 702, Block 703, Block 704; Tract 0407.03, Tract 0407.04, Tract 0408.01, Tract 0408.02, Tract 0409.02, Tract 0409.03, Tract 0409.04, Tract 0410.02, Tract 0410.03, Tract 0410.05, Tract 0410.06, Tract 0410.07, Tract 0411.03, Tract 0411.04, Tract 0411.05, Tract 0411.06, Tract 0412.01, Tract 0412.03, Tract 0412.04, Tract 0413.04, Tract 0413.05, Tract 0413.06, Tract 0413.07, Tract 0413.08, Tract 0413.09, Tract 0413.10, Tract 0413.11, Tract 0414: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214A, Block 214B, Block 214C, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221A, Block 221B, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229, Block 230, Block 231, Block 232A, Block 232B, Block 233A, Block 233B; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308A, Block 308B, Block 308C, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316A, Block 316B, Block 317A, Block 317B, Block 318, Block 319, Block 320, Block 321, Block 322, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330, Block 332, Block 339, Block 340, Block 341, Block 357A, Block 357B, Block 359; Block Group 4: Block 401, Block 402, Block 403; Tract 0415: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120A, Block 120B, Block 120C, Block 120D, Block 121, Block 122, Block 124, Block 125, Block 126, Block 127, Block 130A, Block 130B, Block 132, Block 133, Block 134, Block 135, Block 138; Block Group 2: Block 201, Block 202, Block 203A, Block 203B, Block 204A, Block 204B, Block 205, Block 206, Block 207, Block 208, Block 209A, Block 209B, Block 209C, Block 209D, Block 209E, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229, Block 230, Block 231, Block 232, Block 233; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324, Block 325, Block 326, Block 397; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 419, Block 420A, Block 420B, Block 430; Tract 0416, Tract 0417, Tract 0418, Tract 0419, Tract 0420, Tract 0421, Tract 0423, Tract 0424, Tract 0425, Tract 0426, Tract 0427, Tract 0428, Tract 0429, Tract 0430, Tract 0431; Cowlitz, Grays Harbor: Tract 0005, Tract 0006, Tract 0007, Tract 0016; Klickitat: Tract 9502: Block Group 1: Block 113B, Block 113C, Block 113D, Block 114, Block 115, Block 118; Block Group 3: Block 309, Block 310, Block 311, Block 323, Block 324, Block 325, Block 368, Block 369, Block 370, Block 371; Block Group 4: Block 401, Block 402A, Block 402B, Block 402C, Block 402D, Block 402E, Block 402F, Block 402G, Block 402H, Block 402J, Block 403, Block 404A, Block 404B, Block 405A, Block 405B, Block 406A, Block 406B, Block 407A, Block 407B, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426, Block 427, Block 428, Block 429, Block 430, Block 431, Block 432, Block 433, Block 434, Block 435, Block 436, Block 437, Block 438, Block 439, Block 440, Block 441, Block 442, Block 443, Block 444, Block 445, Block 446, Block 447, Block 448, Block 449,

Block 450, Block 451, Block 452, Block 453, Block 454, Block 455, Block 456, Block 457, Block 458, Block 459, Block 460, Block 461, Block 462, Block 463, Block 464, Block 465, Block 466, Block 467, Block 468; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521, Block 522, Block 523, Block 524, Block 525, Block 526, Block 527, Block 528, Block 529, Block 530, Block 531, Block 532, Block 533, Block 534, Block 535, Block 536, Block 537, Block 538, Block 539, Block 540, Block 541, Block 542, Block 543, Block 544, Block 545, Block 546, Block 547A, Block 547B, Block 547C, Block 547D, Block 548, Block 549, Block 550, Block 551A, Block 551B, Block 551C, Block 552, Block 553, Block 554, Block 555, Block 556, Block 557, Block 558A, Block 558B, Block 558C, Block 558D, Block 558E, Block 558F, Block 559, Block 560, Block 561, Block 562, Block 563, Block 564, Block 565, Block 566, Block 567, Block 568, Block 569A, Block 569B, Block 570, Block 571, Block 572, Block 573, Block 574, Block 575, Block 576, Block 577, Block 578, Block 579A, Block 579B, Block 580A, Block 580B, Block 581A, Block 581B, Block 582, Block 583, Block 584, Block 585, Block 586, Block 587, Block 588, Block 589, Block 590, Block 591, Block 592, Block 593, Block 594, Block 595, Block 596, Block 597; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615, Block 616, Block 617, Block 618, Block 619, Block 620, Block 621A, Block 621B, Block 622, Block 623, Block 624, Block 625, Block 626, Block 627, Block 628, Block 629, Block 630, Block 631, Block 632, Block 633, Block 634, Block 635, Block 636, Block 637, Block 638, Block 639, Block 640, Block 641, Block 642, Block 643, Block 644, Block 645, Block 646, Block 647, Block 648, Block 649, Block 650, Block 651, Block 652, Block 653, Block 654, Block 655, Block 656, Block 657, Block 658, Block 659A, Block 659B, Block 659C, Block 660, Block 661, Block 662, Block 663, Block 664, Block 665, Block 666, Block 667, Block 668, Block 669, Block 670, Block 671, Block 672, Block 673, Block 674, Block 675A, Block 675B, Block 676, Block 677, Block 678, Block 679, Block 680A, Block 680B, Block 680C, Block 681, Block 682, Block 683A, Block 683B, Block 683C, Block 684, Block 685, Block 686, Block 687, Block 688, Block 689, Block 690, Block 691, Block 692, Block 693, Block 694, Block 695, Block 696, Block 697; Tract 9503; Lewis, Pacific, Skamania, Thurston: Tract 0101, Tract 0102, Tract 0103, Tract 0104, Tract 0105, Tract 0106, Tract 0107, Tract 0108, Tract 0109, Tract 0110, Tract 0111, Tract 0112, Tract 0113, Tract 0114, Tract 0116.10: Block Group 3: Block 306A, Block 306C, Block 307A, Block 307B, Block 307C; Block Group 4: Block 404A, Block 404B, Block 404C, Block 405; Tract 0116.20: Block Group 1: Block 102A; Block Group 2: Block 204; Tract 0117: Block Group 1: Block 101A, Block 101B, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 110, Block 111, Block 112, Block 113; Block Group 2: Block 201A, Block 201B, Block 201C, Block 202, Block 203, Block 204, Block 205; Block Group 3: Block 303, Block 304, Block 305, Block 306, Block 307; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405; Block Group 5: Block 503, Block 504, Block 505, Block 506, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515; Tract 0118, Tract 0119, Tract 0120, Tract 0121, Tract 0122.10, Tract 0126: Block Group 3: Block 309; Tract 0127; Wahkiakum.

District 4: Adams: Tract 9503: Block Group 3: Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 386, Block 391, Block 392, Block 393, Block 397; Block Group 4: Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426, Block 427, Block 428, Block 429, Block 430, Block 431, Block 432, Block 433, Block 434, Block 435, Block 436, Block 437, Block 438, Block 439, Block 440, Block 450, Block 451, Block 452, Block 453, Block 454, Block 455, Block 456, Block 457, Block 458, Block 459, Block 460; Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Klickitat: Tract 9501: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135A, Block 135B, Block 135C, Block 135D, Block 135E, Block 135F, Block 135G, Block 135H, Block 135J, Block 135K, Block 135L, Block 135M, Block 135N, Block 136, Block 137, Block 138,

Block 139, Block 140, Block 141, Block 142, Block 143, Block 144, Block 145, Block 146, Block 147, Block 148, Block 149, Block 150A, Block 150B, Block 150C, Block 150D, Block 150E, Block 150F, Block 150G, Block 150H, Block 150J, Block 150K, Block 151A, Block 151B, Block 152, Block 153, Block 154, Block 155A, Block 155B, Block 156, Block 157, Block 158, Block 159, Block 160, Block 161, Block 162, Block 163A, Block 163B, Block 163C, Block 164, Block 165A, Block 165B, Block 166A, Block 166B, Block 167, Block 168, Block 169, Block 170, Block 171, Block 172, Block 173, Block 174, Block 175, Block 176, Block 177, Block 178, Block 179, Block 180, Block 181, Block 182, Block 183, Block 184, Block 185, Block 186, Block 187, Block 188, Block 189, Block 190A, Block 190B, Block 190C, Block 190D, Block 190E, Block 190F, Block 190G, Block 190H, Block 191, Block 192, Block 193, Block 194, Block 195, Block 196, Block 197; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229, Block 230, Block 231, Block 232, Block 233, Block 234A, Block 234B, Block 235, Block 236, Block 237, Block 238, Block 239, Block 240, Block 241, Block 242, Block 243, Block 244, Block 245, Block 246, Block 247, Block 248A, Block 248B, Block 248C, Block 249A, Block 249B, Block 250, Block 251, Block 252, Block 253, Block 254, Block 255, Block 256, Block 257, Block 258, Block 259, Block 260A, Block 260B, Block 261A, Block 261B, Block 261C, Block 261D, Block 261E, Block 262A, Block 262B, Block 262C, Block 262D, Block 262E, Block 263A, Block 263B, Block 264, Block 265, Block 266, Block 267, Block 268, Block 269, Block 270, Block 271, Block 272, Block 273, Block 274, Block 275, Block 276, Block 277, Block 278, Block 279, Block 280, Block 281, Block 282, Block 283, Block 284, Block 285, Block 286, Block 287, Block 288, Block 289, Block 290, Block 291, Block 292, Block 293, Block 294, Block 295, Block 296, Block 297; Block Group 3: Block 301A, Block 301B, Block 301C, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330A, Block 330B, Block 331, Block 332, Block 333, Block 334, Block 335, Block 336, Block 337, Block 338, Block 339, Block 340, Block 341, Block 342A, Block 342B, Block 342C, Block 343, Block 344, Block 345, Block 346, Block 347, Block 348, Block 349, Block 350, Block 351A, Block 351B, Block 352, Block 353, Block 354, Block 355, Block 356, Block 357, Block 358, Block 359A, Block 359B, Block 359C, Block 359D, Block 360, Block 361, Block 362, Block 363, Block 364, Block 365, Block 366, Block 367, Block 368, Block 369, Block 370, Block 371, Block 372A, Block 372B, Block 372C, Block 373, Block 374, Block 375, Block 376, Block 377, Block 378, Block 379, Block 380, Block 381, Block 382, Block 383, Block 384, Block 385, Block 386, Block 387, Block 388, Block 389, Block 390, Block 391, Block 392, Block 393, Block 394, Block 395A, Block 395B, Block 396A, Block 396B, Block 397A, Block 397B; Block Group 4: Block 401A, Block 401B, Block 402, Block 403A, Block 403B, Block 404, Block 405, Block 406A, Block 406B, Block 407, Block 408, Block 409, Block 410A, Block 410B, Block 411, Block 412A, Block 412B, Block 412C, Block 412D, Block 412E, Block 412F, Block 413, Block 414A, Block 414B, Block 415, Block 416, Block 417A, Block 417B, Block 418A, Block 418B, Block 419A, Block 419B, Block 420, Block 421, Block 422A, Block 422B, Block 423, Block 424A, Block 424B, Block 425, Block 426, Block 427, Block 428, Block 429, Block 430, Block 431, Block 432, Block 433, Block 434A, Block 434B, Block 435A, Block 435B, Block 436, Block 437, Block 438, Block 439, Block 440, Block 441, Block 442, Block 443, Block 444, Block 445, Block 446, Block 447, Block 448, Block 449; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521, Block 522, Block 523, Block 524, Block 525, Block 526, Block 527, Block 528, Block 529, Block 530, Block 531, Block 532, Block 533A, Block 533B, Block 534A, Block 534B; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615, Block 616, Block 617, Block 618, Block 619, Block 620, Block 621A, Block 621B, Block 622; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 706, Block 707, Block 708, Block 709, Block 710, Block 711, Block 712, Block 713, Block 714, Block 715, Block 716, Block 717, Block 718A, Block 718B, Block 719A, Block 719B, Block 719C, Block 720, Block 721, Block 722, Block 723, Block 724, Block 725, Block 726, Block 727, Block 728, Block 729, Block 730, Block 731, Block 732; Block Group 8: Block 801, Block 802, Block 803, Block 804,

Block 805, Block 806, Block 807, Block 808, Block 809, Block 810, Block 811, Block 812, Block 813, Block 814, Block 815, Block 816, Block 817, Block 818, Block 819, Block 820, Block 821, Block 822, Block 823, Block 824, Block 825, Block 826, Block 827, Block 828, Block 829, Block 830, Block 831, Block 832, Block 833, Block 834, Block 835, Block 836, Block 837, Block 838, Block 839, Block 840, Block 841, Block 842, Block 843, Block 844, Block 845, Block 846, Block 847, Block 848, Block 849, Block 850, Block 851, Block 852, Block 853, Block 854, Block 855, Block 856, Block 857, Block 858, Block 859, Block 860, Block 861, Block 862, Block 863A, Block 863B, Block 864, Block 865, Block 866, Block 867, Block 868, Block 869, Block 870, Block 871, Block 872, Block 873, Block 874, Block 875, Block 876, Block 877, Block 878, Block 879, Block 880, Block 881, Block 882A, Block 882B, Block 883, Block 884, Block 885, Block 886, Block 887, Block 888, Block 889, Block 890, Block 891, Block 892, Block 893, Block 894, Block 895, Block 896, Block 897; Block Group 9: Block 901, Block 902, Block 903, Block 904, Block 905, Block 906, Block 907, Block 908, Block 909, Block 910, Block 911, Block 912, Block 913, Block 914, Block 915, Block 916, Block 917, Block 918, Block 919, Block 920, Block 921, Block 922, Block 923, Block 924, Block 925, Block 926, Block 927, Block 928, Block 929, Block 930, Block 931, Block 932, Block 933, Block 934, Block 935, Block 936, Block 937, Block 938, Block 939, Block 940, Block 941, Block 942, Block 943, Block 944, Block 945, Block 946, Block 947, Block 948, Block 949, Block 950, Block 951, Block 952, Block 953, Block 954, Block 955, Block 956; Tract 9502: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109A, Block 109B, Block 110, Block 111A, Block 111B, Block 111C, Block 112, Block 113A, Block 116, Block 117, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136, Block 137, Block 138, Block 139, Block 140, Block 141, Block 142, Block 143, Block 144, Block 145, Block 146, Block 147, Block 148, Block 149, Block 150, Block 151, Block 152, Block 153, Block 154, Block 155, Block 156, Block 157, Block 158, Block 159, Block 160, Block 161, Block 162, Block 163, Block 164, Block 165, Block 166, Block 167, Block 168, Block 169, Block 170, Block 171, Block 172, Block 173, Block 174, Block 175, Block 176, Block 177, Block 178, Block 179, Block 180, Block 181; 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Block Group 3: Block 301, Block 302, Block 303A, Block 303B, Block 304, Block 305, Block 306, Block 307, Block 308, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317A, Block 317B, Block 317C, Block 317D, Block 318A, Block 318B, Block 319, Block 320, Block 321, Block 322, Block 326, Block 327, Block 328, Block 329, Block 330, Block 331, Block 332, Block 333, Block 334, Block 335, Block 336, Block 337, Block 338, Block 339, Block 340, Block 341, Block 342, Block 343, Block 344, Block 345, Block 346, Block 347, Block 348, Block 349, Block 350, Block 351, Block 352, Block 353, Block 354, Block 355, Block 356, Block 357, Block 358, Block 359, Block 360, Block 361, Block 362, Block 363, Block 364, Block 365, Block 366, Block 367, Block 372, Block 373, Block 374, Block 375A, Block 375B, Block 375C, Block 376, Block 377A, Block 377B, Block 377C, Block 378, Block 379; Okanogan, Yakima.

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District 6: Clallam, Grays Harbor: Tract 0001, Tract 0002, Tract 0003, Tract 0004, Tract 0008, Tract 0009, Tract 0010, Tract 0011, Tract 0012, Tract 0013, Tract 0014, Tract 0015, Tract 0017.98; Jefferson, Kitsap: Tract 0801.01, Tract 0801.02, Tract 0802, Tract 0803, Tract 0804, Tract 0805, Tract 0806, Tract 0807, Tract 0808.98, Tract 0809.98, Tract 0810, Tract 0811, Tract 0812, Tract 0813, Tract 0814, Tract 0814.99, Tract 0913: Block Group 3: Block 316, Block 331; Tract 0916, Tract 0917: Block Group 2: Block 205; Tract 0918, Tract 0919, Tract 0920, except Block Group 2: Block 217, Block 218; Tract 0921, Tract 0922, Tract 0923, Tract 0924, Tract 0925, Tract 0926, Tract 0927, Tract 0928, Tract 0929; Mason, Pierce: Tract 0603: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 139, Block 141, Block 142, Block 143, Block 145, Block 146, Block 148; 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Block Group 6: Block 601A, Block 601B, Block 602A, Block 602B; Tract 0718.02: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110; Block Group 2: Block 201, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217; Tract 0718.03, Tract 0718.04: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115; Block Group 2: Block 201, Block 202, Block 203; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315; Block Group 4: Block 401, Block 402; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 706, Block 707, Block 708, Block 709, Block 710, Block 711, Block 712, Block 713, Block 714, Block 715, Block 716; 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District 7: King: Tract 0001, Tract 0002, Tract 0003, Tract 0004: Block Group 2: Block 207, Block 208, Block 211, Block 212; Tract 0006, Tract 0007, Tract 0008, Tract 0009, Tract 0010, Tract 0011, Tract 0012, Tract 0013: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309; Block Group 4: Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414; Tract 0016: Block Group 3: Block 306, Block 307, Block 308, Block 309, Block 311, Block 312, Block 313, Block 314; Tract 0017: Block Group 2: Block 213, Block 214, Block 215, Block 216; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 309, Block 310, Block 313, Block 314, Block 315, Block 316; 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Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 706, Block 707, Block 708, Block 709, Block 710, Block 711, Block 712, Block 713, Block 714; Block Group 8: Block 801, Block 802, Block 803, Block 804, Block 805, Block 806, Block 807, Block 808, Block 809, Block 810, Block 811, Block 812, Block 813; Tract 0043, Tract 0044, Tract 0045, Tract 0046, Tract 0047, Tract 0047.99, Tract 0048, Tract 0049, Tract 0050, Tract 0051, Tract 0052, Tract 0053.01, Tract 0053.02, Tract 0054, Tract 0054.99, Tract 0055: Block Group 9: Block 901, Block 902, Block 903; Tract 0056: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 316, Block 317, Block 318, Block 320, Block 321; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521, Block 522, Block 523, Block 524; Block Group 6: Block 601, Block 602, Block 606, Block 607, Block 608, Block 609, Block 610, Block 612, Block 615, Block 616, Block 618, Block 619, Block 620; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 706, Block 707, Block 708, Block 709, Block 710, Block 711, Block 712, Block 713, Block 714, Block 715, Block 716, Block 717, Block 718, Block 719, Block 720, Block 722, Block 723, Block 726; Block Group 8: Block 801, Block 802, Block 803, Block 807, Block 808, Block 809, Block 810, Block 811, Block 812, Block 813, Block 814, Block 815, Block 816, Block 817, Block 818, Block 819, Block 820, Block 821, Block 822, Block 823, Block 824, Block 825, Block 826, Block 827; Tract 0057: Block Group 2: Block 201, Block 202A, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 408, Block 409, Block 410, Block 411, Block 416, Block 417; Block Group 5: Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 706, Block 707, Block 708, Block 709, Block 710; Tract 0057.99, Tract 0058.01, Tract 0058.02, Tract 0058.99, Tract 0059, Tract 0059.99, Tract 0060, Tract 0061, Tract 0062: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 116, Block 117; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 209, Block 210, Block 211, Block 212, Block 213, Block 215, Block 216, Block 217; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306,

Block 307, Block 310, Block 311, Block 312, Block 313, Block 314, Block 316, Block 319; Block Group 4: Block 402, Block 403, Block 404, Block 405, Block 406, Block 408, Block 409, Block 411, Block 412, Block 415, Block 417, Block 418; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 506, Block 508, Block 509, Block 514, Block 515; Block Group 6: Block 601, Block 602, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615; Tract 0063: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112; Block Group 2: Block 201, Block 203, Block 204, Block 205, Block 206, Block 207, Block 209, Block 210, Block 211, Block 214, Block 215, Block 216, Block 218, Block 219; Block Group 3: Block 301, Block 302, Block 303, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316; Block Group 4: Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 410; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 511, Block 516, Block 517; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 614; Tract 0064: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 107, Block 108, Block 109; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 209, Block 212; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 413, Block 414; Block Group 5: Block 501, Block 510; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615, Block 616; Tract 0065: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 108, Block 109, Block 110, Block 111, Block 112; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414; Block Group 5: Block 501, Block 502, Block 503, Block 505, Block 506, Block 507, Block 508, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516; Tract 0066: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 108, Block 109, Block 110, Block 111; Block Group 2: Block 201A, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 215, Block 216, Block 217, Block 218; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318; Tract 0066.99, Tract 0067.98: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 112, Block 116, Block 117; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 318, Block 320, Block 321, Block 322, Block 324, Block 325, Block 328, Block 329; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421; Tract 0068.98, Tract 0069, Tract 0070, Tract 0071, Tract 0072: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 217, Block 218, Block 219, Block 220, Block 221; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319A, Block 319B, Block 322, Block 323; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 424, Block

425, Block 426; Tract 0073: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 213, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 311, Block 314, Block 315, Block 316, Block 317, Block 318; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415; Tract 0074: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407; Block Group 5: Block 501, Block 502, Block 503, Block 505, Block 506, Block 507, Block 508, Block 509; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 706, Block 707, Block 708, Block 709; Tract 0075: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111; Block Group 2: Block 201, Block 202A, Block 202B, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 307, Block 309, Block 310, Block 311, Block 312, Block 313, Block 316; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410; Block Group 5: Block 501, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615; Tract 0076: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 411, Block 412, Block 413, Block 414; Tract 0077: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 413, Block 415, Block 416, Block 417; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 518, Block 519, Block 520; Tract 0078: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 110, Block 112, Block 117, Block 121, Block 123, Block 124; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 225; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519, Block 523; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615, Block 616, Block 617, Block 618, Block 619; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 706, Block 707, Block 708, Block 709, Block 710, Block 711, Block 712, Block 713, Block 714, Block 715, Block 717, Block 719, Block 720, Block 721, Block 722, Block 723, Block 728;

Tract 0079: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 209, Block 210, Block 211, Block 212; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308; Block Group 4: Block 401, Block 402, Block 405, Block 406, Block 407, Block 410, Block 411, Block 412; Block Group 5: Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510; Tract 0080: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 222; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313A, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324; Tract 0080.99: Block Group 3: Block 313Z; Tract 0081: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 120; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 318, Block 320, Block 321, Block 322; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426, Block 429; Tract 0082: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410; Tract 0083: Block Group 1: Block 101, Block 102, Block 104, Block 105, Block 106; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406; Tract 0084: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211; Block Group 3: Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 411, Block 412, Block 413; Tract 0085: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 208, Block 210; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 308; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508; Tract 0086: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112; Block Group 2: Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 211, Block 212, Block 213; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316; Block Group 4: Block 404, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 512, Block 513; Tract 0087, Tract 0088, Tract 0089: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 111, Block 112, Block 114, Block 115, Block 116, Block 117, Block 120, Block 121, Block 126, Block 127, Block 128, Block 130, Block 131, Block 132; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 210, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222; Block Group 3: Block 301, Block 302, Block 303,

Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 411, Block 412, Block 413, Block 414, Block 415; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 616, Block 618, Block 619, Block 620, Block 621, Block 622, Block 623, Block 624, Block 625; Tract 0090: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 115, Block 117, Block 120; Block Group 2: Block 201, Block 202, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 216, Block 217; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324, Block 325, Block 326, Block 327; Tract 0091: Block Group 1: Block 101, Block 102, Block 106, Block 107; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409; Tract 0092: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309; Tract 0093: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 419, Block 420, Block 421, Block 423, Block 425, Block 427, Block 430, Block 431, Block 432, Block 433, Block 434, Block 435, Block 436; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521, Block 522, Block 523, Block 524, Block 525, Block 526, Block 527, Block 528, Block 529, Block 530, Block 531, Block 532, Block 533, Block 534, Block 535, Block 536; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615, Block 616, Block 617, Block 618, Block 619, Block 620, Block 621, Block 622, Block 623, Block 632, Block 638, Block 639, Block 640, Block 644, Block 647, Block 648, Block 652, Block 654, Block 655, Block 656, Block 657, Block 661, Block 662, Block 663, Block 664; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 706, Block 707, Block 708, Block 709, Block 713, Block 719, Block 720, Block 721, Block 724, Block 730, Block 734, Block 735, Block 737; Block Group 8: Block 801, Block 802, Block 803, Block 804, Block 805, Block 806, Block 807, Block 808A, Block 809, Block 810, Block 811, Block 812, Block 813, Block 814, Block 815, Block 816, Block 817, Block 818, Block 819, Block 820, Block 821, Block 822, Block 823, Block 824, Block 825, Block 826, Block 827, Block 828, Block 829, Block 830, Block 831, Block 832, Block 833, Block 834, Block 835, Block 836, Block 837, Block 838, Block 839, Block 840, Block 841, Block 842, Block 843, Block 844, Block 845, Block 846, Block 847, Block 848, Block 849, Block 850, Block 851; Tract 0093.99: Block Group 8: Block 808D, Block 808Z; Tract 0094: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 107, Block 108, Block 109, Block 110, Block 112, Block 113, Block 114, Block 115, Block 118, Block 122, Block 124, Block 125; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 219, Block 220, Block 221, Block 222; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 323; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block

411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 421; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 518, Block 519, Block 523, Block 524, Block 525, Block 526; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 614, Block 615, Block 616, Block 617, Block 618, Block 620, Block 621, Block 626, Block 628, Block 629, Block 630, Block 632, Block 633, Block 634; Tract 0095: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 119, Block 120, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 132, Block 134, Block 137, Block 138, Block 139; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 218, Block 219, Block 220, Block 221, Block 222, Block 224; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 320, Block 323; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 421, Block 422; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521, Block 522, Block 523, Block 526, Block 528, Block 529; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615, Block 616, Block 617, Block 618, Block 619, Block 626, Block 627, Block 628, Block 629; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 706, Block 707, Block 708, Block 709, Block 710, Block 711, Block 712, Block 713, Block 714, Block 715, Block 716, Block 717, Block 718, Block 719, Block 720, Block 721, Block 722, Block 723, Block 724; Block Group 8: Block 810, Block 811, Block 812, Block 813, Block 814, Block 816, Block 818, Block 819; Tract 0096: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 114, Block 115, Block 116, Block 118; Block Group 2: Block 204, Block 206, Block 207, Block 208, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 316; Block Group 4: Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422; 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Block Group 6: Block 601, Block 603, Block 604, Block 605, Block 606, Block 608, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615, Block 616, Block 617, Block 618, Block 620, Block 621, Block 622; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 710, Block 711, Block 712, Block 713, Block 714, Block 715, Block 716, Block 717, Block 718, Block 719, Block 720, Block 721, Block 724; Block Group 8: Block 801, Block 802, Block 803, Block 804, Block 805, Block 806, Block 807, Block 808, Block 809, Block 810, Block 811, Block 812; Tract 0098: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215; Block Group 3: Block 301,

Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 412, Block 413, Block 414; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 706, Block 707, Block 708, Block 709, Block 710, Block 711, Block 712, Block 713; Block Group 8: Block 801, Block 802, Block 803, Block 806, Block 807, Block 809, Block 810, Block 811, Block 812, Block 813, Block 814; Tract 0099: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 215, Block 217, Block 220, Block 221, Block 226, Block 227; Block Group 3: Block 301, Block 309, Block 312, Block 314; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 417; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518A, Block 519, Block 521, Block 534, Block 535, Block 536, Block 537, Block 539, Block 553; Block Group 6: Block 601; Tract 0099.99: Block Group 5: Block 518Z; Tract 0100: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 113, Block 116, Block 117; Block Group 2: Block 201, Block 202, Block 203, Block 205, Block 206, Block 209, Block 210, Block 211, Block 213; 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Block Group 7: Block 701, Block 702, Block 703, Block 705, Block 706, Block 707, Block 708, Block 709, Block 710, Block 711, Block 712, Block 713, Block 714, Block 715, Block 716, Block 717, Block 718, Block 720, Block 721, Block 722, Block 723, Block 724, Block 725, Block 726, Block 727, Block 728, Block 729; Tract 0101: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 117, Block 121; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 216, Block 219, Block 220, Block 221, Block 225, Block 226; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 312, Block 313, Block 320, Block 323; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 412, Block 413, Block 414, Block 415, Block 418; 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Block Group 3: Block 301, Block 302, Block 303, Block 305, Block 307, Block 308,

Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315; Block Group 4: Block 401, Block 402, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 514, Block 515, Block 516, Block 517; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 609, Block 610, Block 612, Block 614, Block 615, Block 618, Block 619, Block 620; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 706, Block 708; Tract 0103: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 216, Block 217, Block 218, Block 220; 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Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 411, Block 412, Block 413, Block 414, Block 415, Block 420, Block 421, Block 422; Block Group 5: Block 501, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615, Block 616; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 706, Block 707, Block 708, Block 709, Block 710, Block 711, Block 712; Block Group 8: Block 801, Block 802, Block 803, Block 804, Block 805, Block 806, Block 807, Block 808, Block 809, Block 810, Block 811, Block 812, Block 813, Block 814, Block 815, Block 816, Block 817, Block 818; Tract 0105: Block Group 1: Block 101, Block 102, Block 103, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210; 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Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 413; Block Group 5: Block 501, Block 502, Block 503, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 707, Block 708, Block 709, Block 710, Block 711, Block 712, Block 713; Tract 0107: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210; Block Group 3:

Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 708, Block 709; Tract 0108: Block Group 1: Block 101, Block 102, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 121; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 216, Block 218; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312; Tract 0109: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 222, Block 223, Block 224, Block 225, Block 231, Block 234, Block 235; Block Group 3: Block 301, Block 302, Block 303, Block 304A, Block 304B, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323A, Block 324; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 413, Block 414, Block 415, Block 416, Block 417, Block 423, Block 424, Block 425, Block 426, Block 427, Block 429; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521, Block 522, Block 523; Tract 0109.99: Block Group 3: Block 323Z; Tract 0110: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 515; Tract 0111, Tract 0112: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 115, Block 116, Block 117, Block 118, Block 120, Block 121, Block 122, Block 125, Block 127, Block 128, Block 130, Block 132, Block 133; Block Group 2: Block 201, Block 202, Block 203, Block 205, Block 206, Block 207, Block 210, Block 212A, Block 212B, Block 214A, Block 214B, Block 215, Block 216, Block 217, Block 219, Block 220, Block 221, Block 230A, Block 230B; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 316, Block 317; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 409, Block 413, Block 414, Block 415, Block 416, Block 418, Block 419, Block 420, Block 422; Tract 0113: Block Group 1: Block 101, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119; Block Group 2: Block 204, Block 205, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 415, Block 416, Block 417, Block 418; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516; Tract 0114: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315,

Block 316, Block 319, Block 320; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 406, Block 407, Block 408, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517; Tract 0115: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412; 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Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 608, Block 611, Block 613, Block 616, Block 619, Block 622, Block 625, Block 626, Block 627, Block 628; Tract 0117: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 106, Block 108, Block 109, Block 110, Block 111, Block 112, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121; Block Group 2: Block 201, Block 202, Block 204, Block 205, Block 206, Block 207, Block 209, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 223, Block 224, Block 225, Block 226, Block 227, Block 234, Block 238, Block 239; Block Group 3: Block 301, Block 302, Block 310, Block 312, Block 313, Block 316, Block 317, Block 318, Block 319, Block 322, Block 323, Block 324, Block 325, Block 326; Tract 0118: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 107, Block 110, Block 113; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 219; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 314, Block 315; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 416, Block 417; Block Group 5: Block 511, Block 512, Block 513, Block 514, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615; Tract 0119: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 122, Block 123, Block 124; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205A, Block 205B, Block 205C, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216A, Block 216B, Block 217A, Block 217B, Block 222, Block 223, Block 225, Block 226, Block 227A, Block 227B, Block 228, Block 229A, Block 229B; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 508, Block 509, Block 511, Block 512, Block 513, Block 514, Block 516, Block 517; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615, Block 616, Block 617, Block 618, Block 619; Tract 0120: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112; Block Group 2: Block 201, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311; Block Group 4:

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Chapter 29.70 RCW
LOCAL GOVERNMENT REDISTRICTING

Sections

29.70.100 Redistricting by counties, municipal corporations, and special purpose districts.

RCW 29.70.100 Redistricting by counties, municipal corporations, and special purpose districts.

(1) It is the responsibility of each county, municipal corporation, and special purpose district with a governing body comprised of internal director, council, or commissioner districts not based on statutorily required land ownership criteria to periodically redistrict its governmental unit, based on population information from the most recent federal decennial census.

(2) Within forty-five days after receipt of federal decennial census information applicable to a specific local area, the commission established in RCW 44.05.030 shall forward the census information to each municipal corporation, county, and district charged with redistricting under this section.

(3) No later than eight months after its receipt of federal decennial census data, the governing body of the municipal corporation, county, or district shall prepare a plan for redistricting its internal or director districts.

(4) The plan shall be consistent with the following criteria:

(a) Each internal director, council, or commissioner district shall be as nearly equal in population as possible to each and every other such district comprising the municipal corporation, county, or special purpose district.

(b) Each district shall be as compact as possible.

(c) Each district shall consist of geographically contiguous area.

(d) Population data may not be used for purposes of favoring or disfavoring any racial group or political party.

(e) To the extent feasible and if not inconsistent with the basic enabling legislation for the municipal corporation, county, or district, the district boundaries shall coincide with existing recognized natural boundaries and shall, to the extent possible, preserve existing communities of related and mutual interest.

(5) During the adoption of its plan, the municipal corporation, county, or district shall ensure that full and reasonable public notice of its actions is provided. The municipal corporation, county, or district shall hold at least one public hearing on the redistricting plan at least one week before adoption of the plan.

(6)(a) Any registered voter residing in an area affected by the redistricting plan may request review of the adopted local plan by the superior court of the county in which he or she resides, within forty-five days of the plan's adoption. Any request for review must specify the reason or reasons alleged why the local plan is not consistent with the applicable redistricting criteria. The municipal corporation, county, or district may be joined as respondent. The superior court shall thereupon review the challenged plan for compliance with the applicable redistricting criteria set out in subsection (4) of this section.

(b) If the superior court finds the plan to be consistent with the requirements of this section, the plan shall take effect immediately.

(c) If the superior court determines the plan does not meet the requirements of this section, in whole or in part, it shall remand the plan for further or corrective action within a specified and reasonable time period.

(d) If the superior court finds that any request for review is frivolous or has been filed solely for purposes of harassment or delay, it may impose appropriate sanctions on the party

requesting review, including payment of attorneys' fees and costs to the respondent municipal corporation, county, or district.

[1984 c 13 § 4; 1983 c 16 § 15; 1982 c 2 § 27.]

Notes:

Severability--1984 c 13: See RCW 44.05.902.

Contingent effective date--Severability--1983 c 16: See RCW 44.05.900 and 44.05.901.

Chapter 29.71 RCW
UNITED STATES PRESIDENTIAL ELECTORS

Sections

29.71.010 Date of election--Number.
29.71.020 Nomination--Pledge by electors--What names on ballots--How counted.
29.71.030 Counting and canvassing the returns.
29.71.040 Meeting--Time--Procedure--Voting for nominee of other party, penalty.
29.71.050 Compensation.

RCW 29.71.010 Date of election--Number.

On the Tuesday next after the first Monday of November in the year in which a president of the United States is to be elected there shall be elected as many electors of president and vice president of the United States as there are senators and representatives in congress allotted to this state.

[1965 c 9 § 29.71.010. Prior: 1891 c 148 § 1; RRS § 5138.]

RCW 29.71.020 Nomination--Pledge by electors--What names on ballots--How counted.

In the year in which a presidential election is held, each major political party and each minor political party or independent candidate convention held under chapter 29.24 RCW that nominates candidates for president and vice-president of the United States shall nominate presidential electors for this state. The party or convention shall file with the secretary of state a certificate signed by the presiding officer of the convention at which the presidential electors were chosen, listing the names and addresses of the presidential electors. Each presidential elector shall execute and file with the secretary of state a pledge that, as an elector, he or she will vote for the candidates nominated by that party. The names of presidential electors shall not appear on the ballots. The votes cast for candidates for president and vice-president of each political party shall be counted for the candidates for presidential electors of that political party.

[1990 c 59 § 69; 1977 ex.s. c 238 § 1; 1965 c 9 § 29.71.020. Prior: 1935 c 20 § 1; RRS § 5138-1.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.71.030 Counting and canvassing the returns.

The votes for candidates for president and vice president shall be given, received, returned and canvassed as the same are given, returned, and canvassed for candidates for congress. The secretary of state shall prepare three lists of names of electors elected and affix the seal of the state to the same. Such lists shall be signed by the governor and secretary of state and by the latter delivered to the college of electors at the hour of their meeting.

[1965 c 9 § 29.71.030. Prior: 1935 c 20 § 2; RRS § 5139; prior: 1891 c 148 § 2.]

RCW 29.71.040 Meeting--Time--Procedure--Voting for nominee of other party, penalty.

The electors of the president and vice president shall convene at the seat of government on the day fixed by federal statute, at the hour of twelve o'clock noon of that day. If there is any vacancy in the office of an elector occasioned by death, refusal to act, neglect to attend, or otherwise, the electors present shall immediately proceed to fill it by viva voce, and plurality of votes. When all of the electors have appeared and the vacancies have been filled they shall constitute the college of electors of the state of Washington, and shall proceed to perform the duties required of them by the Constitution and laws of the United States. Any elector who votes for a person or persons not nominated by the party of which he or she is an elector shall be subject to a civil penalty of up to a fine of one thousand dollars.

[1977 ex.s. c 238 § 2; 1965 c 9 § 29.71.040. Prior: 1909 c 22 § 1; 1891 c 148 § 3; RRS § 5140.]

RCW 29.71.050 Compensation.

Every presidential elector who attends at the time and place appointed, and gives his vote for president and vice president, shall be entitled to receive from this state, five dollars for each day's attendance at the meeting of the college of electors, and ten cents per mile for travel by the usually traveled route in going to and returning from the place where the electors meet.

[1965 c 9 § 29.71.050. Prior: 1891 c 148 § 4; RRS § 5141.]

Chapter 29.74 RCW
UNITED STATES CONSTITUTIONAL AMENDMENT CONVENTIONS

Sections

29.74.010 Governor's proclamation calling convention--When.
29.74.020 Governor's proclamation calling convention--Publication.
29.74.030 Election of convention delegates--Date for, how fixed.

29.74.040 Time and place for holding convention.
29.74.050 Delegates--Number and qualifications.
29.74.060 Delegates--Declarations of candidacy.
29.74.070 Election of convention delegates--General procedure.
29.74.080 Election of convention delegates--Ballots.
29.74.090 Election of convention delegates--Qualifications of voters.
29.74.100 Election of convention delegates--Ascertaining election result.
29.74.110 Meeting--Organization.
29.74.120 Quorum--Proceedings--Record.
29.74.130 Certification and transmittal of result.
29.74.140 Expenses--How paid--Delegates receive filing fee.
29.74.150 Federal statutes controlling.

RCW 29.74.010 Governor's proclamation calling convention--When.

Within thirty days after the state is officially notified that the congress of the United States has submitted to the several states a proposed amendment to the Constitution of the United States to be ratified or rejected by a convention, the governor shall issue a proclamation fixing the time and place for holding the convention and fixing the time for holding an election to elect delegates to the convention.

[1965 c 9 § 29.74.010. Prior: 1933 c 181 § 1, part; RRS § 5249-1, part.]

RCW 29.74.020 Governor's proclamation calling convention--Publication.

The proclamation shall be published once each week for two successive weeks in one newspaper published and of general circulation in each of the congressional districts of the state. The first publication of the proclamation shall be within thirty days of the receipt of official notice by the state of the submission of the amendment.

[1965 c 9 § 29.74.020. Prior: 1933 c 181 § 1, part; RRS § 5249-1, part.]

RCW 29.74.030 Election of convention delegates--Date for, how fixed.

The date for holding the election of delegates shall be not less than one month nor more than six weeks prior to the date of holding the convention: PROVIDED, That if a general state election is to be held not more than six months nor less than three months from the date of official notice of submission to the state of the proposed amendment, the governor must fix the date of the general election as the date for the election of delegates to the convention.

[1965 c 9 § 29.74.030. Prior: (i) 1933 c 181 § 1, part; RRS § 5249-1, part. (ii) 1933 c 181 § 9; RRS § 5249-9.]

RCW 29.74.040 Time and place for holding convention.

The convention shall be held not less than five nor more than eight months from the date of the first publication of the proclamation provided for in RCW 29.74.020. It shall be held in the

chambers of the state house of representatives unless the governor shall select some other place at the state capitol.

[1965 c 9 § 29.74.040. Prior: 1933 c 181 § 1, part; RRS § 5249-1, part.]

RCW 29.74.050 Delegates--Number and qualifications.

Each state representative district shall be entitled to as many delegates in the convention as it has members in the house of representatives of the state legislature. No person shall be qualified to act as a delegate in said convention who does not possess the qualifications required of representatives in the state legislature from the same district.

[1965 c 9 § 29.74.050. Prior: 1933 c 181 § 2; RRS § 5249-2.]

Notes:
Qualifications of legislators: State Constitution Art. 2 § 7.
Subversive activities, disqualification from holding public office: RCW 9.81.040.

RCW 29.74.060 Delegates--Declarations of candidacy.

Anyone desiring to file as a candidate for election as a delegate to said convention shall, not less than thirty nor more than sixty days prior to the date fixed for holding the election, file his declaration of candidacy with the secretary of state. Filing shall be made on a form to be prescribed by the secretary of state and shall include a sworn statement of the candidate that he is either for or against, as the case may be, the amendment which will be submitted to a vote of the convention and that he will, if elected as a delegate, vote in accordance with his declaration. The form shall be so worded that the candidate must give a plain unequivocal statement of his views as either for or against the proposal upon which he will, if elected, be called upon to vote. No candidate shall in any such filing make any statement or declaration as to his party politics or political faith or beliefs. The fee for filing as a candidate shall be ten dollars and shall be transmitted to the secretary of state with the filing papers and be by the secretary of state transmitted to the state treasurer for the use of the general fund.

[1965 c 9 § 29.74.060. Prior: 1933 c 181 § 3; RRS § 5249-3.]

RCW 29.74.070 Election of convention delegates--General procedure.

The election of delegates to such convention shall as far as practicable, be called, held and conducted, except as otherwise in this chapter provided, in the same manner as a general election under the election laws of this state.

[1965 c 9 § 29.74.070. Prior: 1933 c 181 § 4, part; RRS § 5249-4, part.]

RCW 29.74.080 Election of convention delegates--Ballots.

The issue shall be identified as, "Delegates to a convention for ratification or rejection of

a proposed amendment to the United States Constitution, relating . . . . . (stating briefly the substance of amendment proposed for adoption or rejection)." The names of all candidates who have filed in a district shall be printed on the ballots for that district in two separate groups under the headings, "For the amendment" and "Against the amendment." The names of the candidates in each group shall be printed in alphabetical order.

[1990 c 59 § 70; 1965 c 9 § 29.74.080. Prior: 1933 c 181 § 4, part; RRS § 5249-4, part.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Ballots: Chapter 29.30 RCW.

RCW 29.74.090 Election of convention delegates--Qualifications of voters.

Every person possessing the qualifications entitling him to vote at an election for state representatives, on the date of the election, shall be entitled to vote thereat.

[1965 c 9 § 29.74.090. Prior: 1933 c 181 § 5; RRS § 5249-5.]

Notes:

Only registered voters may vote--Exception: RCW 29.04.010.

Registration, information from voter as to qualifications: RCW 29.07.070.

Subversive activities, disqualification from voting: RCW 9.81.040.

RCW 29.74.100 Election of convention delegates--Ascertaining election result.

The election officials shall count and determine the number of votes cast for each individual; and shall also count and determine the aggregate number of votes cast for all candidates whose names appear under each of the respective headings. Where more than the required number have been voted for, the ballot shall be rejected. The figures determined by the various counts shall be entered in the poll books of the respective precincts. The vote shall be canvassed in each county by the county canvassing board and certificate of results shall within twelve days after the election be transmitted to the secretary of state. Upon receiving such certificate, the secretary of state shall have power to require returns or poll books from any county precinct to be forwarded for his examination.

Where a district embraces precincts of more than one county, the secretary of state shall combine the votes from all the precincts included in each district. The delegates elected in each district shall be the number of candidates, corresponding to the number of state representatives from the district, who receive the highest number of votes in the group (either "for" or "against"), which received an aggregate number of votes for all candidates in the group greater than the aggregate number of votes for all the candidates in the other group, and the secretary of state shall issue certificates of election, to the delegates so elected.

[1965 c 9 § 29.74.100. Prior: 1933 c 181 § 6; RRS § 5249-6.]

RCW 29.74.110 Meeting--Organization.

The convention shall meet at the time and place fixed in the governor's proclamation. It shall be called to order by the secretary of state, who shall then call the roll of the delegates and preside over the convention until its president is elected. The oath of office shall then be administered to the delegates by the chief justice of the supreme court. As far as practicable, the convention shall proceed under the rules adopted by the last preceding session of the state senate. The convention shall elect a president and a secretary and shall thereafter and thereupon proceed to vote viva voce upon the proposition submitted by the congress of the United States.

[1965 c 9 § 29.74.110. Prior: 1933 c 181 § 7, part; RRS § 5249-7, part.]

RCW 29.74.120 Quorum--Proceedings--Record.

Two-thirds of the elected members of said convention shall constitute a quorum to do business, and a majority of those elected shall be sufficient to adopt or reject any proposition coming before the convention. If such majority votes in favor of the ratification of the amendment submitted to the convention, the said amendment shall be deemed ratified by the state of Washington; and if a majority votes in favor of rejecting or not ratifying the amendment, the same shall be deemed rejected by the state of Washington.

[1965 c 9 § 29.74.120. Prior: 1933 c 181 § 8, part; RRS § 5249-8, part.]

RCW 29.74.130 Certification and transmittal of result.

The vote of each member shall be recorded in the journal of the convention, which shall be preserved by the secretary of state as a public document. The action of the convention shall be enrolled, signed by its president and secretary and filed with the secretary of state and it shall be the duty of the secretary of state to properly certify the action of the convention to the congress of the United States as provided by general law.

[1965 c 9 § 29.74.130. Prior: (i) 1933 c 181 § 7, part; RRS § 5249-7, part. (ii) 1933 c 181 § 8, part; RRS § 5249-8, part.]

RCW 29.74.140 Expenses--How paid--Delegates receive filing fee.

The delegates attending the convention shall be paid the amount of their filing fee, upon vouchers approved by the president and secretary of the convention and state warrants issued thereon and payable from the general fund of the state treasury. The delegates shall receive no other compensation or mileage. All other necessary expenses of the convention shall be payable from the general fund of the state upon vouchers approved by the president and secretary of the convention.

[1965 c 9 § 29.74.140. Prior: 1933 c 181 § 10; RRS § 5249-10.]

RCW 29.74.150 Federal statutes controlling.

If a congressional measure, which submits to the several states an amendment to the Constitution of the United States for ratification or rejection, provides for or requires a different method of calling and holding conventions to ratify or reject said amendment, the requirements of said congressional measure shall be followed so far as they conflict with the provisions of this chapter.

[1965 c 9 § 29.74.150. Prior: 1933 c 181 § 11; RRS § 5249-11.]

Chapter 29.79 RCW
INITIATIVE AND REFERENDUM

Sections

29.79.010 Filing proposed measures with secretary of state.
29.79.015 Review of initiative measures by code reviser's office--Certificate of review required for assignment of serial number.
29.79.020 Time for filing various types.
29.79.030 Numbering--Transmittal to attorney general.
29.79.035 Ballot title--Formulation, ballot display.
29.79.040 Ballot title and summary--Formulation by attorney general.
29.79.050 Ballot title and summary--Notice.
29.79.060 Ballot title and summary--Appeal to superior court.
29.79.070 Ballot title and summary--Mailed to proponents and other persons--Appearance on petitions.
29.79.080 Petitions--Paper--Size--Contents.
29.79.090 Petitions to legislature--Form.
29.79.100 Petitions to people--Form.
29.79.110 Referendum petitions--Form.
29.79.115 Warning statement--Further requirements.
29.79.120 Petitions--Signatures--Number necessary.
29.79.140 Petitions--Time for filing.
29.79.150 Petitions--Acceptance or rejection by secretary of state.
29.79.160 Petitions--Review of refusal to accept and file.
29.79.170 Petitions--Review--Appellate review of superior court's refusal to issue mandate.
29.79.180 Petitions--Destruction on final refusal.
29.79.190 Petitions--Consolidation into volumes.
29.79.200 Petitions--Verification and canvass of signatures, observers--Statistical sampling--Initiatives to legislature, certification of.
29.79.210 Petitions to legislature--Count of signatures--Review.
29.79.230 Initiatives and referenda to voters--Certificates of sufficiency.
29.79.250 Referendum bills by legislature--Serial numbering.
29.79.270 Rejected initiative to legislature treated as referendum bill.
29.79.280 Substitute for rejected initiative treated as referendum bill.
29.79.290 Substitute for rejected initiative--Concise description.
29.79.300 Printing ballot titles on ballots--Order and form.
29.79.440 Violations by signers.
29.79.480 Violations by officers.

29.79.490 Violations--Corrupt practices.
29.79.500 Paid petition solicitors--Finding.

Notes:
Ballot titles and summaries: RCW 29.27.057 through 29.27.067.
Cities and towns
ordinances by initiative petition, election on: RCW 35.17.260 through 35.17.360.
under commission form of government, franchises as subject to referendum: RCW 35.17.220.
under commission form of government, ordinances as subject to referendum, election on: RCW 35.17.230 through 35.17.250.
Initiative and referendum: State Constitution Art. 2 § 1 and 1A (Amendment 30).
Notice of constitutional amendments--Publication in newspapers and on radio and television: RCW 29.27.072 through 29.27.076.
Vote necessary to validate initiative or referendum: RCW 29.62.130.
Voters' pamphlet: Chapter 29.81 RCW.

RCW 29.79.010 Filing proposed measures with secretary of state.

If any legal voter of the state, either individually or on behalf of an organization, desires to petition the legislature to enact a proposed measure, or submit a proposed initiative measure to the people, or order that a referendum of all or part of any act, bill, or law, passed by the legislature be submitted to the people, he or she shall file with the secretary of state a typewritten copy of the measure proposed, or the act or part of such act on which a referendum is desired, accompanied by an affidavit that the proposer is a legal voter and a filing fee prescribed under RCW 43.07.120, as now or hereafter amended.

[1982 c 116 § 1; 1965 c 9 § 29.79.010. Prior: 1913 c 138 § 1, part; RRS § 5397, part.]

RCW 29.79.015 Review of initiative measures by code reviser's office--Certificate of review required for assignment of serial number.

Upon receipt of any petition proposing an initiative to the people or an initiative to the legislature, and prior to giving a serial number thereto, the secretary of state shall submit a copy thereof to the office of the code reviser and give notice to the petitioner of such transmittal. Upon receipt of the measure, the assistant code reviser to whom it has been assigned may confer with the petitioner and shall within seven working days from receipt thereof review the proposal for matters of form and style, and such matters of substantive import as may be agreeable to the petitioner, and shall recommend to the petitioner such revision or alteration of the measure as may be deemed necessary and appropriate. The recommendations of the reviser's office shall be advisory only, and the petitioner may accept or reject them in whole or in part. The code reviser shall issue a certificate of review certifying that he has reviewed the measure for form and style and that the recommendations thereon, if any, have been communicated to the petitioner, and such certificate shall issue whether or not the petitioner accepts such recommendations. Within fifteen working days after notification of submittal of the petition to the reviser's office, the

petitioner, if he desires to proceed with his sponsorship, shall file the measure together with the certificate of review with the secretary of state for assignment of serial number and the secretary of state shall thereupon submit to the reviser's office a certified copy of the measure filed. Upon submitting the proposal to the secretary of state for assignment of a serial number the secretary of state shall refuse to make such assignment unless the proposal is accompanied by a certificate of review.

[1982 c 116 § 2; 1973 c 122 § 2.]

Notes:

Legislative finding--1973 c 122: "The legislature finds that the initiative process reserving to the people the power to propose bills, laws and to enact or reject the same at the polls, independent of the legislature, is finding increased popularity with citizens of our state. The exercise of this power concomitant with the power of the legislature requires coordination to avoid the duplication and confusion of laws. This legislation is enacted especially to facilitate the operation of the initiative process." [1973 c 122 § 1.]

RCW 29.79.020 Time for filing various types.

Initiative measures proposed to be submitted to the people must be filed with the secretary of state within ten months prior to the election at which they are to be submitted, and the petitions therefor must be filed with the secretary of state not less than four months before the next general state-wide election.

Initiative measures proposed to be submitted to the legislature must be filed with the secretary of state within ten months prior to the next regular session of the legislature at which they are to be submitted and the petitions therefor must be filed with the secretary of state not less than ten days before such regular session of the legislature.

A petition ordering that any act or part thereof passed by the legislature be referred to the people must be filed with the secretary of state within ninety days after the final adjournment of the legislative session at which the act was passed. It may be submitted at the next general state-wide election or at a special election ordered by the legislature.

A proposed initiative or referendum measure may be filed no earlier than the opening of the secretary of state's office for business pursuant to RCW 42.04.060 on the first day filings are permitted, and any initiative or referendum petition must be filed not later than the close of business on the last business day in the specified period for submission of signatures. If a filing deadline falls on a Saturday, the office of the secretary of state shall be open on that Saturday for the transaction of business under this section from 8:00 a.m. to 5:00 p.m. on that Saturday.

[1987 c 161 § 1; 1965 c 9 § 29.79.020. Prior: (i) 1913 c 138 § 1, part; RRS § 5397, part. (ii) 1913 c 138 § 6, part; RRS § 5402, part. (iii) 1913 c 138 § 5, part; RRS § 5401, part. (iv) 1913 c 138 § 7, part; RRS § 5403, part.]

Notes:

Initiative, referendum, time for filing: State Constitution Art. 2 § 1 (a) and (d) (Amendment 7).
Petitions--Time for filing: RCW 29.79.140.

RCW 29.79.030 Numbering--Transmittal to attorney general.

The secretary of state shall give a serial number to each initiative or referendum measure, using a separate series for initiatives to the legislature, initiatives to the people, and referendum measures, and forthwith transmit one copy of the measure proposed bearing its serial number to the attorney general. Thereafter a measure shall be known and designated on all petitions, ballots, and proceedings as "Initiative Measure No. . . . ." or "Referendum Measure No. . . . .".

[1982 c 116 § 3; 1965 c 9 § 29.79.030. Prior: 1913 c 138 § 1, part; RRS § 5397, part.]

RCW 29.79.035 Ballot title--Formulation, ballot display.

(1) The ballot title for an initiative to the people, an initiative to the legislature, a referendum bill, or a referendum measure consists of: (a) A statement of the subject of the measure; (b) a concise description of the measure; and (c) a question in the form prescribed in this section for the ballot measure in question. The statement of the subject of a measure must be sufficiently broad to reflect the subject of the measure, sufficiently precise to give notice of the measure's subject matter, and not exceed ten words. The concise description must contain no more than thirty words, be a true and impartial description of the measure's essential contents, clearly identify the proposition to be voted on, and not, to the extent reasonably possible, create prejudice either for or against the measure.

(2) For an initiative to the people, or for an initiative to the legislature for which the legislature has not proposed an alternative, the ballot title must be displayed on the ballot substantially as follows:

"Initiative Measure No. . . . concerns (statement of subject). This measure would (concise description). Should this measure be enacted into law?

Yes . . . . . ☐
No . . . . . ☐ "

(3) For an initiative to the legislature for which the legislature has proposed an alternative, the ballot title must be displayed on the ballot substantially as follows:

"Initiative Measure Nos. . . . and . . .B concern (statement of subject).

Initiative Measure No. . . . would (concise description).

As an alternative, the legislature has proposed Initiative Measure No. . . .B, which would (concise description).

1. Should either of these measures be enacted into law?

Yes . . . . . ☐

No . . . . . ☐

2. Regardless of whether you voted yes or no above, if one of these measures is enacted, which one should it be?

Measure No. . . . . ☐
or
Measure No. . . . . ☐ "

(4) For a referendum bill submitted to the people by the legislature, the ballot issue must be displayed on the ballot substantially as follows:

"The legislature has passed . . . . Bill No. . . . concerning (statement of subject). This bill would (concise description). Should this bill be:

Approved . . . . . ☐
Rejected . . . . . ☐ "

(5) For a referendum measure by state voters on a bill the legislature has passed, the ballot issue must be displayed on the ballot substantially as follows:

"The legislature passed . . . Bill No. . . . concerning (statement of subject) and voters have filed a sufficient referendum petition on this bill. This bill would (concise description). Should this bill be:

Approved . . . . . ☐
Rejected . . . . . ☐ "

(6) The legislature may specify the statement of subject or concise description, or both, in a referendum bill that it refers to the people. The legislature may specify the concise description for an alternative it submits for an initiative to the legislature. If the legislature fails to specify these matters, the attorney general shall prepare the material that was not specified. The statement of subject and concise description as so provided must be included as part of the ballot title unless changed on appeal.

The attorney general shall specify the statement of subject and concise description for an initiative to the people, an initiative to the legislature, and a referendum measure. The statement of subject and concise description as so provided must be included as part of the ballot title unless changed on appeal.

[2000 c 197 § 1.]

Notes:

Part headings not law--2000 c 197: "Part headings used in this act are not part of the law." [2000 c 197 § 17.]

RCW 29.79.040 Ballot title and summary--Formulation by attorney general.

Within five days after the receipt of an initiative or referendum the attorney general shall formulate the ballot title, or portion of the ballot title that the legislature has not provided, required by RCW 29.79.035 and a summary of the measure, not to exceed seventy-five words, and transmit the serial number for the measure, complete ballot title, and summary to the secretary of state. Saturdays, Sundays, and legal holidays are not counted in calculating the time limits in this section.

[2000 c 197 § 2; 1993 c 256 § 9; 1982 c 116 § 4; 1973 1st ex.s. c 118 § 2; 1965 c 9 § 29.79.040. Prior: 1953 c 242 § 2; 1913 c 138 § 2; RRS § 5398.]

Notes:

Part headings not law--2000 c 197: See note following RCW 29.79.035.

Severability--Effective date--1993 c 256: See notes following RCW 29.79.500.

Ballot titles to other state and local measures: RCW 29.27.057 through 29.27.067.

RCW 29.79.050 Ballot title and summary--Notice.

Upon the filing of the ballot title and summary for a state initiative or referendum measure in the office of secretary of state, the secretary of state shall notify by telephone and by mail, and, if requested, by other electronic means, the person proposing the measure, the prime sponsor of a referendum bill or alternative to an initiative to the legislature, the chief clerk of the house of representatives, the secretary of the senate, and any other individuals who have made written request for such notification of the exact language of the ballot title and summary.

[2000 c 197 § 3; 1982 c 116 § 5; 1973 1st ex.s. c 118 § 3; 1965 c 9 § 29.79.050. Prior: 1913 c 138 § 3, part; RRS § 5399, part.]

Notes:

Part headings not law--2000 c 197: See note following RCW 29.79.035.

RCW 29.79.060 Ballot title and summary--Appeal to superior court.

Any persons, including the attorney general or either or both houses of the legislature, dissatisfied with the ballot title or summary for a state initiative or referendum may, within five days from the filing of the ballot title in the office of the secretary of state appeal to the superior court of Thurston county by petition setting forth the measure, the ballot title or summary, and their objections to the ballot title or summary and requesting amendment of the ballot title or summary by the court. Saturdays, Sundays, and legal holidays are not counted in calculating the time limits contained in this section.

A copy of the petition on appeal together with a notice that an appeal has been taken shall be served upon the secretary of state, upon the attorney general, and upon the person proposing the measure if the appeal is initiated by someone other than that person. Upon the filing of the petition on appeal or at the time to which the hearing may be adjourned by consent of the

appellant, the court shall accord first priority to examining the proposed measure, the ballot title or summary, and the objections to that ballot title or summary, may hear arguments, and shall, within five days, render its decision and file with the secretary of state a certified copy of such ballot title or summary as it determines will meet the requirements of RCW 29.79.040. The decision of the superior court shall be final. Such appeal shall be heard without costs to either party.

[2000 c 197 § 4; 1982 c 116 § 6; 1965 c 9 § 29.79.060. Prior: 1913 c 138 § 3, part; RRS § 5399, part.]

Notes:

Part headings not law--2000 c 197: See note following RCW 29.79.035.

RCW 29.79.070 Ballot title and summary--Mailed to proponents and other persons--Appearance on petitions.

When the ballot title and summary are finally established, the secretary of state shall file the instrument establishing it with the proposed measure and transmit a copy thereof by mail to the person proposing the measure, the chief clerk of the house of representatives, the secretary of the senate, and to any other individuals who have made written request for such notification. Thereafter such ballot title shall be the title of the measure in all petitions, ballots, and other proceedings in relation thereto. The summary shall appear on all petitions directly following the ballot title.

[2000 c 197 § 5; 1982 c 116 § 7; 1965 c 9 § 29.79.070. Prior: 1913 c 138 § 4, part; RRS § 5400, part.]

Notes:

Part headings not law--2000 c 197: See note following RCW 29.79.035.

RCW 29.79.080 Petitions--Paper--Size--Contents.

The person proposing the measure shall print blank petitions upon single sheets of paper of good writing quality (including but not limited to newsprint) not less than eleven inches in width and not less than fourteen inches in length. Each petition at the time of circulating, signing, and filing with the secretary of state shall consist of not more than one sheet with numbered lines for not more than twenty signatures, with the prescribed warning and title, shall be in the form required by RCW 29.79.090, 29.79.100, or 29.79.110, as now or hereafter amended, and shall have a full, true, and correct copy of the proposed measure referred to therein printed on the reverse side of the petition.

[1982 c 116 § 8; 1973 1st ex.s. c 118 § 4; 1965 c 9 § 29.79.080. Prior: (i) 1913 c 138 § 4, part; RRS § 5400, part. (ii) 1913 c 138 § 9; RRS § 5405.]

RCW 29.79.090 Petitions to legislature--Form.

Petitions for proposing measures for submission to the legislature at its next regular session, shall be substantially in the following form:

WARNING

Every person who signs this petition with any other than his or her true name, knowingly signs more than one of these petitions, signs this petition when he or she is not a legal voter, or makes any false statement on this petition may be punished by fine or imprisonment or both.

INITIATIVE PETITION FOR
SUBMISSION TO THE LEGISLATURE

To the Honorable . . . . . ., Secretary of State of the State of Washington:

We, the undersigned citizens and legal voters of the State of Washington, respectfully direct that this petition and the proposed measure known as Initiative Measure No. . . . . and entitled (here set forth the established ballot title of the measure), a full, true, and correct copy of which is printed on the reverse side of this petition, be transmitted to the legislature of the State of Washington at its next ensuing regular session, and we respectfully petition the legislature to enact said proposed measure into law; and each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the State of Washington in the city (or town) and county written after my name, my residence address is correctly stated, and I have knowingly signed this petition only once.

Petitioner's signature	Print name for positive identification	Residence address, street and number, if any	City or Town	County
(Here follow 20 numbered lines divided into columns as below.)				
1- - - - - - -	- - - - - - - - - - -	- - - - - - - - - - - - - -	- - - - - -	- - - - - - - - - -
2- - - - - - -	- - - - - - - - - - -	- - - - - - - - - - - - - -	- - - - - -	- - - - - - - - - -
3- - - - - - -	- - - - - - - - - - -	- - - - - - - - - - - - - -	- - - - - -	- - - - - - - - - -
etc.				

[1982 c 116 § 9; 1965 c 9 § 29.79.090. Prior: 1913 c 138 § 5, part; RRS § 5401, part.]

RCW 29.79.100 Petitions to people--Form.

Petitions for proposing measures for submission to the people for their approval or rejection at the next ensuing general election, shall be substantially in the following form:

WARNING

Every person who signs this petition with any other than his or her true name, knowingly signs more than one of these petitions, signs this petition when he or she is not a legal voter, or makes any false statement on this petition may be punished by fine or imprisonment or both.

INITIATIVE PETITION FOR
SUBMISSION TO THE PEOPLE

To the Honorable . . . . . ., Secretary of State of the State of Washington:

We, the undersigned citizens and legal voters of the State of Washington, respectfully direct that the proposed measure known as Initiative Measure No. . . . ., entitled (here insert the established ballot title of the measure), a full, true and correct copy of which is printed on the reverse side of this petition, be submitted to the legal voters of the State of Washington for their approval or rejection at the general election to be held on the . . . . . day of November, 19. . .; and each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the State of Washington, in the city (or town) and county written after my name, my residence address is correctly stated, and I have knowingly signed this petition only once.

Petitioner's signature	Print name for positive identification	Residence address, street and number, if any	City or Town	County

(Here follow 20 numbered lines divided into columns as below.)

1- -

2- -

3- -
etc.

[1982 c 116 § 10; 1965 c 9 § 29.79.100. Prior: 1913 c 138 § 6, part; RRS § 5402, part.]

RCW 29.79.110 Referendum petitions--Form.

Petitions ordering that acts or parts of acts passed by the legislature be referred to the people at the next ensuing general election, or special election ordered by the legislature, shall be substantially in the following form:

WARNING

Every person who signs this petition with any other than his or her true name, knowingly

signs more than one of these petitions, signs this petition when he or she is not a legal voter, or makes any false statement on this petition may be punished by fine or imprisonment or both.

PETITION FOR REFERENDUM

To the Honorable . . . . . ., Secretary of State of the State of Washington:

We, the undersigned citizens and legal voters of the State of Washington, respectfully order and direct that Referendum Measure No. . . . . ., filed to revoke a (or part or parts of a) bill that (concise statement required by *RCW 29.79.055) and that was passed by the . . . . . legislature of the State of Washington at the last regular (special) session of said legislature, shall be referred to the people of the state for their approval or rejection at the regular (special) election to be held on the . . . . day of November, 19. . .; and each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the State of Washington, in the city (or town) and county written after my name, my residence address is correctly stated, and I have knowingly signed this petition only once.

Petitioner's signature	Print name for positive identification	Residence address, street and number, if any	City or Town	County
(Here follow 20 numbered lines divided into columns as below.)				
1- - - - - - - -	- - - - - - - - - -	- - - - - - - - - - - - - -	- - - - - -	- - - - - - - - - -
2- - - - - - - -	- - - - - - - - - -	- - - - - - - - - - - - - -	- - - - - -	- - - - - - - - - -
3- - - - - - - -	- - - - - - - - - -	- - - - - - - - - - - - - -	- - - - - -	- - - - - - - - - -
etc.				

[1993 c 256 § 10; 1982 c 116 § 11; 1965 c 9 § 29.79.110. Prior: 1913 c 138 § 7, part; RRS § 5403, part.]

Notes:

***Reviser's note:** RCW 29.79.055 was recodified as RCW 29.27.066 pursuant to 2000 c 197 § 16.

Severability--Effective date--1993 c 256: See notes following RCW 29.79.500.

RCW 29.79.115 Warning statement--Further requirements.

The word "warning" and the warning statement regarding signing petitions that must appear on petitions as prescribed by RCW 29.79.090, 29.79.100, and 29.79.110 shall be printed on each petition sheet such that they occupy not less than four square inches of the front of the petition sheet.

[1993 c 256 § 5.]

Notes:

Severability--Effective date--1993 c 256: See notes following RCW 29.79.500.

RCW 29.79.120 Petitions--Signatures--Number necessary.

When the person proposing any initiative measure has secured upon such initiative petition a number of signatures of legal voters equal to or exceeding eight percent of the votes cast for the office of governor at the last regular gubernatorial election prior to the submission of the signatures for verification, or when the person or organization demanding any referendum of an act of the legislature or any part thereof has secured upon any such referendum petition a number of signatures of legal voters equal to or exceeding four percent of the votes cast for the office of governor at the last regular gubernatorial election prior to the submission of the signatures for verification, he or they may submit the petition to the secretary of state for filing.

[1982 c 116 § 12; 1965 c 9 § 29.79.120. Prior: 1913 c 138 § 11, part; RRS § 5407, part. See also State Constitution Art. 2 § 1A (Amendment 30), (L. 1955, p. 1860, S.J.R. No. 4).]

RCW 29.79.140 Petitions--Time for filing.

The time for submitting initiative or referendum petitions to the secretary of state for filing is as follows:

(1) A referendum petition ordering and directing that the whole or some part or parts of an act passed by the legislature be referred to the people for their approval or rejection at the next ensuing general election or a special election ordered by the legislature, must be submitted not more than ninety days after the final adjournment of the session of the legislature which passed the act;

(2) An initiative petition proposing a measure to be submitted to the people for their approval or rejection at the next ensuing general election, must be submitted not less than four months before the date of such election;

(3) An initiative petition proposing a measure to be submitted to the legislature at its next ensuing regular session must be submitted not less than ten days before the commencement of the session.

[1965 c 9 § 29.79.140. Prior: 1913 c 138 § 12, part; RRS § 5408, part.]

Notes:

Initiative, referendum, time for filing: State Constitution Art. 2 § 1 (a) and (d) (Amendment 7).
Measures, petitions, time for filing various types: RCW 29.79.020.

RCW 29.79.150 Petitions--Acceptance or rejection by secretary of state.

The secretary of state may refuse to file any initiative or referendum petition being submitted upon any of the following grounds:

(1) That the petition is not in the form required by RCW 29.79.090, 29.79.100, or 29.79.110 as now or hereafter amended.

(2) That the petition clearly bears insufficient signatures.

(3) That the time within which the petition may be filed has expired.

In case of such refusal, the secretary of state shall endorse on the petition the word "submitted" and the date, and retain the petition pending appeal.

If none of the grounds for refusal exists, the secretary of state must accept and file the petition.

[1982 c 116 § 13; 1965 c 9 § 29.79.150. Prior: (i) 1913 c 138 § 11, part; RRS § 5407, part. (ii) 1913 c 138 § 12, part; RRS § 5408, part.]

RCW 29.79.160 Petitions--Review of refusal to accept and file.

If the secretary of state refuses to file an initiative or referendum petition when submitted to him for filing, the persons submitting it for filing may, within ten days after his refusal, apply to the superior court of Thurston county for a citation requiring the secretary of state to bring the petitions before the court, and for a writ of mandate to compel him to file it. The application shall take precedence over other cases and matters and shall be speedily heard and determined.

If the court issues the citation, and determines that the petition is legal in form and apparently contains the requisite number of signatures and was submitted for filing within the time prescribed in the Constitution, it shall issue its mandate requiring the secretary of state to file it in his office as of the date of submission for filing.

The decision of the superior court granting a writ of mandate shall be final.

[1965 c 9 § 29.79.160. Prior: 1913 c 138 § 13, part; RRS § 5409, part.]

Notes:
Initiative, referendum, time for filing: State Constitution Art. 2 § 1 (a) and (d) (Amendment 7).

RCW 29.79.170 Petitions--Review--Appellate review of superior court's refusal to issue mandate.

The decision of the superior court refusing to grant a writ of mandate, may be reviewed by the supreme court within five days after the decision of the superior court. The review shall be considered an emergency matter of public concern, and shall be heard and determined with all convenient speed, and if the supreme court decides that the petitions are legal in form and apparently contain the requisite number of signatures of legal voters, and were filed within the time prescribed in the Constitution, it shall issue its mandate directing the secretary of state to file the petition in his office as of the date of submission.

[1988 c 202 § 28; 1965 c 9 § 29.79.170. Prior: 1913 c 138 § 13, part; RRS § 5409, part.]

Notes:
Rules of court: *Writ procedure superseded by RAP 2.1(b), 2.2, 18.22.*

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 29.79.180 Petitions--Destruction on final refusal.

If no appeal is taken from the refusal of the secretary of state to file a petition within the time prescribed, or if an appeal is taken and the secretary of state is not required to file the petition by the mandate of either the superior or the supreme court, the secretary of state shall destroy it.

[1965 c 9 § 29.79.180. Prior: 1913 c 138 § 13, part; RRS § 5409, part.]

RCW 29.79.190 Petitions--Consolidation into volumes.

If the secretary of state accepts and files an initiative or referendum petition upon its being submitted for filing or if he or she is required to file it by the court, he or she shall, in the presence of the person submitting such petition for filing if he or she desires to be present, arrange and assemble the sheets containing the signatures into such volumes as will be most convenient for verification and canvassing and shall consecutively number the volumes and stamp the date of filing on each volume.

[1982 c 116 § 14; 1965 c 9 § 29.79.190. Prior: 1913 c 138 § 14; RRS § 5410.]

RCW 29.79.200 Petitions--Verification and canvass of signatures, observers--Statistical sampling--Initiatives to legislature, certification of.

Upon the filing of an initiative or referendum petition, the secretary of state shall proceed to verify and canvass the names of the legal voters on the petition. The verification and canvass of signatures on the petition may be observed by persons representing the advocates and opponents of the proposed measure so long as they make no record of the names, addresses, or other information on the petitions or related records during the verification process except upon the order of the superior court of Thurston county. The secretary of state may limit the number of observers to not less than two on each side, if in his or her opinion, a greater number would cause undue delay or disruption of the verification process. Any such limitation shall apply equally to both sides. The secretary of state may use any statistical sampling techniques for this verification and canvass which have been adopted by rule as provided by chapter 34.05 RCW. No petition will be rejected on the basis of any statistical method employed, and no petition will be accepted on the basis of any statistical method employed if such method indicates that the petition contains fewer than the requisite number of signatures of legal voters. If the secretary of state finds the same name signed to more than one petition, he or she shall reject all but the first such valid signature. For an initiative to the legislature, the secretary of state shall transmit a certified copy of the proposed measure to the legislature at the opening of its session and, as soon as the signatures on the petition have been verified and canvassed, the secretary of state shall send to the legislature a certificate of the facts relating to the filing, verification, and canvass of the petition.

[1993 c 368 § 1; 1982 c 116 § 15; 1977 ex.s. c 361 § 105; 1969 ex.s. c 107 § 1; 1965 c 9 § 29.79.200. Prior: 1933 c 144 § 1; 1913 c 138 § 15; RRS § 5411.]

Notes:

Effective date--1993 c 368: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 368 § 2.]

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.79.210 Petitions to legislature--Count of signatures--Review.

Any citizen dissatisfied with the determination of the secretary of state that an initiative or referendum petition contains or does not contain the requisite number of signatures of legal voters may, within five days after such determination, apply to the superior court of Thurston county for a citation requiring the secretary of state to submit the petition to said court for examination, and for a writ of mandate compelling the certification of the measure and petition, or for an injunction to prevent the certification thereof to the legislature, as the case may be. Such application and all proceedings had thereunder shall take precedence over other cases and shall be speedily heard and determined.

The decision of the superior court granting or refusing to grant the writ of mandate or injunction may be reviewed by the supreme court within five days after the decision of the superior court, and if the supreme court decides that a writ of mandate or injunction, as the case may be, should issue, it shall issue the writ directed to the secretary of state; otherwise, it shall dismiss the proceedings. The clerk of the supreme court shall forthwith notify the secretary of state of the decision of the supreme court.

[1988 c 202 § 29; 1965 c 9 § 29.79.210. Prior: 1913 c 138 § 17; RRS § 5413.]

Notes:

Rules of court: *Writ procedure superseded by RAP 2.1(b), 2.2, 18.22.*

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 29.79.230 Initiatives and referenda to voters--Certificates of sufficiency.

If a referendum or initiative petition for submission of a measure to the people is found sufficient, the secretary of state shall at the time and in the manner that he certifies to the county auditors of the various counties the names of candidates for state and district officers certify to each county auditor the serial numbers and ballot titles of the several initiative and referendum measures to be voted upon at the next ensuing general election or special election ordered by the legislature.

[1965 c 9 § 29.79.230. Prior: 1913 c 138 § 19; RRS § 5415.]

RCW 29.79.250 Referendum bills by legislature--Serial numbering.

Whenever any bill passed by the legislature shall be by the legislature referred to the people for their approval or rejection at the next ensuing general election or at a special election ordered by the legislature, the secretary of state shall give such bill a serial number, using a separate series, such series being designated "Referendum bills."

[1965 c 9 § 29.79.250. Prior: 1913 c 138 § 20, part; RRS § 5416, part.]

RCW 29.79.270 Rejected initiative to legislature treated as referendum bill.

Whenever any measure proposed by initiative petition for submission to the legislature is rejected by the legislature or the legislature takes no action thereon before the end of the regular session at which it is submitted, the secretary of state shall certify the serial number and ballot title thereof to the county auditors for printing on the ballots at the next ensuing general election in like manner as initiative measures for submission to the people are certified.

[1965 c 9 § 29.79.270. Prior: 1913 c 138 § 21; RRS § 5417.]

RCW 29.79.280 Substitute for rejected initiative treated as referendum bill.

If the legislature, having rejected a measure submitted to it by initiative petition, proposes a different measure dealing with the same subject, the secretary of state shall give that measure the same number as that borne by the initiative measure followed by the letter "B." Such measure so designated as "Alternative Measure No. . . . . B," together with the ballot title thereof, when ascertained, shall be certified by the secretary of state to the county auditors for printing on the ballots for submission to the voters for their approval or rejection in like manner as initiative measures for submission to the people are certified.

[1965 c 9 § 29.79.280. Prior: 1913 c 138 § 22, part; RRS § 5418, part.]

RCW 29.79.290 Substitute for rejected initiative--Concise description.

For a measure designated as "Alternative Measure No. . . . . B," the secretary of state shall obtain from the measure adopting the alternative, or otherwise the attorney general, a concise description of the alternative measure that differs from the concise description of the original initiative and indicates as clearly as possible the essential differences between the two measures.

[2000 c 197 § 6; 1965 c 9 § 29.79.290. Prior: 1913 c 138 § 22, part; RRS § 5418, part.]

Notes:

Part headings not law--2000 c 197: See note following RCW 29.79.035.

RCW 29.79.300 Printing ballot titles on ballots--Order and form.

The county auditor of each county shall cause to be printed on the official ballots for the election at which initiative and referendum measures are to be submitted to the people for their approval or rejection the serial numbers and ballot titles, certified by the secretary of state. They shall appear under separate headings in the order of the serial numbers as follows:

(1) Measures proposed for submission to the people by initiative petition shall be under the heading, "Proposed by Initiative Petition";

(2) Bills passed by the legislature and ordered referred to the people by referendum

petition shall be under the heading, "Passed by the Legislature and Ordered Referred by Petition";

(3) Bills passed and referred to the people by the legislature shall be under the heading, "Proposed to the People by the Legislature";

(4) Measures proposed to the legislature and rejected or not acted upon shall be under the heading, "Proposed to the Legislature and Referred to the People";

(5) Measures proposed to the legislature and alternative measures passed by the legislature in lieu thereof shall be under the heading, "Initiated by Petition and Alternative by Legislature."

[1965 c 9 § 29.79.300. Prior: 1913 c 138 § 23; RRS § 5419.]

RCW 29.79.440 Violations by signers.

Every person who signs an initiative or referendum petition with any other than his or her true name shall be guilty of a class C felony punishable under RCW 9A.20.021. Every person who knowingly signs more than one petition for the same initiative or referendum measure or who signs an initiative or referendum petition knowing that he or she is not a legal voter or who makes a false statement as to his or her residence on any initiative or referendum petition, shall be guilty of a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

[1993 c 256 § 2; 1965 c 9 § 29.79.440. Prior: 1913 c 138 § 31; RRS § 5427. Formerly also RCW 29.79.450, 29.79.460, and 29.79.470.]

Notes:

Severability--Effective date--1993 c 256: See notes following RCW 29.79.500.

Misconduct in signing a petition: RCW 9.44.080.

Only registered voters may vote--Exception: RCW 29.04.010.

Registration, information from voter as to qualifications: RCW 29.07.070.

Residence

contingencies affecting: State Constitution Art. 6 § 4.

defined: RCW 29.01.140.

RCW 29.79.480 Violations by officers.

Every officer who willfully violates any of the provisions of this chapter or chapter 29.81 RCW, for the violation of which no penalty is herein prescribed, or who willfully fails to comply with the provisions of this chapter or chapter 29.81 RCW, shall be guilty of a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

[1993 c 256 § 3; 1965 c 9 § 29.79.480. Prior: 1913 c 138 § 32, part; RRS § 5428, part.]

Notes:

Severability--Effective date--1993 c 256: See notes following RCW 29.79.500.

RCW 29.79.490 Violations--Corrupt practices.

Every person shall be guilty of a gross misdemeanor who:

(1) For any consideration or gratuity or promise thereof, signs or declines to sign any initiative or referendum petition; or

(2) Provides or receives consideration for soliciting or procuring signatures on an initiative or referendum petition if any part of the consideration is based upon the number of signatures solicited or procured, or offers to provide or agrees to receive such consideration any of which is based on the number of signatures solicited or procured; or

(3) Gives or offers any consideration or gratuity to any person to induce him or her to sign or not to sign or to vote for or against any initiative or referendum measure; or

(4) Interferes with or attempts to interfere with the right of any voter to sign or not to sign an initiative or referendum petition or with the right to vote for or against an initiative or referendum measure by threats, intimidation, or any other corrupt means or practice; or

(5) Receives, handles, distributes, pays out, or gives away, directly or indirectly, money or any other thing of value contributed by or received from any person, firm, association, or corporation whose residence or principal office is, or the majority of whose members or stockholders have their residence outside, the state of Washington, for any service rendered for the purpose of aiding in procuring signatures upon any initiative or referendum petition or for the purpose of aiding in the adoption or rejection of any initiative or referendum measure: PROVIDED, That this subsection shall not apply to or prohibit any activity which is properly reported in accordance with the applicable provisions of chapter 42.17 RCW.

A gross misdemeanor under this section is punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

[1993 c 256 § 4; 1975-'76 2nd ex.s. c 112 § 2; 1965 c 9 § 29.79.490. Prior: 1913 c 138 § 32, part; RRS § 5428, part.]

Notes:

Severability--Effective date--1993 c 256: See notes following RCW 29.79.500.

Construction--Severability--1975-'76 2nd ex.s. c 112: See RCW 42.17.945 and 42.17.912.

Hindering or bribing voter: RCW 29.85.060.

Influencing voter to withhold vote: RCW 29.85.070.

Misconduct in signing a petition: RCW 9.44.080.

RCW 29.79.500 Paid petition solicitors--Finding.

The legislature finds that paying a worker, whose task it is to secure the signatures of voters on initiative or referendum petitions, on the basis of the number of signatures the worker secures on the petitions encourages the introduction of fraud in the signature gathering process. Such a form of payment may act as an incentive for the worker to encourage a person to sign a petition which the person is not qualified to sign or to sign a petition for a ballot measure even if the person has already signed a petition for the measure. Such payments also threaten the integrity of the initiative and referendum process by providing an incentive for misrepresenting

the nature or effect of a ballot measure in securing petition signatures for the measure.

[1993 c 256 § 1.]

Notes:

Severability--1993 c 256: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 256 § 15.]

Effective date--1993 c 256: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 7, 1993]." [1993 c 256 § 16.]

Chapter 29.81 RCW
VOTERS' PAMPHLET

Sections

29.81.210 Printing and distribution.
29.81.220 Contents.
29.81.230 Explanatory statements.
29.81.240 Arguments.
29.81.250 Format, layout, contents.
29.81.260 Amendatory style.
29.81.270 Deadlines.
29.81.280 Arguments--Rejection, dispute.
29.81.290 Arguments--Public inspection.
29.81.300 Photographs.
29.81.310 Candidates' statements--Length.
29.81.320 Procedural rules.

RCW 29.81.210 Printing and distribution.

The secretary of state shall, whenever at least one state-wide measure or office is scheduled to appear on the general election ballot, print and distribute a voters' pamphlet.

The secretary of state shall distribute the voters' pamphlet to each household in the state, to public libraries, and to any other locations he or she deems appropriate. The secretary of state shall also produce taped or Braille transcripts of the voters' pamphlet, publicize their availability, and mail without charge a copy to any person who requests one.

The secretary of state may make the material required to be distributed by this chapter available to the public in electronic form. The secretary of state may provide the material in electronic form to computer bulletin boards, print and broadcast news media, community computer networks, and similar services at the cost of reproduction or transmission of the data.

[1999 c 260 § 1.]

RCW 29.81.220 Contents.

The voters' pamphlet must contain:

(1) Information about each ballot measure initiated by or referred to the voters for their approval or rejection as required by RCW 29.81.250;

(2) In even-numbered years, statements, if submitted, advocating the candidacies of nominees for the office of president and vice-president of the United States, United States senator, United States representative, governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, commissioner of public lands, superintendent of public instruction, insurance commissioner, state senator, state representative, justice of the supreme court, judge of the court of appeals, or judge of the superior court. Candidates may also submit a campaign mailing address and telephone number and a photograph not more than five years old and of a size and quality that the secretary of state determines to be suitable for reproduction in the voters' pamphlet;

(3) In odd-numbered years, if any office voted upon state-wide appears on the ballot due to a vacancy, then statements and photographs for candidates for any vacant office listed in subsection (2) of this section must appear;

(4) In even-numbered years, a section explaining how voters may participate in the election campaign process; the address and telephone number of the public disclosure commission established under RCW 42.17.350; and a summary of the disclosure requirements that apply when contributions are made to candidates and political committees;

(5) In even-numbered years the name, address, and telephone number of each political party with nominees listed in the pamphlet, if filed with the secretary of state by the state committee of a major political party or the presiding officer of the convention of a minor political party;

(6) In each odd-numbered year immediately before a year in which a president of the United States is to be nominated and elected, information explaining the precinct caucus and convention process used by each major political party to elect delegates to its national presidential candidate nominating convention. The pamphlet must also provide a description of the statutory procedures by which minor political parties are formed and the statutory methods used by the parties to nominate candidates for president;

(7) In even-numbered years, a description of the office of precinct committee officer and its duties;

(8) An application form for an absentee ballot;

(9) A brief statement explaining the deletion and addition of language for proposed measures under RCW 29.81.260;

(10) Any additional information pertaining to elections as may be required by law or in the judgment of the secretary of state is deemed informative to the voters.

[1999 c 260 § 2.]

RCW 29.81.230 Explanatory statements.

(1) Explanatory statements prepared by the attorney general under RCW 29.81.250 (3) and (4) must be written in clear and concise language, avoiding legal and technical terms when

possible, and filed with the secretary of state.

(2) When the explanatory statement for a measure initiated by petition is filed with the secretary of state, the secretary of state shall immediately provide the text of the explanatory statement to the person proposing the measure and any others who have made written request for notification of the exact language of the explanatory statement. When the explanatory statement for a measure referred to the ballot by the legislature is filed with the secretary of state, the secretary of state shall immediately provide the text of the explanatory statement to the presiding officer of the senate and the presiding officer of the house of representatives and any others who have made written request for notification of the exact language of the explanatory statement.

(3) A person dissatisfied with the explanatory statement may appeal to the superior court of Thurston County within five days of the filing date. A copy of the petition and a notice of the appeal must be served on the secretary of state and the attorney general. The court shall examine the measure, the explanatory statement, and objections, and may hear arguments. The court shall render its decision and certify to and file with the secretary of state an explanatory statement it determines will meet the requirements of this chapter.

The decision of the superior court is final, and its explanatory statement is the established explanatory statement. The appeal must be heard without costs to either party.

[1999 c 260 § 3.]

RCW 29.81.240 Arguments.

Committees shall write and submit arguments advocating the approval or rejection of each state-wide ballot issue and rebuttals of those arguments. The secretary of state, the presiding officer of the senate, and the presiding officer of the house of representatives shall appoint the initial two members of each committee. In making these committee appointments the secretary of state and presiding officers of the senate and house of representatives shall consider legislators, sponsors of initiatives and referendums, and other interested groups known to advocate or oppose the ballot measure.

The initial two members may select up to four additional members, and the committee shall elect a chairperson. The remaining committee member or members may fill vacancies through appointment.

After the committee submits its initial argument statements to the secretary of state, the secretary of state shall transmit the statements to the opposite committee. The opposite committee may then prepare rebuttal arguments. Rebuttals may not interject new points.

The voters' pamphlet may contain only argument statements prepared according to this section. Arguments may contain graphs and charts supported by factual statistical data and pictures or other illustrations. Cartoons or caricatures are not permitted.

[1999 c 260 § 4.]

RCW 29.81.250 Format, layout, contents.

The secretary of state shall determine the format and layout of the voters' pamphlet. The

secretary of state shall print the pamphlet in clear, readable type on a size, quality, and weight of paper that in the judgment of the secretary of state best serves the voters. The pamphlet must contain a table of contents. Federal and state offices must appear in the pamphlet in the same sequence as they appear on the ballot. Measures and arguments must be printed in the order specified by RCW 29.79.300.

The voters' pamphlet must provide the following information for each state-wide issue on the ballot:

(1) The legal identification of the measure by serial designation or number;

(2) The official ballot title of the measure;

(3) A statement prepared by the attorney general explaining the law as it presently exists;

(4) A statement prepared by the attorney general explaining the effect of the proposed measure if it becomes law;

(5) The total number of votes cast for and against the measure in the senate and house of representatives, if the measure has been passed by the legislature;

(6) An argument advocating the voters' approval of the measure together with any statement in rebuttal of the opposing argument;

(7) An argument advocating the voters' rejection of the measure together with any statement in rebuttal of the opposing argument;

(8) Each argument or rebuttal statement must be followed by the names of the committee members who submitted them, and may be followed by a telephone number that citizens may call to obtain information on the ballot measure;

(9) The full text of each measure.

[1999 c 260 § 5.]

RCW 29.81.260 Amendatory style.

State-wide ballot measures that amend existing law must be printed in the voters' pamphlet so that language proposed for deletion is enclosed by double parentheses and has a line through it. Proposed new language must be underlined. A statement explaining the deletion and addition of language must appear as follows: "Any language in double parentheses with a line through it is existing state law and will be taken out of the law if this measure is approved by voters. Any underlined language does not appear in current state law but will be added to the law if this measure is approved by voters."

[1999 c 260 § 6.]

RCW 29.81.270 Deadlines.

The secretary of state shall adopt rules setting deadlines for submitting candidate statements, candidate photographs, arguments, rebuttals, and explanatory statements. The secretary of state shall also adopt rules setting deadlines for filing ballot titles for referendum bills or constitutional amendments if none have been provided by the legislature.

[1999 c 260 § 7.]

RCW 29.81.280 Arguments--Rejection, dispute.

(1) If in the opinion of the secretary of state any argument or statement offered for inclusion in the voters' pamphlet in support of or opposition to a measure or candidate contains obscene matter or matter that is otherwise prohibited by law from distribution through the mail, the secretary may petition the superior court of Thurston County for a judicial determination that the argument or statement may be rejected for publication or edited to delete the matter. The court shall not enter such an order unless it concludes that the matter is obscene or otherwise prohibited for distribution through the mail.

(2)(a) A person who believes that he or she may be defamed by an argument or statement offered for inclusion in the voters' pamphlet in support of or opposition to a measure or candidate may petition the superior court of Thurston County for a judicial determination that the argument or statement may be rejected for publication or edited to delete the defamatory statement.

(b) The court shall not enter such an order unless it concludes that the statement is untrue and that the petitioner has a very substantial likelihood of prevailing in a defamation action.

(c) An action under this subsection (2) must be filed and served no later than the tenth day after the deadline for the submission of the argument or statement to the secretary of state.

(d) If the secretary of state notifies a person named or identified in an argument or statement of the contents of the argument or statement within three days after the deadline for submission to the secretary, then neither the state nor the secretary is liable for damages resulting from publication of the argument or statement unless the secretary publishes the argument or statement in violation of an order entered under this section. Nothing in this section creates a duty on the part of the secretary of state to identify, locate, or notify the person.

(3) Parties to a dispute under this section may agree to resolve the dispute by rephrasing the argument or statement, even if the deadline for submission to the secretary has elapsed, unless the secretary determines that the process of publication is too far advanced to permit the change. The secretary shall promptly provide any such revision to any committee entitled to submit a rebuttal argument. If that committee has not yet submitted its rebuttal, its deadline to submit a rebuttal is extended by five days. If it has submitted a rebuttal, it may revise it to address the change within five days of the filing of the revised argument with the secretary.

(4) In an action under this section the committee or candidate must be named as a defendant, and may be served with process by certified mail directed to the address contained in the secretary's records for that party. The secretary of state shall be a nominal party to an action brought under subsection (2) of this section, solely for the purpose of determining the content of the voters' pamphlet. The superior court shall give such an action priority on its calendar.

[1999 c 260 § 8.]

RCW 29.81.290 Arguments--Public inspection.

(1) An argument or statement submitted to the secretary of state for publication in the

voters' pamphlet is not available for public inspection or copying until:

(a) In the case of candidate statements, (i) all statements by all candidates who have filed for a particular office have been received, except those who informed the secretary that they will not submit statements, or (ii) the deadline for submission of statements has elapsed;

(b) In the case of arguments supporting or opposing a measure, (i) the arguments on both sides have been received, unless a committee was not appointed for one side, or (ii) the deadline for submission of arguments has elapsed; and

(c) In the case of rebuttal arguments, (i) the rebuttals on both sides have been received, unless a committee was not appointed for one side, or (ii) the deadline for submission of arguments has elapsed.

(2) Nothing in this section prohibits the secretary from releasing information under RCW 29.81.280(2)(d).

[1999 c 260 § 9.]

RCW 29.81.300 Photographs.

All photographs of candidates submitted for publication must conform to standards established by the secretary of state by rule. No photograph may reveal clothing or insignia suggesting the holding of a public office.

[1999 c 260 § 10.]

RCW 29.81.310 Candidates' statements--Length.

(1) The maximum number of words for statements submitted by candidates is as follows: State representative, one hundred words; state senator, judge of the superior court, judge of the court of appeals, justice of the supreme court, and all state offices voted upon throughout the state, except that of governor, two hundred words; president and vice-president, United States senator, United States representative, and governor, three hundred words.

(2) Arguments written by committees under RCW 29.81.230 may not exceed two hundred fifty words in length.

(3) Rebuttal arguments written by committees may not exceed seventy-five words in length.

(4) The secretary of state shall allocate space in the pamphlet based on the number of candidates or nominees for each office.

[1999 c 260 § 11.]

RCW 29.81.320 Procedural rules.

The secretary of state, as chief election officer, shall adopt rules consistent with this chapter to facilitate and clarify procedures related to the voters' pamphlet.

[1999 c 260 § 12.]

Chapter 29.81A RCW
LOCAL VOTERS' PAMPHLETS

Sections

29.81A.010 Authorization--Contents--Format.
29.81A.020 Notice of production--Local governments' decision to participate.
29.81A.030 Administrative rules.
29.81A.040 Contents.
29.81A.050 Candidates, when included.
29.81A.060 Mailing.
29.81A.070 Cost.
29.81A.080 Arguments advocating approval and disapproval--Preparation by committees.
29.81A.900 Effective date--1984 c 106.
29.81A.901 Severability--1984 c 106.

RCW 29.81A.010 Authorization--Contents--Format.

At least ninety days before any primary or general election, or at least forty days before any special election held under RCW 29.13.010 or 29.13.020, the legislative authority of any county or first-class or code city may adopt an ordinance authorizing the publication and distribution of a local voters' pamphlet. The pamphlet shall provide information on all measures within that jurisdiction and may, if specified in the ordinance, include information on candidates within that jurisdiction. If both a county and a first-class or code city within that county authorize a local voters' pamphlet for the same election, the pamphlet shall be produced jointly by the county and the first-class or code city. If no agreement can be reached between the county and first-class or code city, the county and first-class or code city may each produce a pamphlet. Any ordinance adopted authorizing a local voters' pamphlet may be for a specific primary, special election, or general election or for any future primaries or elections. The format of any local voters' pamphlet shall, whenever applicable, comply with the provisions of chapters *29.80 and 29.81 RCW regarding the publication of the state candidates' and voters' pamphlets.

[1984 c 106 § 3.]

Notes:

***Reviser's note:** Chapter 29.80 RCW was repealed by 1999 c 260 § 13.

RCW 29.81A.020 Notice of production--Local governments' decision to participate.

(1) Not later than ninety days before the publication and distribution of a local voters' pamphlet by a county, the county auditor shall notify each city, town, or special taxing district located wholly within that county that a pamphlet will be produced.

(2) If a voters' pamphlet is published by the county for a primary or general election, the pamphlet shall be published for the elective offices and ballot measures of the county and for the

elective offices and ballot measures of each unit of local government located entirely within the county which will appear on the ballot at that primary or election. However, the offices and measures of a first class or code city shall not be included in the pamphlet if the city publishes and distributes its own voters' pamphlet for the primary or election for its offices and measures. The offices and measures of any other town or city are not required to appear in the county's pamphlet if the town or city is obligated by ordinance or charter to publish and distribute a voters' pamphlet for the primary or election for its offices and measures and it does so.

If the required appearance in a county's voters' pamphlet of the offices or measures of a unit of local government would create undo [undue] financial hardship for the unit of government, the legislative authority of the unit may petition the legislative authority of the county to waive this requirement. The legislative authority of the county may provide such a waiver if it does so not later than sixty days before the publication of the pamphlet and it finds that the requirement would create such hardship.

(3) If a city, town, or district is located within more than one county, the respective county auditors may enter into an interlocal agreement to permit the distribution of each county's local voters' pamphlet into those parts of the city, town, or district located outside of that county.

(4) If a first-class or code city authorizes the production and distribution of a local voters' pamphlet, the city clerk of that city shall notify any special taxing district located wholly within that city that a pamphlet will be produced. Notification shall be provided in the manner required or provided for in subsection (1) of this section.

(5) A unit of local government located within a county and the county may enter into an interlocal agreement for the publication of a voters' pamphlet for offices or measures not required by subsection (2) of this section to appear in a county's pamphlet.

[1994 c 191 § 1; 1984 c 106 § 4.]

RCW 29.81A.030 Administrative rules.

The county auditor or, if applicable, the city clerk of a first-class or code city shall, in consultation with the participating jurisdictions, adopt and publish administrative rules necessary to facilitate the provisions of any ordinance authorizing production of a local voters' pamphlet. Any amendment to such a rule shall also be adopted and published. Copies of the rules shall identify the date they were adopted or last amended and shall be made available to any person upon request. One copy of the rules adopted by a county auditor and one copy of any amended rules shall be submitted to the county legislative authority. One copy of the rules adopted by a city clerk and one copy of any amended rules shall be submitted to the city legislative authority. These rules shall include but not be limited to the following:

(1) Deadlines for decisions by cities, towns, or special taxing districts on being included in the pamphlet;

(2) Limits on the length and deadlines for submission of arguments for and against each measure;

(3) The basis for rejection of any explanatory or candidates' statement or argument deemed to be libelous or otherwise inappropriate. Any statements by a candidate shall be limited

to those about the candidate himself or herself;

(4) Limits on the length and deadlines for submission of candidates' statements;

(5) An appeal process in the case of the rejection of any statement or argument.

[1984 c 106 § 5.]

RCW 29.81A.040 Contents.

The local voters' pamphlet shall include but not be limited to the following:

(1) Appearing on the cover, the words "official local voters' pamphlet," the name of the jurisdiction producing the pamphlet, the jurisdictions that have measures or candidates in the pamphlet, and the date of the election or primary;

(2) Information on how a person may register to vote and obtain an absentee ballot;

(3) The text of each measure accompanied by an explanatory statement prepared by the prosecuting attorney for any county measure or by the attorney for the jurisdiction submitting the measure if other than a county measure. All explanatory statements for city, town, or district measures not approved by the attorney for the jurisdiction submitting the measure shall be reviewed and approved by the county prosecuting attorney or city attorney, when applicable, before inclusion in the pamphlet;

(4) The arguments for and against each measure submitted by committees selected pursuant to RCW 29.81A.080.

[1984 c 106 § 6.]

RCW 29.81A.050 Candidates, when included.

If the legislative authority of a county or first-class or code city provides for the inclusion of candidates in the local voters' pamphlet, the pamphlet shall include the statements from candidates and may also include those candidates' photographs.

[1984 c 106 § 7.]

RCW 29.81A.060 Mailing.

As soon as practicable before the primary, special election, or general election, the county auditor, or if applicable, the city clerk of a first-class or code city, as appropriate, shall mail the local voters' pamphlet to every residence in each jurisdiction that has included information in the pamphlet. The county auditor or city clerk, as appropriate, may choose to mail the pamphlet to each registered voter in each jurisdiction that has included information in the pamphlet, if in his or her judgment, a more economical and effective distribution of the pamphlet would result. If the county or city chooses to mail the pamphlet to each residence, no notice of election otherwise required by RCW 29.27.080 need be published.

[1984 c 106 § 8.]

RCW 29.81A.070 Cost.

The cost of a local voters' pamphlet shall be considered an election cost to those local jurisdictions included in the pamphlet and shall be pro-rated in the manner provided in RCW 29.13.045.

[1984 c 106 § 9.]

RCW 29.81A.080 Arguments advocating approval and disapproval--Preparation by committees.

For each measure from a unit of local government that is included in a local voters' pamphlet, the legislative authority of that jurisdiction shall, not later than forty-five days before the publication of the pamphlet, formally appoint a committee to prepare arguments advocating voters' approval of the measure and shall formally appoint a committee to prepare arguments advocating voters' rejection of the measure. The authority shall appoint persons known to favor the measure to serve on the committee advocating approval and shall, whenever possible, appoint persons known to oppose the measure to serve on the committee advocating rejection. Each committee shall have not more than three members, however, a committee may seek the advice of any person or persons. If the legislative authority of a unit of local government fails to make such appointments by the prescribed deadline, the county auditor shall whenever possible make the appointments.

[1994 c 191 § 2; 1984 c 106 § 10.]

RCW 29.81A.900 Effective date--1984 c 106.

This act shall take effect on January 1, 1985.

[1984 c 106 § 14.]

RCW 29.81A.901 Severability--1984 c 106.

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

[1984 c 106 § 13.]

Chapter 29.82 RCW
THE RECALL

Sections

29.82.010 Initiating recall proceedings--Statement--Contents--Verification--Definitions.
29.82.015 Petition--Where filed.

29.82.021 Ballot synopsis.
29.82.023 Determination by superior court--Correction of ballot synopsis.
29.82.025 Filing supporting signatures--Time limitations.
29.82.030 Petition--Form.
29.82.040 Petition--Size.
29.82.060 Number of signatures required.
29.82.080 Canvassing petition for sufficiency of signatures--Time of--Notice.
29.82.090 Verification and canvass of signatures--Procedure--Statistical sampling.
29.82.100 Fixing date for recall election--Notice.
29.82.105 Response to petition charges.
29.82.110 Destruction of insufficient recall petition.
29.82.120 Fraudulent names--Record of.
29.82.130 Conduct of election--Contents of ballot.
29.82.140 Ascertaining the result--When recall effective.
29.82.160 Enforcement provisions--Mandamus--Appellate review.
29.82.170 Violations by signers--Officers.
29.82.210 Violations by officers.
29.82.220 Violations--Corrupt practices.

Notes:
Recall of elective officers: State Constitution Art. 1 §§ 33, 34 (Amendment 8).

RCW 29.82.010 Initiating recall proceedings--Statement--Contents--Verification--Definitions.

Whenever any legal voter of the state or of any political subdivision thereof, either individually or on behalf of an organization, desires to demand the recall and discharge of any elective public officer of the state or of such political subdivision, as the case may be, under the provisions of sections 33 and 34 of Article 1 of the Constitution, he or they shall prepare a typewritten charge, reciting that such officer, naming him or her and giving the title of his office, has committed an act or acts of malfeasance, or an act or acts of misfeasance while in office, or has violated his oath of office, or has been guilty of any two or more of the acts specified in the Constitution as grounds for recall. The charge shall state the act or acts complained of in concise language, give a detailed description including the approximate date, location, and nature of each act complained of, be signed by the person or persons making the charge, give their respective post office addresses, and be verified under oath that he or they believe the charge or charges to be true and have knowledge of the alleged facts upon which the stated grounds for recall are based.

For the purposes of this chapter:

(1) "Misfeasance" or "malfeasance" in office means any wrongful conduct that affects, interrupts, or interferes with the performance of official duty;

(a) Additionally, "misfeasance" in office means the performance of a duty in an improper manner; and

(b) Additionally, "malfeasance" in office means the commission of an unlawful act;

(2) "Violation of the oath of office" means the wilful neglect or failure by an elective public officer to perform faithfully a duty imposed by law.

[1984 c 170 § 1; 1975-'76 2nd ex.s. c 47 § 1; 1965 c 9 § 29.82.010. Prior: 1913 c 146 § 1; RRS § 5350. Former part of section: 1913 c 146 § 2; RRS § 5351, now codified in RCW 29.82.015.]

Notes:

Severability--1975-'76 2nd ex.s. c 47: "If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 47 § 3.]

RCW 29.82.015 Petition--Where filed.

Any person making a charge shall file it with the elections officer whose duty it is to receive and file a declaration of candidacy for the office concerning the incumbent of which the recall is to be demanded. The officer with whom the charge is filed shall promptly (1) serve a copy of the charge upon the officer whose recall is demanded, and (2) certify and transmit the charge to the preparer of the ballot synopsis provided in RCW 29.82.021. The manner of service shall be the same as for the commencement of a civil action in superior court.

[1984 c 170 § 2; 1975-'76 2nd ex.s. c 47 § 2; 1965 c 9 § 29.82.015. Prior: 1913 c 146 § 2; RRS § 5351. Formerly RCW 29.82.010, part.]

Notes:

Severability--1975-'76 2nd ex.s. c 47: See note following RCW 29.82.010.

RCW 29.82.021 Ballot synopsis.

(1) Within fifteen days after receiving a charge, the officer specified below shall formulate a ballot synopsis of the charge of not more than two hundred words.

(a) If the recall is demanded of an elected public officer whose political jurisdiction encompasses an area in more than one county, the attorney general shall be the preparer, except if the recall is demanded of the attorney general, the chief justice of the supreme court shall be the preparer.

(b) If the recall is demanded of an elected public officer whose political jurisdiction lies wholly in one county, the prosecuting attorney shall be the preparer, except that if the prosecuting attorney is the officer whose recall is demanded, the attorney general shall be the preparer.

(2) The synopsis shall set forth the name of the person charged, the title of his office, and a concise statement of the elements of the charge. Upon completion of the ballot synopsis, the preparer shall certify and transmit the exact language of the ballot synopsis to the persons filing the charge and the officer subject to recall. The preparer shall additionally certify and transmit the charges and the ballot synopsis to the superior court of the county in which the officer subject to recall resides and shall petition the superior court to approve the synopsis and to determine the sufficiency of the charges.

[1984 c 170 § 3.]

RCW 29.82.023 Determination by superior court--Correction of ballot synopsis.

Within fifteen days after receiving the petition, the superior court shall have conducted a hearing on and shall have determined, without cost to any party, (1) whether or not the acts stated in the charge satisfy the criteria for which a recall petition may be filed, and (2) the adequacy of the ballot synopsis. The clerk of the superior court shall notify the person subject to recall and the person demanding recall of the hearing date. Both persons may appear with counsel. The court may hear arguments as to the sufficiency of the charges and the adequacy of the ballot synopsis. The court shall not consider the truth of the charges, but only their sufficiency. An appeal of a sufficiency decision shall be filed in the supreme court as specified by RCW 29.82.160. The superior court shall correct any ballot synopsis it deems inadequate. Any decision regarding the ballot synopsis by the superior court is final. The court shall certify and transmit the ballot synopsis to the officer subject to recall, the person demanding the recall, and either the secretary of state or the county auditor, as appropriate.

[1984 c 170 § 4.]

RCW 29.82.025 Filing supporting signatures--Time limitations.

(1) The sponsors of a recall demanded of any public officer shall stop circulation and file all petitions with the appropriate elections officer not less than six months before the next general election in which the officer whose recall is demanded is subject to reelection.

(2) The sponsors of a recall demanded of an officer elected to a state-wide position shall have a maximum of two hundred seventy days and the sponsors of a recall demanded of any other officer shall have a maximum of one hundred eighty days in which to obtain and file supporting signatures after the issuance of a ballot synopsis by the superior court. If the decision of the superior court regarding the sufficiency of the charges is not appealed, the one hundred eighty or two hundred seventy day period for the circulation of signatures begins on the sixteenth day following the decision of the superior court. If the decision of the superior court regarding the sufficiency of the charges is appealed, the one hundred eighty or two hundred seventy day period for the circulation of signatures begins on the day following the issuance of the decision by the supreme court.

[1984 c 170 § 5; 1971 ex.s. c 205 § 2.]

Notes:

Severability--1971 ex.s. c 205: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 205 § 6.]

RCW 29.82.030 Petition--Form.

Recall petitions shall be printed on single sheets of paper of good writing quality (including but not limited to newsprint) not less than eleven inches in width and not less than fourteen inches in length. No petition may be circulated or signed prior to the first day of the one hundred eighty or two hundred seventy day period established by RCW 29.82.025 for that recall petition. Such petitions shall be substantially in the following form:

WARNING

Every person who signs this petition with any other than his true name, or who knowingly (1) signs more than one of these petitions, (2) signs this petition when he is not a legal voter, or (3) makes herein any false statement, may be fined, or imprisoned, or both.

Petition for the recall of (here insert the name of the office and of the person whose recall is petitioned for) to the Honorable (here insert the name and title of the officer with whom the charge is filed).

We, the undersigned citizens and legal voters of (the state of Washington or the political subdivision in which the recall is to be held), respectfully direct that a special election be called to determine whether or not (here insert the name of the person charged and the office which he holds) be recalled and discharged from his office, for and on account of (his having committed the act or acts of malfeasance or misfeasance while in office, or having violated his oath of office, as the case may be), in the following particulars: (here insert the synopsis of the charge); and each of us for himself says: I have personally signed this petition; I am a legal voter of the State of Washington in the precinct and city (or town) and county written after my name, and my residence address is correctly stated, and to my knowledge, have signed this petition only once.

Petitioner's signature	Print name for positive identification	Residence address, street and number, if any	City or Town	County
(Here follow 20 numbered lines divided into columns as below.)				
1--------	----------	----------	-----	-------
2--------	----------	----------	-----	-------
3--------	----------	----------	-----	-------
etc.				

[1984 c 170 § 6; 1971 ex.s. c 205 § 4; 1965 c 9 § 29.82.030. Prior: 1913 c 146 § 4; RRS § 5353.]

Notes:

Severability--1971 ex.s. c 205: See note following RCW 29.82.025.

RCW 29.82.040 Petition--Size.

Each recall petition at the time of circulating, signing and filing with the officer with whom it is to be filed, shall consist of not more than five sheets with numbered lines for not more than twenty signatures on each sheet, with the prescribed warning, title and form of petition on each sheet, and a full, true and correct copy of the original statement of the charges against the officer referred to therein, printed on sheets of paper of like size and quality as the petition, firmly fastened together.

[1965 c 9 § 29.82.040. Prior: 1913 c 146 § 6; RRS § 5355.]

RCW 29.82.060 Number of signatures required.

When the person, committee, or organization demanding the recall of a public officer has secured sufficient signatures upon the recall petition the person, committee, or organization may submit the same to the officer with whom the charge was filed for filing in his or her office. The number of signatures required shall be as follows:

(1) In the case of a state officer, an officer of a city of the first class, a member of a school board in a city of the first class, or a county officer of a county with a population of forty thousand or more--signatures of legal voters equal to twenty-five percent of the total number of votes cast for all candidates for the office to which the officer whose recall is demanded was elected at the preceding election.

(2) In the case of an officer of any political subdivision, city, town, township, precinct, or school district other than those mentioned in subsection (1) of this section, and in the case of a state senator or representative--signatures of legal voters equal to thirty-five percent of the total number of votes cast for all candidates for the office to which the officer whose recall is demanded was elected at the preceding election.

[1991 c 363 § 36; 1965 c 9 § 29.82.060. Prior: 1913 c 146 § 8, part; RRS § 5357, part.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Recall of elective officers--Percentages required: State Constitution Art. 1 § 34 (Amendment 8).

RCW 29.82.080 Canvassing petition for sufficiency of signatures--Time of--Notice.

Upon the filing of a recall petition in his office, the officer with whom the charge was filed shall stamp on each petition the date of filing, and shall notify the persons filing them and the officer whose recall is demanded of the date when the petitions will be canvassed, which date shall be not less than five or more than ten days from the date of its filing.

[1965 c 9 § 29.82.080. Prior: 1913 c 146 § 9, part; RRS § 5358, part.]

RCW 29.82.090 Verification and canvass of signatures--Procedure--Statistical sampling.

(1) Upon the filing of a recall petition, the elections officer shall proceed to verify and canvass the names of legal voters on the petition.

(2) The verification and canvass of signatures on the petition may be observed by persons representing the advocates and opponents of the proposed recall so long as they make no record of the names, addresses, or other information on the petitions or related records during the verification process except upon the order of the superior court. The elections officer may limit the number of observers to not fewer than two on each side, if in his or her opinion a greater number would cause undue delay or disruption of the verification process. Any such limitation shall apply equally to both sides. If the elections officer finds the same name signed to more than one petition, he or she shall reject all but the first such valid signature.

(3) Where the recall of a state-wide elected official is sought, the secretary of state may use any statistical sampling techniques for verification and canvassing which have been adopted by rule for canvassing initiative petitions under RCW 29.79.200. No petition will be rejected on the basis of any statistical method employed. No petition will be accepted on the basis of any statistical method employed if such method indicates that the petition contains less than the number of signatures of legal voters required by Article I, section 33 (Amendment 8) of the state Constitution.

[1984 c 170 § 7; 1977 ex.s. c 361 § 107; 1965 c 9 § 29.82.090. Prior: 1913 c 146 § 9, part; RRS § 5358, part.]

Notes:

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

RCW 29.82.100 Fixing date for recall election--Notice.

If, at the conclusion of the verification and canvass, it is found that a petition for recall bears the required number of signatures of certified legal voters, the officer with whom the petition is filed shall promptly certify the petitions as sufficient and fix a date for the special election to determine whether or not the officer charged shall be recalled and discharged from office. The special election shall be held not less than forty-five nor more than sixty days from the certification and, whenever possible, on one of the dates provided in RCW 29.13.020, but no recall election may be held between the date of the primary and the date of the general election in any calendar year. Notice shall be given in the manner as required by law for special elections in the state or in the political subdivision, as the case may be.

[1984 c 170 § 8; 1977 ex.s. c 361 § 108; 1971 ex.s. c 205 § 5; 1965 c 9 § 29.82.100. Prior: 1913 c 146 § 9, part; RRS § 5358, part.]

Notes:

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

Severability--1971 ex.s. c 205: See note following RCW 29.82.025.

RCW 29.82.105 Response to petition charges.

When a date for a special recall election is set the certifying officer shall serve a notice of the date of the election to the officer whose recall is demanded and the person demanding recall.

The manner of service shall be the same as for the commencement of a civil action in superior court. After having been served a notice of the date of the election and the ballot synopsis, the officer whose recall is demanded may submit to the certifying officer a response, not to exceed two hundred fifty words in length, to the charge contained in the ballot synopsis. Such response shall be submitted by the seventh consecutive day after service of the notice. The certifying officer shall promptly send a copy of the response to the person who filed the petition.

[1984 c 170 § 9; 1980 c 42 § 1.]

RCW 29.82.110 Destruction of insufficient recall petition.

If it is found that the recall petition does not contain the requisite number of signatures of certified legal voters, the officer shall so notify the persons filing the petition, and at the expiration of thirty days from the conclusion of the count he shall destroy the petitions unless prevented therefrom by the injunction or mandate of a court.

[1965 c 9 § 29.82.110. Prior: 1913 c 146 § 9, part; RRS § 5358, part.]

RCW 29.82.120 Fraudulent names--Record of.

The officer making the canvass of a recall petition shall keep a record of all names appearing thereon which are not certified to be legal voters of the state or of the political subdivision, as the case may be, and of all names appearing more than once thereon, and he shall report the same to the prosecuting attorneys of the respective counties where such names appear to have been signed, to the end that prosecutions may be had for such violation of this chapter.

[1965 c 9 § 29.82.120. Prior: 1913 c 146 § 10; RRS § 5359.]

RCW 29.82.130 Conduct of election--Contents of ballot.

The special election for the recall of an officer shall be conducted in the same manner as a special election for that jurisdiction. The county auditor shall conduct the recall election. The ballots at any recall election shall contain a full, true, and correct copy of the ballot synopsis of the charge and the officer's response to the charge if one has been filed.

[1990 c 59 § 71; 1980 c 42 § 2; 1965 c 9 § 29.82.130. Prior: 1913 c 146 § 11; RRS § 5360. See also RCW 29.48.040.]

Notes:

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

RCW 29.82.140 Ascertaining the result--When recall effective.

The votes on a recall election shall be counted, canvassed, and the results certified in the manner provided by law for counting, canvassing, and certifying the results of an election for the office from which the officer is being recalled: PROVIDED, That if the officer whose recall is

demanded is the officer to whom, under the law, returns of elections are made, such returns shall be made to the officer with whom the charge is filed, and who called the special election; and in case of an election for the recall of a state officer, the county canvassing boards of the various counties shall canvass and return the result of such election to the officer calling such special election. If a majority of all votes cast at the recall election is for the recall of the officer charged, he shall thereupon be recalled and discharged from his office, and the office shall thereupon become and be vacant.

[1977 ex.s. c 361 § 109; 1965 c 9 § 29.82.140. Prior: 1913 c 146 § 12; RRS § 5361.]

Notes:

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

Canvassing the returns: Chapter 29.62 RCW.

Polling place regulations during voting hours and after closing: Chapter 29.54 RCW.

RCW 29.82.160 Enforcement provisions--Mandamus--Appellate review.

The superior court of the county in which the officer subject to recall resides has original jurisdiction to compel the performance of any act required of any public officer or to prevent the performance by any such officer of any act in relation to the recall not in compliance with law.

The supreme court has like original jurisdiction in relation to state officers and revisory jurisdiction over the decisions of the superior courts. Any proceeding to compel or prevent the performance of any such act shall be begun within ten days from the time the cause of complaint arises, and shall be considered an emergency matter of public concern and take precedence over other cases, and be speedily heard and determined. Appellate review of a decision of any superior court shall be begun and perfected within fifteen days after its decision in a recall election case and shall be considered an emergency matter of public concern by the supreme court, and heard and determined within thirty days after the decision of the superior court.

[1988 c 202 § 30; 1984 c 170 § 10; 1965 c 9 § 29.82.160. Prior: 1913 c 146 § 14; RRS § 5363.]

Notes:

Rules of court: *Writ procedure superseded by RAP 2.1(b), 16.2, 18.22.*

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 29.82.170 Violations by signers--Officers.

Every person who signs a recall petition with any other than his true name is guilty of a felony. Every person who knowingly (1) signs more than one petition for the same recall, (2) signs a recall petition when he is not a legal voter, or (3) makes a false statement as to his residence on any recall petition is guilty of a gross misdemeanor. Every registration officer who makes any false report or certificate on any recall petition is guilty of a gross misdemeanor.

[1984 c 170 § 11; 1965 c 9 § 29.82.170. Prior: 1913 c 146 § 15; RRS § 5364. Formerly codified also in RCW 29.82.180, 29.82.190, and 29.82.200.]

Notes:

Misconduct in signing a petition: RCW 9.44.080.

RCW 29.82.210 Violations by officers.

Every officer who wilfully violates any of the provisions of this chapter, for the violation of which no penalty is herein prescribed or who wilfully fails to comply with the provisions of this chapter shall be guilty of a gross misdemeanor.

[1965 c 9 § 29.82.210. Prior: 1953 c 113 § 1; prior: 1913 c 146 § 16, part; RRS § 5365, part.]

RCW 29.82.220 Violations--Corrupt practices.

Every person is guilty of a gross misdemeanor, who:

(1) For any consideration, compensation, gratuity, reward, or thing of value or promise thereof, signs or declines to sign any recall petition; or

(2) Advertises in any newspaper, magazine or other periodical publication, or in any book, pamphlet, circular, or letter, or by means of any sign, signboard, bill, poster, handbill, or card, or in any manner whatsoever, that he will either for or without compensation or consideration circulate, solicit, procure, or obtain signatures upon, or influence or induce or attempt to influence or induce persons to sign or not to sign any recall petition or vote for or against any recall; or

(3) For pay or any consideration, compensation, gratuity, reward, or thing of value or promise thereof, circulates, or solicits, procures, or obtains or attempts to procure or obtain signatures upon any recall petition; or

(4) Pays or offers or promises to pay, or gives or offers or promises to give any consideration, compensation, gratuity, reward, or thing of value to any person to induce him to sign or not to sign, or to circulate or solicit, procure, or attempt to procure or obtain signatures upon any recall petition, or to vote for or against any recall; or

(5) By any other corrupt means or practice or by threats or intimidation interferes with or attempts to interfere with the right of any legal voter to sign or not to sign any recall petition or to vote for or against any recall; or

(6) Receives, accepts, handles, distributes, pays out, or gives away, directly or indirectly, any money, consideration, compensation, gratuity, reward, or thing of value contributed by or received from any person, firm, association, or corporation whose residence or principal office is, or the majority of whose stockholders are nonresidents of the state of Washington, for any service, work, or assistance of any kind done or rendered for the purpose of aiding in procuring signatures upon any recall petition or the adoption or rejection of any recall.

[1984 c 170 § 12; 1965 c 9 § 29.82.220. Prior: 1953 c 113 § 2; prior: 1913 c 146 § 16, part; RRS § 5365, part.]

Notes:

Misconduct in signing a petition: RCW 9.44.080.

Chapter 29.85 RCW
CRIMES AND PENALTIES

Sections

29.85.010 Ballots--Removing from polling place.
29.85.020 Unauthorized examination of ballots, election materials--Revealing information.
29.85.040 Ballots--Unlawful appropriation, printing, or distribution.
29.85.051 Deceptive, incorrect vote recording.
29.85.060 Hindering or bribing voter.
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29.85.100 Certificates of nomination and election--Declarations of candidacy--Petitions of nomination--Frauds and falsehoods.
29.85.110 Tampering with polling place materials.
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29.85.381 Recall--Violation by officers.
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NOTES:

Anarchy and sabotage: Chapter 9.05 RCW.
Bribery and corrupt influence: Chapter 9A.68 RCW.
Bribery or corrupt solicitation: State Constitution Art. 2 § 30.
Contests, bribe or reward by person whose right is being contested as grounds for: RCW 29.65.010.
Duplication of, use of nonexistent or untrue names, as felony: RCW 29.15.100.
Financial disclosure by candidates and elected officials: Chapter 42.17 RCW.
Forgery: RCW 9A.60.020.

Libel and slander: Chapter 9.58 RCW.
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Perjury: Chapter 9A.72 RCW.
Polling places, violations before, during, and after voting hours: Chapters 29.48, 29.51, and 29.54 RCW.
Prevention and correction of election frauds and errors: RCW 29.04.030.
Refusing to leave voting booth--Penalty: RCW 29.51.221.
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Subversive activities
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misstatements of candidates punishable as perjury, penalty: RCW 9.81.110.

RCW 29.85.010 Ballots--Removing from polling place.

Any person who, without lawful authority, removes a ballot from a polling place is guilty of a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

[1991 c 81 § 1; 1965 c 9 § 29.85.010. Prior: 1893 c 115 § 2; RRS § 5396.]

Notes:

Effective date--1991 c 81: "This act shall take effect July 1, 1992." [1991 c 81 § 42.]

RCW 29.85.020 Unauthorized examination of ballots, election materials--Revealing information.

(1) It is a gross misdemeanor for a person to examine, or assist another to examine, any voter record, ballot, or any other state or local government official election material if the person, without lawful authority, conducts the examination:

(a) For the purpose of identifying the name of a voter and how the voter voted; or

(b) For the purpose of determining how a voter, whose name is known to the person, voted; or

(c) For the purpose of identifying the name of the voter who voted in a manner known to the person.

(2) Any person who reveals to another information which the person ascertained in violation of subsection (1) of this section is guilty of a gross misdemeanor.

(3) A gross misdemeanor under this section is punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

[1991 c 81 § 2; 1965 c 9 § 29.85.020. Prior: 1911 c 89 § 1, part; Code 1881 § 906; 1873 p 205 § 105; 1854 p 93 § 96; RRS § 5387.]

Notes:

Effective date--1991 c 81: See note following RCW 29.85.010.

RCW 29.85.040 Ballots--Unlawful appropriation, printing, or distribution.

Any person who is retained or employed by any officer authorized by the laws of this state to procure the printing of any official ballot or who is engaged in printing official ballots is

guilty of a gross misdemeanor if the person knowingly:

(1) Appropriates any official ballot to himself or herself; or

(2) Gives or delivers any official ballot to or permits any official ballot to be taken by any person other than the officer authorized by law to receive it; or

(3) Prints or causes to be printed any official ballot: (a) In any other form than that prescribed by law or as directed by the officer authorized to procure the printing thereof; or (b) with any other names thereon or with the names spelled otherwise than as directed by such officer, or the names or printing thereon arranged in any other way than that authorized and directed by law.

A gross misdemeanor under this section is punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

[1991 c 81 § 3; 1965 c 9 § 29.85.040. Prior: 1893 c 115 § 1; RRS § 5395.]

Notes:

Effective date--1991 c 81: See note following RCW 29.85.010.

RCW 29.85.051 Deceptive, incorrect vote recording.

A person is guilty of a gross misdemeanor who knowingly:

(1) Deceives any voter in recording his or her vote by providing incorrect or misleading recording information or by providing faulty election equipment or records; or

(2) Records the vote of any voter in a manner other than as designated by the voter.

Such a gross misdemeanor is punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

[1991 c 81 § 4.]

Notes:

Effective date--1991 c 81: See note following RCW 29.85.010.

RCW 29.85.060 Hindering or bribing voter.

Any person who uses menace, force, threat, or any unlawful means towards any voter to hinder or deter such a voter from voting, or directly or indirectly offers any bribe, reward, or any thing of value to a voter in exchange for the voter's vote for or against any person or ballot measure, or authorizes any person to do so, is guilty of a class C felony punishable under RCW 9A.20.021.

[1991 c 81 § 5; 1965 c 9 § 29.85.060. Prior: (i) 1911 c 89 § 1, part; Code 1881 § 904; 1873 p 204 § 103; 1854 p 93 § 94; RRS § 5386. (ii) 1911 c 89 § 1, part; 1901 c 142 § 1; Code 1881 § 909; 1873 p 205 § 106; 1865 p 50 § 1; 1854 p 93 § 97; RRS § 5388.]

Notes:

Effective date--1991 c 81: See note following RCW 29.85.010.

Bribing, interfering with voter regarding initiative or referendum: RCW 29.79.490.

Employer's duty to provide time to vote: RCW 49.28.120.

RCW 29.85.070 Influencing voter to withhold vote.

Any person who in any way, directly or indirectly, by menace or unlawful means, attempts to influence any person in refusing to give his or her vote in any primary or special or general election is guilty of a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

[1991 c 81 § 6; 1965 c 9 § 29.85.070. Prior: Code 1881 § 3140; RRS § 5389.]

Notes:

Effective date--1991 c 81: See note following RCW 29.85.010.

Bribing, interfering with voter regarding initiative or referendum: RCW 29.79.490.

Employer's duty to provide time to vote: RCW 49.28.120.

RCW 29.85.090 Solicitation of bribe by voter.

Any person who solicits, requests, or demands, directly or indirectly, any reward or thing of value or the promise thereof in exchange for his or her vote or in exchange for the vote of any other person for or against any candidate or for or against any ballot measure to be voted upon at a primary or special or general election is guilty of a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

[1991 c 81 § 7; 1965 c 9 § 29.85.090. Prior: 1907 c 209 § 32; RRS § 5207.]

Notes:

Effective date--1991 c 81: See note following RCW 29.85.010.

RCW 29.85.100 Certificates of nomination and election--Declarations of candidacy--Petitions of nomination--Frauds and falsehoods.

Every person who:

(1) Knowingly and falsely issues a certificate of nomination or election; or

(2) Knowingly provides false information on a certificate which must be filed with an elections officer under chapter 29.24 RCW; or

(3) Knowingly provides false information on his or her declaration of candidacy or petition of nomination; or

(4) Conceals or fraudulently defaces or destroys a certificate which has been filed with an elections officer under chapter 29.24 RCW or a declaration of candidacy or petition of nomination which has been filed with an elections officer, or any part of such a certificate, declaration, or petition, is guilty of a class C felony punishable under RCW 9A.20.021.

[1991 c 81 § 8; 1965 c 9 § 29.85.100. Prior: 1889 p 411 § 30; RRS § 5295.]

Notes:

Effective date--1991 c 81: See note following RCW 29.85.010.

RCW 29.85.110 Tampering with polling place materials.

Any person who willfully defaces, removes, or destroys any of the supplies or materials

which the person knows are intended both for use in a polling place and for enabling a voter to prepare his or her ballot is guilty of a class C felony punishable under RCW 9A.20.021.

[1991 c 81 § 9; 1965 c 9 § 29.85.110. Prior: 1889 p 412 § 31; RRS § 5296. FORMER PART OF SECTION: 1935 c 108 § 3, part; RRS § 5339-3, part, now codified, as reenacted, in RCW 29.85.230.]

Notes:

Effective date--1991 c 81: See note following RCW 29.85.010.

RCW 29.85.170 Officers--Violations generally.

Every person charged with the performance of any duty under the provisions of any law of this state relating to elections, including primaries, or the provisions of any charter or ordinance of any city or town of this state relating to elections who willfully neglects or refuses to perform such duty, or who, in the performance of such duty, or in his or her official capacity, knowingly or fraudulently violates any of the provisions of law relating to such duty, is guilty of a class C felony punishable under RCW 9A.20.021 and shall forfeit his or her office.

[1991 c 81 § 10; 1965 c 9 § 29.85.170. Prior: (i) 1889 p 412 § 32; RRS § 5297. (ii) 1911 c 89 § 1, part; Code 1881 § 912; 1877 p 205 § 2; RRS § 5392.]

Notes:

Effective date--1991 c 81: See note following RCW 29.85.010.

RCW 29.85.210 Repeaters.

Any person who votes or attempts to vote more than once at any primary or general or special election is guilty of a gross misdemeanor, punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

[1991 c 81 § 13; 1965 c 9 § 29.85.210. Prior: 1911 c 89 § 1, part; Code 1881 § 903; 1873 p 204 § 102; 1865 p 51 § 5; 1854 p 93 § 93; RRS § 5383.]

Notes:

Effective date--1991 c 81: See note following RCW 29.85.010.

RCW 29.85.220 Repeaters--Unqualified persons--Officers conniving with.

Any precinct election officer who knowingly permits any voter to cast a second vote at any primary or general or special election, or knowingly permits any person not a qualified voter to vote at any primary or general or special election, is guilty of a class C felony punishable under RCW 9A.20.021.

[1991 c 81 § 14; 1965 c 9 § 29.85.220. Prior: 1911 c 89 § 1, part; Code 1881 § 911; 1873 p 205 § 108; RRS § 5385.]

Notes:

Effective date--1991 c 81: See note following RCW 29.85.010.

RCW 29.85.225 Divulging ballot count.

(1) In any location in which ballots are counted, no person authorized by law to be present while votes are being counted may divulge any results of the count of the ballots at any

time prior to the closing of the polls for that primary or special or general election.

(2) A violation of this section is a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

[1991 c 81 § 15; 1990 c 59 § 55; 1977 ex.s. c 361 § 85; 1965 c 9 § 29.54.035. Prior: 1955 c 148 § 6. Formerly RCW 29.54.035.]

Notes:

Effective date--1991 c 81: See note following RCW 29.85.010.

Intent--Effective date--1990 c 59: See notes following RCW 29.01.006.

Effective date--Severability--1977 ex.s. c 361: See notes following RCW 29.01.006.

Divulging returns in voting device precincts: RCW 29.54.085.

RCW 29.85.230 Returns and posted copy of results--Tampering with.

It shall be a gross misdemeanor, punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021, for any person to remove or deface the posted copy of the result of votes cast at their precinct or to delay delivery of or change the copy of primary or special or general election returns to be delivered to the proper election officer.

[1991 c 81 § 16; 1965 c 9 § 29.85.230. Prior: 1935 c 108 § 3; RRS § 5339-3. Formerly RCW 29.85.110, part.]

Notes:

Effective date--1991 c 81: See note following RCW 29.85.010.

RCW 29.85.240 Unqualified persons voting.

Any person who knows that he or she does not possess the legal qualifications of a voter and who votes at any primary or special or general election authorized by law to be held in this state for any office whatever shall be guilty of a class C felony punishable under RCW 9A.20.021.

[1991 c 81 § 17; 1965 c 9 § 29.85.240. Prior: 1911 c 89 § 1, part; Code 1881 § 905; 1873 p 204 § 104; 1865 p 51 § 4; 1854 p 93 § 95; RRS § 5384.]

Notes:

Effective date--1991 c 81: See note following RCW 29.85.010.

RCW 29.85.245 Action against voting, registration irregularities.

(1) A county auditor who suspects a person of fraudulent voter registration, vote tampering, or irregularities in voting shall transmit his or her suspicions and observations without delay to the canvassing board.

(2) The county auditor shall make a good faith effort to contact the person in question without delay. If the county auditor is unable to contact the person, or if, after contacting the person, the auditor still suspects fraudulent voter registration, vote tampering, or irregularities in voting, the auditor shall refer the issue to the county prosecuting attorney to determine if further action is warranted.

(3) When a complaint providing information concerning fraudulent voter registration,

vote tampering, or irregularities in voting are [is] presented to the office of the prosecuting attorney, that office shall file charges in all cases where warranted.

[2001 c 41 § 12.]

RCW 29.85.249 Unqualified registration.

A person who knows that he or she does not possess the legal qualifications of a voter and who registers to vote is guilty of a misdemeanor punishable under RCW 9A.20.021.

[2001 c 41 § 13.]

RCW 29.85.260 Voting machines, devices--Tampering with--Extra keys.

Any person who tampers with or damages or attempts to damage any voting machine or device to be used or being used in a primary or special or general election, or who prevents or attempts to prevent the correct operation of such machine or device, or any unauthorized person who makes or has in his or her possession a key to a voting machine or device to be used or being used in a primary or special or general election, shall be guilty of a class C felony punishable under RCW 9A.20.021.

[1991 c 81 § 18; 1965 c 9 § 29.85.260. Prior: 1913 c 58 § 16; RRS § 5316.]

Notes:

Effective date--1991 c 81: See note following RCW 29.85.010.

RCW 29.85.275 Political advertising, removing or defacing.

A person who removes or defaces lawfully placed political advertising including yard signs or billboards without authorization is guilty of a misdemeanor punishable to the same extent as a misdemeanor that is punishable under RCW 9A.20.021. The defacement or removal of each item constitutes a separate violation.

[1991 c 81 § 19; 1984 c 216 § 5.]

Notes:

Effective date--1991 c 81: See note following RCW 29.85.010.

Political advertising

generally: RCW 42.17.510 through 42.17.540.

rates for candidates: RCW 65.16.095.

RCW 29.85.285 Statement of expense of candidate--Penalty.

See RCW 42.17.030 through 42.17.130 and 42.17.240.

RCW 29.85.290 Duplication of names--Conspiracy--Criminal and civil liability.

See RCW 29.15.110.

RCW 29.85.300 Absentee voting, violations relating to qualifications and voting,

penalty.

See RCW 29.36.370.

RCW 29.85.320 Aiding blind voters, violations relating to--Penalty.

See RCW 29.51.215.

RCW 29.85.321 Preventing interference with balloting.

See RCW 29.51.010.

RCW 29.85.323 Electioneering within the polls forbidden--Prohibited practices as to ballots--Penalty.

See RCW 29.51.020.

RCW 29.85.325 Electioneering by election officers forbidden--Penalty.

See RCW 29.51.030.

RCW 29.85.329 Unlawful acts by voters--Penalty.

See RCW 29.51.230.

RCW 29.85.360 County canvassing board--Canvassing procedure--Penalty.

See RCW 29.62.040.

RCW 29.85.370 Initiative, referendum--Violations by signers.

See RCW 29.79.440.

RCW 29.85.373 Initiative, referendum--Violations by officers.

See RCW 29.79.480.

RCW 29.85.375 Initiative, referendum--Violations--Corrupt practices.

See RCW 29.79.490.

RCW 29.85.380 Recall--Violations by signers--Officers.

See RCW 29.82.170.

RCW 29.85.381 Recall--Violation by officers.

See RCW 29.82.210.

RCW 29.85.383 Recall--Violations--Corrupt practices.

See RCW 29.82.220.

Chapter 29.91 RCW
NUCLEAR WASTE SITE--ELECTION FOR DISAPPROVAL

Sections

29.91.010 Findings.
29.91.020 High-level nuclear waste repository--Selection of site in state--Special election for disapproval.
29.91.030 Costs of election.
29.91.040 Special election--Notification of auditors--Application of election laws.
29.91.050 Ballot title.
29.91.060 Effect of vote.
29.91.900 Transmission of copies of act--1986 ex.s. c 1.
29.91.901 Referral to electorate--Ballot title--1986 ex.s. c 1.

Notes:

High-level nuclear waste repository siting: Chapter 43.205 RCW.

RCW 29.91.010 Findings.

(1) The legislature and the people find that the federal Nuclear Waste Policy Act provides that within sixty days of the president's recommendation of a site for a high-level nuclear waste repository, a state may disapprove the selection of such site in that state.

(2) The legislature and the people desire, if the governor and legislature do not issue a notice of disapproval within twenty-one days of the president's recommendation, that the people of this state have the opportunity to vote upon disapproval.

[1986 ex.s. c 1 § 3.]

RCW 29.91.020 High-level nuclear waste repository--Selection of site in state--Special election for disapproval.

(1) Within seven days after any recommendation by the president of the United States of a site in the state of Washington to be a high-level nuclear waste repository under 42 U.S.C. Sec. 10136, the governor shall set the date for a special state-wide election to vote on disapproval of the selection of such site. The special election shall be no more than fifty days after the date of the recommendation of the president of the United States.

(2) If either the governor or the legislature submits a notice of disapproval to the United States congress within twenty-one days of the date of the recommendation by the president of the United States, then the governor is authorized to cancel the special election pursuant to

subsection (1) of this section.

[1986 ex.s. c 1 § 4.]

RCW 29.91.030 Costs of election.

The state of Washington shall assume the costs of any special election called under RCW 29.91.020 in the same manner as provided in RCW 29.13.047 and 29.13.048.

[1986 ex.s. c 1 § 5.]

RCW 29.91.040 Special election--Notification of auditors--Application of election laws.

The secretary of state shall promptly notify the county auditors of the date of the special election and certify to them the text of the ballot title for this special election. The general election laws shall apply to the election required by RCW 29.91.020 to the extent that they are not inconsistent with this chapter. Statutory deadlines relating to certification, canvassing, and the voters' pamphlet may be modified for the election held pursuant to RCW 29.91.020 by the secretary of state through emergency rules adopted under RCW 29.04.080.

[1986 ex.s. c 1 § 6.]

RCW 29.91.050 Ballot title.

The ballot title for the special election called under RCW 29.91.020 shall be "Shall the Governor be required to notify Congress of Washington's disapproval of the President's recommendation of [name of site] as a national high-level nuclear waste repository?"

[1986 ex.s. c 1 § 7.]

RCW 29.91.060 Effect of vote.

If the governor or the legislature fails to prepare and submit a notice of disapproval to the United States congress within fifty-five days of the president's recommendation and a majority of the voters in the special election held pursuant to RCW 29.91.020 favored such notice of disapproval, then the vote of the people shall be binding on the governor. The governor shall prepare and submit the notice of disapproval to the United States congress pursuant to 42 U.S.C. Sec. 10136.

[1986 ex.s. c 1 § 8.]

RCW 29.91.900 Transmission of copies of act--1986 ex.s. c 1.

Within ten days of December 4, 1986, the secretary of state shall transmit copies of this act, including the voter referendum results, to the president of the United States, the United States department of energy, the president of the United States senate, the speaker of the house

of representatives, each member of congress, and the governors and legislatures of the other forty-nine states.

[1986 ex.s. c 1 § 10.]

RCW 29.91.901 Referral to electorate--Ballot title--1986 ex.s. c 1.

This act shall be submitted to the people of the state of Washington for their adoption and ratification, or rejection, at the next succeeding general election to be held in this state, in accordance with Article II, section 1 of the state Constitution, as amended, and the laws adopted to facilitate the operation thereof. The ballot title for this act shall be: "Shall state officials continue challenges to the federal selection process for high-level nuclear waste repositories and shall a means be provided for voter disapproval of any Washington site?"

[1986 ex.s. c 1 § 11.]

Notes:

Reviser's note: "This act," chapters 29.91 and 43.205 RCW, was adopted and ratified by the people at the November 4, 1986, general election (Referendum Bill No. 40).

Chapter 29.98 RCW
CONSTRUCTION

Sections

29.98.010 Continuation of existing law.
29.98.020 Title, chapter, section headings not part of law.
29.98.030 Invalidity of part of title not to affect remainder.
29.98.040 Repeals and saving.
29.98.050 Emergency--1965 c 9.

Notes:

Title 29 RCW controls in event of conflict with school election provisions of Title 28A RCW: RCW 28A.320.410.

RCW 29.98.010 Continuation of existing law.

The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments.

[1965 c 9 § 29.98.010.]

RCW 29.98.020 Title, chapter, section headings not part of law.

Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law.

[1965 c 9 § 29.98.020.]

RCW 29.98.030 Invalidity of part of title not to affect remainder.

If any provision of this title, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected.

[1965 c 9 § 29.98.030.]

RCW 29.98.040 Repeals and saving.

See 1965 c 9 § 29.98.040.

RCW 29.98.050 Emergency--1965 c 9.

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

[1965 c 9 § 29.98.050.]

Title 30 RCW
BANKS AND TRUST COMPANIES

Chapters

30.04 General provisions.
30.08 Organization and powers.
30.12 Officers, employees, and stockholders.
30.16 Checks.
30.20 Deposits.
30.22 Financial institution individual account deposit act.
30.24 Investment of trust funds.
30.32 Dealings with federal loan agencies.
30.36 Capital notes or debentures.
30.38 Interstate banking.
30.42 Alien banks.
30.43 Satellite facilities.
30.44 Insolvency and liquidation.
30.46 Supervisory direction--Conservatorship.
30.49 Merger, consolidation, and conversion.
30.53 Merging trust companies.
30.56 Bank stabilization act.

30.60 Community credit needs.
30.98 Construction.

Notes:
Business corporations and cooperative associations: Title 23B RCW.
Charitable trusts: Chapter 11.100 RCW.
Consumer loan act: Chapter 31.04 RCW.
Credit life insurance and credit accident and health insurance: Chapter 48.34 RCW.
Credit unions: Chapter 31.12 RCW.
Department of financial institutions: Chapter 43.320 RCW.
Depositaries
city: Chapter 35.38 RCW.
county: Chapter 36.48 RCW.
of state funds: Chapter 43.85 RCW.
Indemnification of corporation directors, officers, trustees authorized, insurance: RCW 23B.08.320, 23B.08.500 through 23B.08.580, 23B.08.600, and 23B.17.030.
Investment of county funds not required for immediate expenditures, service fee: RCW 36.29.020.
Investment of funds of school district--Service fee: RCW 28A.320.320.
Life insurance payable to trustee named as beneficiary in policy or will: RCW 48.18.450, 48.18.452.
Master license system exemption: RCW 19.02.800.
Mortgages: Title 61 RCW.
Negotiable instruments: Title 62A RCW.
Powers of appointment: Chapter 11.95 RCW.
Probate--Bank exempted from executors, administrators, and special administrator's bond: RCW 11.28.185, 11.32.020.
Public charitable trusts: Chapter 11.110 RCW.
Public depositaries, deposit and investment of public funds: Chapter 39.58 RCW.
Real property and conveyances: Title 64 RCW.
Retail installment sales of goods and services: Chapter 63.14 RCW.
Safe deposit companies: Chapter 22.28 RCW.
Washington principal and income act: Chapter 11.104 RCW.

Chapter 30.04 RCW
GENERAL PROVISIONS

Sections

30.04.010 Definitions.
30.04.020 Use of words indicating bank or trust company--Penalty.
30.04.030 Rules--Administration and interpretation of title.
30.04.050 Violations--Penalty.
30.04.060 Examinations directed--Cooperative agreements and actions.
30.04.070 Cost of examination.
30.04.075 Examination reports and information--Confidentiality--Disclosure--Penalty.
30.04.111 Limit on loans and extensions of credit to one person--Exceptions.
30.04.112 "Loans or obligations" and "liabilities" limited for purposes of RCW 30.04.111.
30.04.120 Loans on own stock prohibited--Shares of other corporations.

30.04.125 Investment in corporations--Authorized businesses.
30.04.127 Formation, incorporation, or investment in corporations or other entities authorized--Approval--Exception.
30.04.129 Investment in obligations issued or guaranteed by multilateral development bank.
30.04.130 Defaulted debts, judgments to be charged off--Valuation of assets.
30.04.140 Pledge of securities or assets prohibited--Exceptions.
30.04.180 Dividends.
30.04.210 Real estate holdings.
30.04.212 Real property and improvements thereon.
30.04.214 Qualifying community investments.
30.04.215 Engaging in other business activities.
30.04.220 Corporations existing under former laws.
30.04.225 Contributions and gifts.
30.04.230 Authority of corporation or association to acquire stock of bank, trust company, or national banking association.
30.04.232 Additional authority of out-of-state holding company to acquire stock or assets of bank, trust company, or national banking association.
30.04.238 Purchase of own capital stock authorized.
30.04.240 Trust business to be kept separate--Authorized deposit of securities.
30.04.260 Legal services, advertising of--Penalty.
30.04.280 Compliance enjoined--Banking, trust business, branches.
30.04.285 Director's approval of a branch--Satisfactory financial condition.
30.04.295 Agency agreements--Written notice to director.
30.04.300 Foreign branch banks.
30.04.310 Penalty--General.
30.04.330 Saturday closing authorized.
30.04.375 Investment in stock, participation certificates, and other evidences of participation.
30.04.380 Investment in paid-in capital stock and surplus of banks or corporations engaged in international or foreign banking.
30.04.390 Acquisition of stock of banks organized under laws of foreign country, etc.
30.04.395 Continuing authority for investments.
30.04.400 Bank acquisition or control--Definitions.
30.04.405 Bank acquisition or control--Notice or application--Registration statement--Violations--Penalties.
30.04.410 Bank acquisition or control--Disapproval by director--Change of officers.
30.04.450 Violations or unsafe or unsound practices--Notice of charges--Contents--Hearing--Cease and desist order.
30.04.455 Violations or unsafe or unsound practices--Temporary cease and desist order--Issuance.
30.04.460 Violations or unsafe or unsound practices--Injunction to set aside, limit, or suspend temporary order.
30.04.465 Violations or unsafe or unsound practices--Injunction to enforce temporary order.
30.04.470 Violations or unsafe or unsound practices--Removal of officer or employee or prohibiting participation in bank or trust company affairs--Administrative hearing or judicial review.
30.04.475 Violations or unsafe or unsound practices--Removal of officer or employee or prohibiting participation in bank or trust company affairs--Jurisdiction of courts in enforcement or issuance of orders, injunctions or judicial review.
30.04.500 Fairness in lending act--Short title.
30.04.505 Fairness in lending act--Definitions.
30.04.510 Fairness in lending act--Unlawful practices.
30.04.515 Fairness in lending act--Sound underwriting practices not precluded.
30.04.550 Reorganization as subsidiary of bank holding company--Authority.

30.04.555 Reorganization as subsidiary of bank holding company--Procedure.
30.04.560 Reorganization as subsidiary of bank holding company--Dissenter's rights--Conditions.
30.04.565 Reorganization as subsidiary of bank holding company--Valuation of shares of dissenting shareholders.
30.04.570 Reorganization as subsidiary of bank holding company--Approval of director--Certificate of reorganization--Exchange of shares.
30.04.575 Public hearing prior to approval of reorganization--Request.
30.04.600 Shareholders--Actions authorized without meetings--Written consent.
30.04.605 Directors, committees--Actions authorized without meetings--Written consent.
30.04.610 Directors, committees--Meetings authorized by conference telephone or similar communications equipment.
30.04.650 Automated teller machines and night depositories security.

Notes:
Corporate seals, effect of absence from instrument: RCW 64.04.105.
Depositaries of state funds: Chapter 43.85 RCW.
Employee benefit plans--Payment as discharge: RCW 49.64.030.
Federal bonds and notes as investment or collateral: Chapter 39.60 RCW.
Interest and usury in general: Chapter 19.52 RCW.
Issuance of money, liability of stockholders: State Constitution Art. 12 § 11.

RCW 30.04.010 Definitions.

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

(1) "Banking" shall include the soliciting, receiving or accepting of money or its equivalent on deposit as a regular business.

(2) "Bank," unless a different meaning appears from the context, means any corporation organized under the laws of this state engaged in banking, other than a trust company, savings association, or a mutual savings bank.

(3) "Branch" means any established office of deposit, domestic or otherwise, maintained by any bank or trust company other than its head office. "Branch" does not mean a machine permitting customers to leave funds in storage or communicate with bank employees who are not located at the site of the machine, unless employees of the bank at the site of the machine take deposits on a regular basis. An office or facility of an entity other than the bank shall not be deemed to be established by the bank, regardless of any affiliation, accommodation arrangement, or other relationship between the other entity and the bank.

(4) The term "trust business" shall include the business of doing any or all of the things specified in RCW 30.08.150 (2), (3), (4), (5), (6), (7), (8), (9), (10) and (11).

(5) "Trust company," unless a different meaning appears from the context, means any corporation organized under the laws of this state engaged in trust business.

(6) "Person" unless a different meaning appears from the context, shall include a firm, association, partnership or corporation, or the plural thereof, whether resident, nonresident, citizen or not.

(7) "Director" means the director of financial institutions.

(8) "Foreign bank" and "foreign banker" shall include:

(a) Every corporation not organized under the laws of the territory or state of Washington doing a banking business, except a national bank;

(b) Every unincorporated company, partnership or association of two or more individuals organized under the laws of another state or country, doing a banking business;

(c) Every other unincorporated company, partnership or association of two or more individuals, doing a banking business, if the members thereof owning a majority interest therein or entitled to more than one-half of the net assets thereof are not residents of this state;

(d) Every nonresident of this state doing a banking business in his or her own name and right only.

[1997 c 101 § 3; 1996 c 2 § 2; 1994 c 92 § 7; 1959 c 106 § 1; 1955 c 33 § 30.04.010. Prior: 1933 c 42 § 2; 1917 c 80 § 14; RRS § 3221.]

Notes:

Severability--1996 c 2: See RCW 30.38.900.

RCW 30.04.020 Use of words indicating bank or trust company--Penalty.

(1) The name of every bank shall contain the word "bank" and the name of every trust company shall contain the word "trust," or the word "bank." Except as provided in RCW 33.08.030 or as otherwise approved by the director, no person except:

(a) A national bank;

(b) A bank or trust company authorized by the laws of this state;

(c) A corporation established under *RCW 31.30.010;

(d) A foreign corporation authorized by this title so to do, shall:

(i) Use as a part of his or its name or other business designation or in any manner as if connected with his or its business or place of business any of the following words or the plural thereof, to wit: "bank," "banking," "banker," "trust."

(ii) Use any sign at or about his or its place of business or use or circulate any advertisement, letterhead, billhead, note, receipt, certificate, blank, form, or any written or printed or part written and part printed paper, instrument or article whatsoever, directly or indirectly indicating that the business of such person is that of a bank or trust company.

(2) A foreign corporation, whose name contains the words "bank," "banker," "banking," or "trust," or whose articles of incorporation empower it to engage in banking or to engage in a trust business, may not engage in banking or in a trust business in this state unless the corporation (a) is expressly authorized to do so under this title, under federal law, or by the director, and (b) complies with all applicable requirements of chapter 23B.15 RCW regarding foreign corporations. If an activity would not constitute "transacting business" within the meaning of RCW 23B.15.010(1) or chapter 23B.18 RCW, then the activity shall not constitute banking or engaging in a trust business. Nothing in this subsection shall prevent operations by an alien bank in compliance with chapter 30.42 RCW.

(3) This section shall not prevent a lender approved by the United States secretary of housing and urban development for participation in any mortgage insurance program under the National Housing Act from using the words "mortgage banker" or "mortgage banking" in the conduct of its business, but only if both words are used together in either of the forms which appear in quotations in this sentence.

(4) Every person who, and every director and officer of every corporation which, to the knowledge of such director or officer violates any provision of this section shall be guilty of a gross misdemeanor.

[1994 c 256 § 32; 1986 c 284 § 15; 1983 c 42 § 2; 1981 c 88 § 1; 1955 c 33 § 30.04.020. Prior: 1925 ex.s. c 114 § 1; 1917 c 80 § 18; RRS § 3225.]

Notes:

***Reviser's note:** RCW 31.30.010 was repealed by 1998 c 12 § 1.

Findings--Construction--1994 c 256: See RCW 43.320.007.

Severability--1986 c 284: See RCW 31.30.900.

RCW 30.04.030 Rules--Administration and interpretation of title.

The director shall have power to adopt uniform rules in accordance with the administrative procedure act, chapter 34.05 RCW, to govern examinations and reports of banks and trust companies and the form in which they shall report their assets, liabilities, and reserves, charge off bad debts and otherwise keep their records and accounts, and otherwise to govern the administration of this title. The director shall mail a copy of the rules to each bank and trust company at its principal place of business.

The director shall have the power, and broad administrative discretion, to administer and interpret the provisions of this title to facilitate the delivery of financial services to the citizens of the state of Washington by the banks and trust companies subject to this title.

[1994 c 92 § 8; 1986 c 279 § 1; 1955 c 33 § 30.04.030. Prior: 1917 c 80 § 58, part; RRS § 3265, part.]

RCW 30.04.050 Violations--Penalty.

Every bank and trust company and their officers, employees, and agents shall comply with the rules and regulations. The violation of any rule or regulation in addition to any other penalty provided in this title, shall subject the offender to a penalty of one hundred dollars for each offense, to be recovered by the attorney general in a civil action in the name of the state. Each day's continuance of the violation shall be a separate and distinct offense.

[1955 c 33 § 30.04.050. Prior: 1917 c 80 § 58, part; RRS § 3265, part.]

RCW 30.04.060 Examinations directed--Cooperative agreements and actions.

(1) The director, assistant director, or an examiner shall visit each bank and each trust company at least once every eighteen months, and oftener if necessary, for the purpose of making a full investigation into the condition of such corporation, and for that purpose they are

hereby empowered to administer oaths and to examine under oath any director, officer, employee, or agent of such corporation. The director may make such other full or partial examinations as deemed necessary and may examine any bank holding company that owns any portion of a bank or trust company chartered by the state of Washington and obtain reports of condition for any bank holding company that owns any portion of a bank or trust company chartered by the state of Washington. The director may visit and examine into the affairs of any nonpublicly held corporation in which the bank, trust company, or bank holding company has an investment or any publicly held corporation the capital stock of which is controlled by the bank, trust company, or bank holding company; may appraise and revalue such corporations' investments and securities; and shall have full access to all the books, records, papers, securities, correspondence, bank accounts, and other papers of such corporations for such purposes. The director may, in his or her discretion, accept in lieu of the examinations required in this section the examinations conducted at the direction of the federal reserve board or the Federal Deposit Insurance Corporation. Any willful false swearing in any examination is perjury in the second degree.

(2) The director may enter into cooperative and reciprocal agreements with the bank regulatory authorities of the United States, any state, the District of Columbia, or any trust territory of the United States for the periodic examination of domestic bank holding companies owning banking institutions in other states, the District of Columbia, or trust territories, and subsidiaries of such domestic bank holding companies, or of out-of-state bank holding companies owning a bank or trust company the principal operations of which are conducted in this state. The director may accept reports of examination and other records from such authorities in lieu of conducting his or her own examinations. The director may enter into joint actions with other regulatory bodies having concurrent jurisdiction or may enter into such actions independently to carry out his or her responsibilities under this title and assure compliance with the laws of this state.

[1994 c 92 § 9; 1989 c 180 § 1; 1985 c 305 § 3; 1983 c 157 § 3; 1982 c 196 § 6; 1955 c 33 § 30.04.060. Prior: 1937 c 48 § 1; 1919 c 209 § 5; 1917 c 80 § 7; RRS § 3214.]

Notes:

Severability--1983 c 157: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 157 § 12.]

Severability--1982 c 196: See note following RCW 30.04.550.

Director of financial institutions: Chapter 43.320 RCW.

RCW 30.04.070 Cost of examination.

The director shall collect from each bank, mutual savings bank, trust company or industrial loan company for each examination of its condition the estimated actual cost of such examination.

[1994 c 92 § 10; 1955 c 33 § 30.04.070. Prior: 1929 c 73 § 1; 1923 c 172 § 16; 1921 c 73 § 1; 1917 c 80 § 8; RRS § 3215.]

RCW 30.04.075 Examination reports and information--Confidentiality--Disclosure--Penalty.

(1) All examination reports and all information obtained by the director and the director's staff in conducting examinations of banks, trust companies, or alien banks, and information obtained by the director and the director's staff from other state or federal bank regulatory authorities with whom the director has entered into agreements pursuant to RCW 30.04.060(2), and information obtained by the director and the director's staff relating to examination and supervision of bank holding companies owning a bank in this state or subsidiaries of such holding companies, is confidential and privileged information and shall not be made public or otherwise disclosed to any person, firm, corporation, agency, association, governmental body, or other entity.

(2) Subsection (1) of this section notwithstanding, the director may furnish all or any part of examination reports prepared by the director's office to:

(a) Federal agencies empowered to examine state banks, trust companies, or alien banks;

(b) Bank regulatory authorities with whom the director has entered into agreements pursuant to RCW 30.04.060(2), and other bank regulatory authorities who are the primary regulatory authority or insurer of accounts for a bank holding company owning a bank, trust company, or national banking association the principal operations of which are conducted in this state or a subsidiary of such holding company; provided that the director shall first find that the reports of examination to be furnished shall receive protection from disclosure comparable to that accorded by this section;

(c) Officials empowered to investigate criminal charges subject to legal process, valid search warrant, or subpoena. If the director furnishes any examination report to officials empowered to investigate criminal charges, the director may only furnish that part of the report which is necessary and pertinent to the investigation, and the director may do this only after notifying the affected bank, trust company, or alien bank and any customer of the bank, trust company, or alien bank who is named in that part of the examination or report ordered to be furnished unless the officials requesting the report first obtain a waiver of the notice requirement from a court of competent jurisdiction for good cause;

(d) The examined bank, trust company, or alien bank, or holding company thereof;

(e) The attorney general in his or her role as legal advisor to the director;

(f) Liquidating agents of a distressed bank, trust company, or alien bank;

(g) A person or organization officially connected with the bank as officer, director, attorney, auditor, or independent attorney or independent auditor;

(h) The Washington public deposit protection commission as provided by RCW 39.58.105.

(3) All examination reports furnished under subsections (2) and (4) of this section shall remain the property of the department of financial institutions, and be confidential and no person, agency, or authority to whom reports are furnished or any officer, director, or employee thereof shall disclose or make public any of the reports or any information contained therein

except in published statistical material that does not disclose the affairs of any individual or corporation: PROVIDED, That nothing herein shall prevent the use in a criminal prosecution of reports furnished under subsection (2) of this section.

(4) The examination report made by the department of financial institutions is designed for use in the supervision of the bank, trust company, or alien bank. The report shall remain the property of the director and will be furnished to the bank, trust company, or alien bank solely for its confidential use. Under no circumstances shall the bank, trust company, or alien bank or any of its directors, officers, or employees disclose or make public in any manner the report or any portion thereof, to any person or organization not connected with the bank as officer, director, employee, attorney, auditor, or candidate for executive office with the bank. The bank may also, after execution of an agreement not to disclose information in the report, disclose the report or relevant portions thereof to a party proposing to acquire or merge with the bank.

(5) Examination reports and information obtained by the director and the director's staff in conducting examinations, or obtained from other state and federal bank regulatory authorities with whom the director has entered into agreements pursuant to RCW 30.04.060(2), or relating to examination and supervision of bank holding companies owning a bank, trust company, or national banking association the principal operations of which are conducted in this state or a subsidiary of such holding company, or information obtained as a result of applications or investigations pursuant to RCW 30.04.230, shall not be subject to public disclosure under chapter 42.17 RCW.

(6) In any civil action in which the reports are sought to be discovered or used as evidence, any party may, upon notice to the director, petition the court for an in camera review of the report. The court may permit discovery and introduction of only those portions of the report which are relevant and otherwise unobtainable by the requesting party. This subsection shall not apply to an action brought or defended by the director.

(7) This section shall not apply to investigation reports prepared by the director and the director's staff concerning an application for a new bank or trust company or an application for a branch of a bank, trust company, or alien bank: PROVIDED, That the director may adopt rules making confidential portions of the reports if in the director's opinion the public disclosure of the portions of the report would impair the ability to obtain the information which the director considers necessary to fully evaluate the application.

(8) Every person who violates any provision of this section shall be guilty of a gross misdemeanor.

[1994 c 92 § 11; 1989 c 180 § 2; 1986 c 279 § 2; 1977 ex.s. c 245 § 1.]

Notes:

Severability--1977 ex.s. c 245: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 245 § 6.]

Examination reports and information from financial institutions exempt: RCW 42.17.31911.

RCW 30.04.111 Limit on loans and extensions of credit to one person--Exceptions.

The total loans and extensions of credit by a bank or trust company to a person outstanding at any one time shall not exceed twenty percent of the capital and surplus of such bank or trust company. The following loans and extensions of credit shall not be subject to this limitation:

(1) Loans or extensions of credit arising from the discount of commercial or business paper evidencing an obligation to the person negotiating it with recourse;

(2) Loans or extensions of credit secured by bonds, notes, certificates of indebtedness, or treasury bills of the United States or by other such obligations wholly guaranteed as to principal and interest by the United States;

(3) Loans or extensions of credit to or secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States;

(4) Loans or extensions of credit fully secured by a segregated deposit account or accounts in the lending bank;

(5) Loans or extensions of credit secured by collateral having a readily ascertained market value of at least one hundred fifteen percent of the outstanding amount of the loan or extension of credit;

(6) Loans or extensions of credit secured by bills of lading, warehouse receipts, or similar documents transferring or securing title to readily marketable staples shall be subject to a limitation of thirty-five percent of capital and surplus in addition to the general limitations, if the market value of the staples securing each additional loan or extension of credit at all times equals or exceeds one hundred fifteen percent of the outstanding amount of the loan or extension of credit. The staples shall be fully covered by insurance whenever it is customary to insure the staples;

(7) The purchase of bankers' acceptances of the kind described in section 13 of the federal reserve act and issued by other banks shall not be subject to any limitation based on capital and surplus;

(8) The unpaid purchase price of a sale of bank property, if secured by such property.

For the purposes of this section "capital" shall include the amount of common stock outstanding and unimpaired, the amount of preferred stock outstanding and unimpaired, and capital notes or debentures issued pursuant to chapter 30.36 RCW.

For the purposes of this section "surplus" shall include capital surplus, reflecting the amounts paid in excess of the par or stated value of capital stock, or amounts contributed to the bank other than for capital stock, and undivided profits.

The term "person" shall include an individual, sole proprietor, partnership, joint venture, association, trust, estate, business trust, corporation, sovereign government or agency, instrumentality, or political subdivision thereof, or any similar entity or organization.

The director may prescribe rules to administer and carry out the purposes of this section, including without limitation rules to define or further define terms used in this section and to establish limits or requirements other than those specified in this section for particular classes or categories of loans or extensions of credit, and to determine when a loan putatively made to a person shall, for purposes of this section, be attributed to another person. In adopting the rules,

the director shall be guided by rulings of the comptroller of the currency that govern lending limits applicable to national commercial banks.

[1995 c 344 § 1; 1994 c 92 § 12; 1986 c 279 § 3.]

RCW 30.04.112 "Loans or obligations" and "liabilities" limited for purposes of RCW 30.04.111.

Sales of federal reserve funds with a maturity of one business day or under a continuing contract are not "loans or obligations" or "liabilities" for the purposes of the loan limits established by RCW 30.04.111. However, sales of federal reserve funds with a maturity of more than one business day are subject to those limits.

For the purposes of this section, "sale of federal reserve funds" means any transaction among depository institutions involving the disposal of immediately available funds resulting from credits to deposit balances at federal reserve banks or from credits to new or existing deposit balances due from a correspondent depository institution.

[1989 c 220 § 1; 1983 c 157 § 2.]

Notes:

Severability--1983 c 157: See note following RCW 30.04.060.

RCW 30.04.120 Loans on own stock prohibited--Shares of other corporations.

The shares of stock of every bank and trust company shall be deemed personal property. No such corporation shall hereafter make any loan or discount on the security of its own capital stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; in which case the stocks so purchased or acquired shall be sold at public or private sale, or otherwise disposed of, within six months from the time of its purchase or acquisition. Except as hereinafter provided or otherwise permitted by law, nothing herein contained shall authorize the purchase by any such bank or trust company for its own account of any shares of stock of any corporation, except a federal reserve bank of which such corporation shall become a member, and then only to the extent required by such federal reserve bank: PROVIDED, That any bank or trust company may purchase, acquire and hold shares of stock in any other corporation which shares have been previously pledged as security to any loan or discount made in good faith and such purchase shall be necessary to prevent loss upon a debt previously contracted in good faith and stock so purchased or acquired shall be sold at public or private sale or otherwise disposed of within two years from the time of its purchase or acquisition. Any time limit imposed in this section may be extended by the director upon cause shown. Banks and trust companies are authorized to make loans on the security of the capital stock of a bank or trust company other than the lending corporation.

[1994 c 92 § 13; 1986 c 279 § 4; 1973 1st ex.s. c 104 § 1; 1955 c 33 § 30.04.120. Prior: 1943 c 187 § 1; 1933 c 42 § 9; 1929 c 73 § 5; 1917 c 80 § 36; Rem. Supp. 1943 § 3243.]

RCW 30.04.125 Investment in corporations--Authorized businesses.

Unless otherwise prohibited by law, any state bank or trust company may invest in the capital stock of corporations organized to conduct the following businesses:

(1) A safe deposit business: PROVIDED, That the amount of investment does not exceed fifteen percent of its capital stock and surplus, without the approval of the director;

(2) A corporation holding the premises of the bank or its branches: PROVIDED, That without the approval of the director, the investment of such stock shall not exceed, together with all loans made to the corporation by the bank, a sum equal to the amount permitted to be invested in the premises by RCW 30.04.210;

(3) Stock in a small business investment company licensed and regulated by the United States as authorized by the small business act, Public Law 85-536, 72 Statutes at Large 384, in an amount not to exceed five percent of its capital and surplus without the approval of the director;

(4) Capital stock of a banking service corporation or corporations. The total amount that a bank may invest in the shares of such corporation may not exceed ten percent of its capital and surplus without the approval of the director. A bank service corporation may not engage in any activity other than those permitted by the bank service corporation act, 12 U.S.C. Sec. 1861, et seq., as subsequently amended and in effect on December 31, 1993. The performance of any service, and any records maintained by any such corporation for a bank, shall be subject to regulation and examination by the director and appropriate federal agencies to the same extent as if the services or records were being performed or maintained by the bank on its own premises;

(5) Capital stock of a federal reserve bank to the extent required by such federal reserve bank;

(6) A corporation engaging in business activities that have been determined by the board of governors of the federal reserve system or by the United States congress to be closely related to the business of banking, as of December 31, 1993;

(7) A governmentally sponsored corporation engaged in secondary marketing of loans and the stock of which must be owned in order to participate in its marketing activities;

(8) A corporation in which all of the voting stock is owned by the bank and that engages exclusively in nondeposit-taking activities that are authorized to be engaged in by the bank or trust company;

(9) A bank or trust company may purchase for its own account shares of stock of a bank or a holding company that owns or controls a bank if the stock of the bank or company is owned exclusively, except to the extent directly qualifying shares are required by law, by depository institutions and the bank or company and all subsidiaries thereof are engaged exclusively in providing services for other depository institutions and their officers, directors, and employees. In no event may the total amount of such stock held by a bank or trust company in any bank or bank holding company exceed at any time ten percent of its capital stock and paid-in and unimpaired surplus, and in no event may the purchase of such stock result in a bank or trust company acquiring more than twenty-five percent of any class of voting securities of such bank

or company. Such a bank or bank holding company shall be called a "banker's bank."

[1994 c 256 § 33; 1994 c 92 § 14; 1986 c 279 § 5.]

Notes:

Reviser's note: This section was amended by 1994 c 92 § 14 and by 1994 c 256 § 33, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 30.04.127 Formation, incorporation, or investment in corporations or other entities authorized--Approval--Exception.

(1) A bank or trust company, alone or in conjunction with other entities, may form, incorporate, or invest in corporations or other entities, whether or not such other corporation or entity is related to the bank or trust company's business. The aggregate amount of funds invested, or used in the formation of corporations or other entities under this section shall not exceed ten percent of the assets or fifty percent of the net worth, whichever is less, of the bank or trust company. For purposes of this subsection, "net worth" means the aggregate of capital, surplus, undivided profits, and all capital notes and debentures which are subordinate to the interest of depositors.

(2) A bank or trust company may engage in an activity permitted under this section only with the prior authorization of the director. In approving or denying a proposed activity, the director shall consider the financial and management strength of the institution, the convenience and needs of the public, and whether the proposed activity should be conducted through a subsidiary or affiliate of the bank. The director may not authorize under this section and no bank or trust company may act as an insurance or travel agent unless otherwise authorized by state statute.

[1994 c 92 § 15; 1987 c 498 § 1.]

RCW 30.04.129 Investment in obligations issued or guaranteed by multilateral development bank.

Any bank or trust company may invest in obligations issued or guaranteed by any multilateral development bank in which the United States government formally participates. Such investment in any one multilateral development bank shall not exceed five percent of the bank's or trust company's paid-in capital and surplus.

[1985 c 301 § 2.]

RCW 30.04.130 Defaulted debts, judgments to be charged off--Valuation of assets.

Based on examinations directed pursuant to RCW 30.04.060 or other appropriate information, all assets or portion thereof that the director may have required a bank or trust company to charge off shall be charged off. No bank or trust company shall enter or at any time carry on its books any of its assets or liabilities at a valuation contrary to generally accepted

accounting principles.

[1994 c 256 § 34; 1994 c 92 § 16; 1986 c 279 § 6; 1955 c 33 § 30.04.130. Prior: 1937 c 61 § 1; 1919 c 209 § 15; 1917 c 80 § 47; RRS § 3254.]

Notes:

Reviser's note: This section was amended by 1994 c 92 § 16 and by 1994 c 256 § 34, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 30.04.140 Pledge of securities or assets prohibited--Exceptions.

No bank or trust company shall pledge or hypothecate any of its securities or assets to any depositor, except that it may qualify as depositary for United States deposits, or other public funds, or funds held in trust and deposited by any public officer by virtue of his office, or as a depository for the money of estates under the statutes of the United States pertaining to bankruptcy or funds deposited by a trustee or receiver in bankruptcy appointed by any court of the United States or any referee thereof, or funds held by the United States or the state of Washington, or any officer thereof in trust, or for funds of corporations owned or controlled by the United States, and may give such security for such deposits as are required by law or by the officer making the same; and it may give security to its trust department for deposits with itself which represent trust funds invested in savings accounts or which represent fiduciary funds awaiting investment or distribution.

[1986 c 279 § 7; 1983 c 157 § 6; 1967 c 133 § 2; 1955 c 33 § 30.04.140. Prior: 1933 c 42 § 24, part; 1917 c 80 § 54, part; RRS § 3261, part.]

Notes:

Severability--1983 c 157: See note following RCW 30.04.060.

RCW 30.04.180 Dividends.

No bank or trust company shall declare or pay any dividend to an amount greater than its retained earnings, without approval from the director. The director shall in his or her discretion have the power to require any bank or trust company to suspend the payment of any and all dividends until all requirements that may have been made by the director shall have been complied with; and upon such notice to suspend dividends no bank or trust company shall thereafter declare or pay any dividends until such notice has been rescinded in writing. A dividend is payable in cash, property, or capital stock, but the restrictions on the payment of a dividend (other than restrictions imposed by the director pursuant to his or her authority to require the suspension of the payment of any or all dividends) do not apply to a dividend payable by the bank or trust company solely in its own capital stock. For purposes of this section, "retained earnings" shall be determined by generally accepted accounting principles.

[1994 c 256 § 35; 1994 c 92 § 17; 1986 c 279 § 8; 1981 c 89 § 1; 1969 c 136 § 2; 1955 c 33 § 30.04.180. Prior: 1933 c 42 § 7; 1931 c 11 § 1; 1917 c 80 § 33; RRS § 3240.]

Notes:

Reviser's note: This section was amended by 1994 c 92 § 17 and by 1994 c 256 § 35, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

Severability--1981 c 89: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 89 § 8.]

RCW 30.04.210 Real estate holdings.

A bank or trust company may purchase, hold, and convey real estate for the following purposes:

(1) Such as shall be necessary for the convenient transaction of its business, including with its banking offices other space in the same building to rent as a source of income: PROVIDED, That any bank or trust company shall not invest for such purposes more than the greater of: (a) Fifty percent of its capital, surplus, and undivided profits; or (b) one hundred twenty-five percent of its capital stock without the approval of the director.

(2) Such as shall be purchased or conveyed to it in satisfaction, or on account of, debts previously contracted in the course of its business.

(3) Such as it shall purchase at sale under judgments, decrees, liens, or mortgage foreclosures, from debts owed to it.

(4) Such as a trust company receives in trust or acquires pursuant to the terms or authority of any trust.

(5) Such as it may take title to or for the purpose of investing in real estate conditional sales contracts.

(6) Such as shall be purchased, held, or conveyed in accordance with RCW 30.04.212 granting banks the power to invest directly or indirectly in unimproved or improved real estate.

[1994 c 256 § 36; 1994 c 92 § 18; 1986 c 279 § 9; 1985 c 329 § 4; 1979 c 142 § 1; 1973 1st ex.s. c 104 § 2; 1955 c 33 § 30.04.210. Prior: 1947 c 149 § 1; 1917 c 80 § 37; Rem. Supp. 1947 § 3244.]

Notes:

Reviser's note: This section was amended by 1994 c 92 § 18 and by 1994 c 256 § 36, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

Legislative intent--1985 c 329: See note following RCW 30.60.010.

Severability--Effective date--1985 c 329: See RCW 30.60.900 and 30.60.901.

Adoption of rules: RCW 30.60.030.

RCW 30.04.212 Real property and improvements thereon.

(1) In addition to the powers granted under RCW 30.04.210 and subject to the limitations and restrictions contained in this section and in RCW 30.60.010 and 30.60.020, a bank:

(a) May acquire any interest in unimproved or improved real property;

(b) May construct, alter, and manage improvements of any description on real estate in which it holds a substantial equity interest.

(2) The powers granted under subsection (1) of this section do not include, and a bank may not:

(a) Manage any real property in which the bank does not own a substantial equity interest;

(b) Engage in activities of selling, leasing, or otherwise dealing in real property as an agent or broker; or

(c) Acquire any equity interest in any one to four-family dwelling that is used as a principal residence by the owner of the dwelling; however, this shall not prohibit a bank from making loans secured by such dwelling where all or part of the bank's anticipated compensation results from the appreciation and sale of such dwelling.

(3) The aggregate amount of funds invested under this section shall not exceed two percent of a bank's capital, surplus, and undivided profits. Such percentage amount shall be increased based upon the most recent community reinvestment rating assigned to a bank by the director in accordance with RCW 30.60.010, as follows:

(a) Excellent performance:	Increase to 10%
(b) Good performance:	Increase to 8%
(c) Satisfactory performance:	Increase to 6%
(d) Inadequate performance:	Increase to 3%
(e) Poor performance:	No increase

(4) For purposes of this section only, each bank will be deemed to have been assigned a community reinvestment rating of "1" for the period beginning with January 1, 1986, and ending December 31, 1986. Thereafter, each bank will be assigned an annual rating in accordance with RCW 30.60.010, which rating shall remain in effect for the next succeeding year and until the director has conducted a new investigation and assigned a new rating for the next succeeding year, the process repeating on an annual basis.

(5) No bank may at any time be required to dispose of any investment made in accordance with this section due to the fact that the bank is not then authorized to acquire such investment, if such investment was lawfully acquired by the bank at the time of acquisition.

(6) The director shall limit the amount that may be invested in a single project or investment and may adopt any rule necessary to the safe and sound exercise of powers granted by this section.

[1994 c 92 § 19; 1985 c 329 § 5.]

Notes:

Legislative intent--1985 c 329: See note following RCW 30.60.010.

Severability--Effective date--1985 c 329: See RCW 30.60.900 and 30.60.901.

Adoption of rules: RCW 30.60.030.

RCW 30.04.214 Qualifying community investments.

(1) An amount equal to ten percent of the aggregate amount invested in real estate in accordance with RCW 30.04.212 shall be placed in qualifying community investments as defined in subsection (2) of this section.

(2) "Qualifying community investment" means any direct or indirect investment or extension of credit made by a bank in projects or programs designed to develop or redevelop areas in which persons with low or moderate incomes reside, designed to meet the credit needs of such low or moderate-income areas, or that primarily benefits low and moderate-income residents of such areas. The term includes, but is not limited to, any of the following within the state of Washington:

(a) Investments in governmentally insured, guaranteed, subsidized, or otherwise sponsored programs for housing, small farms, or businesses that address the needs of the low and moderate-income areas.

(b) Investments in residential mortgage loans, home improvements loans, housing rehabilitation loans, and small business or small farm loans originated in low and moderate-income areas, or the purchase of such loans originated in low and moderate-income areas.

(c) Investments for the preservation or revitalization of urban or rural communities in low and moderate-income areas.

The term does not include personal installment loans, loans made to purchase, or loans secured by an automobile.

(3) A qualifying community investment made by an entity that wholly owns a bank, is wholly owned by a bank, or is wholly owned by an entity that wholly owns the bank is deemed to have been made by a bank to satisfy the requirements of subsection (1) of this section.

[1985 c 329 § 6.]

Notes:

Legislative intent--1985 c 329: See note following RCW 30.60.010.

Severability--Effective date--1985 c 329: See RCW 30.60.900 and 30.60.901.

Adoption of rules: RCW 30.60.030.

RCW 30.04.215 Engaging in other business activities.

(1) Notwithstanding any other provisions of law, in addition to all powers enumerated by this title, and those necessarily implied therefrom, a bank may engage in other business activities that have been determined by the board of governors of the federal reserve system or by the United States Congress to be closely related to the business of banking, as of December 31, 1993.

(2) A bank that desires to perform an activity that is not expressly authorized by subsection (1) of this section shall first apply to the director for authorization to conduct such activity. Within thirty days of the receipt of this application, the director shall determine whether the activity is closely related to the business of banking, whether the public convenience and advantage will be promoted, whether the activity is apt to create an unsafe or unsound practice by the bank and whether the applicant is capable of performing such an activity. If the director

finds the activity to be closely related to the business of banking and the bank is otherwise qualified, he or she shall forthwith inform the applicant that the activity is authorized. If the director determines that such activity is not closely related to the business of banking or the bank is not otherwise qualified, he or she shall forthwith inform the applicant in writing. The applicant shall have the right to appeal from an unfavorable determination in accordance with the procedures of the Administrative Procedure Act, chapter 34.05 RCW. In determining whether a particular activity is closely related to the business of banking, the director shall be guided by the rulings of the board of governors of the federal reserve system and the comptroller of the currency in making determinations in connection with the powers exercisable by bank holding companies, and the activities performed by other commercial banks or their holding companies.

(3) Notwithstanding any restrictions, limitations, and requirements of law, in addition to all powers, express or implied, that a bank has under the laws of this state, a bank shall have the powers and authorities conferred as of August 31, 1994, upon [a] federally chartered bank doing business in this state. A bank may exercise the powers and authorities conferred on a federally chartered bank after this date, only if the director finds that the exercise of such powers and authorities:

(a) Serves the convenience and advantage of depositors, borrowers, or the general public; and

(b) Maintains the fairness of competition and parity between state-chartered banks and federally chartered banks.

As used in this section, "powers and authorities" include without limitation powers and authorities in corporate governance and operational matters.

The restrictions, limitations, and requirements applicable to specific powers or authorities of federally chartered banks shall apply to banks exercising those powers or authorities permitted under this subsection but only insofar as the restrictions, limitations, and requirements relate to exercising the powers or authorities granted banks solely under this subsection.

(4) Any activity which may be performed by a bank, except the taking of deposits, may be performed by (a) a corporation or (b) another entity approved by the director, which in either case is owned in whole or in part by the bank.

[1995 c 344 § 2; 1995 c 134 § 2. Prior: 1994 c 256 § 37; 1994 c 92 § 20; 1986 c 279 § 10; 1983 c 157 § 8; 1969 c 136 § 7.]

Notes:

Reviser's note: This section was amended by 1995 c 134 § 2 and by 1995 c 344 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

Severability--1983 c 157: See note following RCW 30.04.060.

RCW 30.04.220 Corporations existing under former laws.

Every corporation, which on March 10, 1917, was actually and publicly engaged in banking or trust business in this state in full compliance with the laws hereof, which were in

force immediately prior to March 10, 1917, may, if it otherwise complies with the provisions of this title, continue its said business, subject to the terms and regulations hereof and without amending its articles of incorporation, although its name and the amount of its capital stock, the number or length of terms of its directors or the form of its articles of incorporation do not comply with the requirements of this title: PROVIDED,

(1) That any such bank, which was by the director lawfully permitted to operate, although its capital stock was not fully paid in, shall pay in the balance of its capital stock at such times and in such amounts as the director may require;

(2) That, except with written permission of the director, any bank or trust company which shall amend its articles of incorporation must in such event comply with all the requirements of this title.

[1994 c 92 § 21; 1955 c 33 § 30.04.220. Prior: 1937 c 31 § 1; 1917 c 80 § 78; RRS § 3285.]

RCW 30.04.225 Contributions and gifts.

In the absence of an express prohibition in its articles of incorporation, the making of contributions or gifts for the public welfare, or for charitable, scientific, or educational purposes by a state bank or trust company is within its powers and shall be deemed to inure to the benefit of the bank.

[1986 c 279 § 11.]

RCW 30.04.230 Authority of corporation or association to acquire stock of bank, trust company, or national banking association.

(1) A corporation or association organized under the laws of this state or licensed to transact business in the state may acquire any or all shares of stock of any bank, trust company, or national banking association. Nothing in this section shall be construed to prohibit the merger, consolidation, or reorganization of a bank or trust company in accordance with this title.

(2) Unless the terms of this section or RCW 30.04.232 are complied with, an out-of-state bank holding company shall not acquire more than five percent of the shares of the voting stock or all or substantially all of the assets of a bank, trust company, or national banking association the principal operations of which are conducted within this state.

(3) As used in this section a "bank holding company" means a company that is a bank holding company as defined by the Bank Holding Company Act of 1956, as amended (12 U.S.C. Sec. 1841 et seq.). An "out-of-state bank holding company" is a bank holding company that principally conducts its operations outside this state, as measured by total deposits held or controlled by its bank subsidiaries on the date on which it became a holding company. A "domestic bank holding company" is a bank holding company that principally conducts its operations within this state, as measured by total deposits held or controlled by its bank subsidiaries on the date on which it became a bank holding company.

(4) Any such acquisition referred to under subsection (2) of this section by an out-of-state bank holding company requires the express written approval of the director. Approval shall not

be granted unless and until the following conditions are met:

(a) An out-of-state bank holding company desiring to make an acquisition referred to under subsection (2) of this section and the bank, trust company, national banking association, or domestic bank holding company parent thereof, if any, proposed to be acquired shall file an application in writing with the director. The director shall by rule establish the fee schedule to be collected from the applicant in connection with the application. The fee shall not exceed the cost of processing the application. The application shall contain such information as the director may prescribe by rule as necessary or appropriate for the purpose of making a determination under this section. The application and supporting information and all examination reports and information obtained by the director and the director's staff in conducting its investigation shall be confidential and privileged and not subject to public disclosure under chapter 42.17 RCW. The application and information may be disclosed to federal bank regulatory agencies and to officials empowered to investigate criminal charges, subject to legal process, valid search warrant, or subpoena. In any civil action in which such application or information is sought to be discovered or used as evidence, any party may, upon notice to the director and other parties, petition for an in camera review. The court may permit discovery and introduction of only those portions that are relevant and otherwise unobtainable by the requesting party. The application and information shall be discoverable in any judicial action challenging the approval of an acquisition by the director as arbitrary and capricious or unlawful.

(b) The director shall find that:

(i) The bank, trust company, or national banking association that is proposed to be acquired or the domestic bank holding company controlling such bank, trust company, or national banking association is in such a liquidity or financial condition as to be in danger of closing, failing, or insolvency. In making any such determination the director shall be guided by the criteria developed by the federal regulatory agencies with respect to emergency acquisitions under the provisions of 12 U.S.C. Sec. 1828(c);

(ii) There is no state bank, trust company, or national banking association doing business in the state of Washington or domestic bank holding company with sufficient resources willing to acquire the entire bank, trust company, or national banking association on at least as favorable terms as the out-of-state bank holding company is willing to acquire it;

(iii) The applicant out-of-state bank holding company has provided all information and documents requested by the director in relation to the application; and

(iv) The applicant out-of-state bank holding company has demonstrated an acceptable record of meeting the credit needs of its entire community, including low and moderate income neighborhoods, consistent with the safe and sound operation of such institution.

(c) The director shall consider:

(i) The financial institution structure of this state; and

(ii) The convenience and needs of the public of this state.

(5) Nothing in this section may be construed to prohibit, limit, restrict, or subject to further regulation the ownership by a bank of the stock of a bank service corporation or a banker's bank.

[1994 c 92 § 22; 1987 c 420 § 2. Prior: 1985 c 310 § 2; 1985 c 305 § 4; 1983 c 157 § 9; 1982 c 196 § 7; 1981 c 89 § 2; 1973 1st ex.s. c 92 § 1; 1961 c 69 § 1; 1955 c 33 § 30.04.230; prior: 1933 c 42 § 10; RRS § 3243-1.]

Notes:

Construction--Effective date--1985 c 310: See notes following RCW 30.04.232.
Severability--1983 c 157: See note following RCW 30.04.060.
Severability--1982 c 196: See note following RCW 30.04.550.
Severability--1981 c 89: See note following RCW 30.04.180.

RCW 30.04.232 Additional authority of out-of-state holding company to acquire stock or assets of bank, trust company, or national banking association.

(1) In addition to an acquisition pursuant to RCW 30.04.230, an out-of-state bank holding company may acquire more than five percent of the voting stock or all or substantially all of the assets of a bank, trust company, or national banking association, the principal operations of which are conducted within this state, if the bank, trust company, or national banking association or its predecessor, the voting stock of which is to be acquired, shall have been conducting business for a period of not less than five years.

(2) The director, consistent with 12 U.S.C. Sec. 1842(d)(2)(D), may approve an acquisition if the standard on which the approval is based does not discriminate against out-of-state banks, out-of-state bank holding companies, or subsidiaries of those banks or holding companies.

(3) As used in this section, the terms "bank holding company," "domestic bank holding company," and "out-of-state bank holding company" shall have the meanings provided in RCW 30.04.230.

[1996 c 2 § 3; 1994 c 92 § 23; 1985 c 310 § 1.]

Notes:

Severability--1996 c 2: See RCW 30.38.900.
Construction--1985 c 310: "Nothing in this act shall be deemed to expand or limit the power of a bank holding company or bank to engage in the insurance business." [1985 c 310 § 3.]
Effective date--1985 c 310: "This act shall take effect July 1, 1987." [1985 c 310 § 4.]

RCW 30.04.238 Purchase of own capital stock authorized.

(1) Notwithstanding any other provision of this title, a bank, with the prior approval of the director, may purchase shares of its own capital stock.

(2) When a bank purchases such shares, its capital accounts shall be reduced appropriately. The shares shall be held as authorized but unissued shares.

[1994 c 92 § 24; 1986 c 279 § 12; 1985 c 305 § 1.]

RCW 30.04.240 Trust business to be kept separate--Authorized deposit of securities.

(1) Every corporation doing a trust business shall maintain in its office a trust department in which it shall keep books and accounts of its trust business, separate and apart from its other

business. Such books and accounts shall specify the cash, securities and other properties, real and personal, held in each trust, and such securities and properties shall be at all times segregated from all other securities and properties except as otherwise provided in this section. Any person connected with a bank or trust company who shall, contrary to this section or any other provision of law, commingle any funds or securities of any kind held by such corporation in trust, for safekeeping or as agent for another, with the funds or assets of the corporation shall be guilty of a felony.

(2) Notwithstanding any other provisions of law, any fiduciary holding securities in its fiduciary capacity or any state bank, national bank, or trust company holding securities as fiduciary or as custodian for a fiduciary is authorized to deposit or arrange for the deposit of such securities: (a) In a clearing corporation (as defined in Article 8 of the Uniform Commercial Code, chapter 62A.8 RCW); (b) within another state bank, national bank, or trust company having trust power whether located inside or outside of this state; or (c) within itself. When such securities are so deposited, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation or state bank, national bank, or trust company holding the securities as the depository, with any other such securities deposited in such clearing corporation or depository by any person, regardless of the ownership of such securities, and certificates of small denomination may be merged into one or more certificates of larger denomination. The records of such fiduciary and the records of such state bank, national bank, or trust company as a fiduciary or as custodian for a fiduciary shall at all times show the name of the party for whose account the securities are so deposited. Ownership of, and other interests in, such securities may be transferred by bookkeeping entries on the books of such clearing corporation, state bank, national bank, or trust company without physical delivery or alteration of certificates representing such securities. A state bank, national bank, or trust company so depositing securities pursuant to this section shall be subject to such rules and regulations as, in the case of state chartered banks and trust companies, the director and, in the case of national banking associations, the comptroller of the currency may from time to time issue. A state bank, national bank, or trust company acting as custodian for a fiduciary shall, on demand by the fiduciary, certify in writing to the fiduciary the securities so deposited by such state bank, national bank, or trust company in such clearing corporation or state bank, national bank, or trust company acting as such depository for the account of such fiduciary. A fiduciary shall, on demand by any party to a judicial proceeding for the settlement of such fiduciary's account or on demand by the attorney for such party, certify in writing to such party the securities deposited by such fiduciary in such clearing corporation or state bank, national bank, or trust company acting as such depository for its account as such fiduciary.

This subsection shall apply to any fiduciary holding securities in its fiduciary capacity, and to any state bank, national bank, or trust company holding securities as a custodian, managing agent, or custodian for a fiduciary, acting on March 14, 1973 or who thereafter may act regardless of the date of the agreement, instrument, or court order by which it is appointed and regardless of whether or not such fiduciary, custodian, managing agent, or custodian for a fiduciary owns capital stock of such clearing corporation.

[1994 c 92 § 25; 1979 c 45 § 1; 1973 c 99 § 1; 1955 c 33 § 30.04.240. Prior: 1919 c 209 § 16; 1917 c 80 § 49; RRS § 3256.]

RCW 30.04.260 Legal services, advertising of--Penalty.

No trust company or other corporation which advertises that it will furnish legal advice, construct or prepare wills, or do other legal work for its customers, shall be permitted to act as executor, administrator, or guardian; and any trust company or other corporation whose officers or agents shall solicit legal business shall be ineligible for a period of one year thereafter to be appointed executor, administrator or guardian in any of the courts of this state.

Any trust company or other corporation which advertises that it will furnish legal advice, construct or prepare wills, or do other legal work for its customers, and any officer, agent, or employee of any trust company or corporation who shall solicit legal business shall be guilty of a gross misdemeanor.

[1974 ex.s. c 117 § 43; 1955 c 33 § 30.04.260. Prior: 1929 c 72 § 4, part; 1923 c 115 § 6, part; 1921 c 94 § 1, part; 1917 c 80 § 24, part; RRS § 3231, part.]

Notes:

Application, construction--Severability--Effective date--1974 ex.s. c 117: See RCW 11.02.080 and notes following.

RCW 30.04.280 Compliance enjoined--Banking, trust business, branches.

No person shall engage in banking except in compliance with and subject to the provisions of this title, unless it is a national bank or except insofar as it may be authorized so to do by the laws of this state relating to mutual savings banks or savings and loan associations. A corporation shall not engage in a trust business except in compliance with and subject to the provisions of this title. A bank shall not engage in a trust business except as authorized under this title. A bank or trust company shall not establish any branch except in accordance with the provisions of this title. Except as authorized by federal law or by another law of this state, a trust company incorporated under the laws of another state, a national trust company or national bank the main office of which is located in such other state, or a federal savings bank the home office of which is located in such other state, shall not be permitted to engage in a trust business in this state on more favorable terms and conditions than the terms and conditions on which trust companies incorporated under this chapter and mutual savings banks engaged in trust business under RCW 32.08.140, 32.08.142, 32.08.210, and 32.08.215 are permitted to engage in trust business in such other state.

[1998 c 45 § 1; 1996 c 2 § 4; 1955 c 33 § 30.04.280. Prior: 1933 c 42 § 3, part; 1919 c 209 § 7, part; 1917 c 80 § 15, part; RRS § 3222, part.]

Notes:

Severability--1996 c 2: See RCW 30.38.900.

RCW 30.04.285 Director's approval of a branch--Satisfactory financial condition.

The director's approval of a branch within the United States or any territory of the United States or in any foreign country shall be conditioned on a finding by the director that the bank has a satisfactory record of compliance with applicable laws and has a satisfactory financial condition. A bank chartered under this title may exercise any powers and authorities at any branch outside Washington that are permissible for a bank operating in that state where the branch is located, except to the extent those activities are expressly prohibited by the laws of this state or by any rule or order of the director applicable to the state bank. However, the director may waive any limitation in writing with respect to powers and authorities that the director determines do not threaten the safety or soundness of the state bank.

[1996 c 2 § 6.]

Notes:

Severability--1996 c 2: See RCW 30.38.900.

RCW 30.04.295 Agency agreements--Written notice to director.

On or before the date on which a bank enters into any agency agreement authorizing another entity, as agent of the bank, to receive deposits or renew time deposits, the bank shall give written notice to the director of the existence of that agency arrangement. The notice is not effective until it has been delivered to the office of the director.

[1996 c 2 § 7.]

Notes:

Severability--1996 c 2: See RCW 30.38.900.

RCW 30.04.300 Foreign branch banks.

A branch of any foreign bank or banker actually and publicly engaged in banking in this state on March 10, 1917, in full compliance with the laws hereof, which were in force immediately prior to March 10, 1917, and which branch has a capital not less in amount than that required for the organization of a state bank as provided in this title at the time and place when and where such branch was established, may continue its said business, subject to all of the regulations and supervision provided for banks. The amount upon which it pays taxes shall be prima facie evidence of the amount and existence of such capital. No such bank or banker shall set forth on its or his stationery or in any manner advertise in this state a greater capital, surplus and undivided profits than are actually maintained at such branch. Every foreign corporation, bank and banker, and every officer, agent and employee thereof who violates any provision of this section or which violates the terms of the resolution filed as required by *RCW 30.04.290 shall for each violation forfeit and pay to the state of Washington the sum of one thousand dollars. A civil action for the recovery of any such sum may be brought by the attorney general in the name of the state.

[1955 c 33 § 30.04.300. Prior: 1917 c 80 § 41; RRS § 3248.]

Notes:

***Reviser's note:** RCW 30.04.290 was repealed by 1994 c 256 § 124, without cognizance of its amendment by 1994 c 92 § 27. It has been decodified for publication purposes pursuant to RCW 1.12.025. RCW 30.04.290 was subsequently repealed by 1997 c 101 § 7.

RCW 30.04.310 Penalty--General.

Every bank or trust company which violates or fails to comply with any provision of chapters 30.04 through 30.22, 30.44, and 11.100 RCW or any lawful direction or requirement of the director shall be subject, in addition to any penalty now provided, to a penalty of not more than one hundred dollars for each offense, to be recovered by the attorney general in a civil action in the name of the state. Each day's continuance of the violation shall be a separate and distinct offense.

[1994 c 92 § 28; 1988 c 25 § 1; 1985 c 30 § 137. Prior: 1984 c 149 § 173; 1955 c 33 § 30.04.310; prior: 1923 c 115 § 13; RRS § 3286a.]

Notes:

Short title--Application--Purpose--Severability--1985 c 30: See RCW 11.02.900 through 11.02.903.

Severability--Effective dates--1984 c 149: See notes following RCW 11.02.005.

RCW 30.04.330 Saturday closing authorized.

Any bank, which term for the purpose of this section shall include but not be limited to any state bank, national bank or association, mutual savings bank, savings and loan association, trust company, federal reserve bank, federal home loan bank, and federal savings and loan association, federal credit union, and state credit union doing business in this state, may remain closed on Saturdays and any Saturday on which a bank remains closed shall be, with respect to such bank, a holiday and not a business day. Any act, authorized, required or permitted to be performed at or by or with respect to any bank, as herein defined, on a Saturday, may be performed on the next succeeding business day, and no liability or loss of rights of any kind shall result from such closing.

[1955 c 33 § 30.04.330. Prior: 1947 c 221 § 1; Rem. Supp. 1947 § 3292a.]

RCW 30.04.375 Investment in stock, participation certificates, and other evidences of participation.

Any bank or trust company may invest in the stock or participation certificates of production credit associations, federal intermediate credit banks and the stock or other evidences of participation of federal land banks in amounts consistent with safe and sound practice in conducting the business of the trust company or bank.

[1982 c 86 § 1.]

RCW 30.04.380 Investment in paid-in capital stock and surplus of banks or corporations engaged in international or foreign banking.

Any bank or trust company may invest an amount not exceeding ten per centum of its paid-in capital stock and surplus in the stock of one or more banks or corporations chartered under the laws of the United States, or of any state thereof, and principally engaged in international or foreign banking, or banking in a dependency or insular possession of the United States, either directly or through the agency, ownership or control of local institutions in foreign countries, or in such dependencies or insular possessions.

[1986 c 279 § 13; 1973 1st ex.s. c 104 § 9.]

RCW 30.04.390 Acquisition of stock of banks organized under laws of foreign country, etc.

Any bank or trust company may acquire and hold, directly or indirectly, stock or other evidence of indebtedness or ownership in one or more banks organized under the law of a foreign country or a dependency or insular possession of the United States.

[1986 c 279 § 14; 1973 1st ex.s. c 104 § 10.]

RCW 30.04.395 Continuing authority for investments.

Any investment by a bank other than a loan, if legal and authorized when made, may continue to be held by the bank notwithstanding a change in circumstances or change in the law.

[1986 c 279 § 16.]

RCW 30.04.400 Bank acquisition or control--Definitions.

As used in RCW 30.04.400 through 30.04.410, the following words shall have the following meanings:

(1) "Control" means directly or indirectly alone or in concert with others to own, control, or hold the power to vote twenty-five percent or more of the outstanding stock or voting power of the "controlled" entity;

(2) "Acquiring party" means the person acquiring control of a bank through the purchase of stock; and

(3) "Person" means any individual, corporation, partnership, association, business trust, or other organization.

[1977 ex.s. c 246 § 1.]

RCW 30.04.405 Bank acquisition or control--Notice or application--Registration statement--Violations--Penalties.

(1) It is unlawful for any person to acquire control of a bank until thirty days after filing

with the director a copy of the notice of change of control required to be filed with the federal deposit insurance corporation or a completed application. The notice or application shall be under oath and contain substantially all of the following information plus any additional information that the director may prescribe as necessary or appropriate in the particular instance for the protection of bank depositors, borrowers, or shareholders and the public interest:

(a) The identity, banking and business experience of each person by whom or on whose behalf acquisition is to be made;

(b) The financial and managerial resources and future prospects of each person involved in the acquisition;

(c) The terms and conditions of any proposed acquisition and the manner in which the acquisition is to be made;

(d) The source and amount of the funds or other consideration used or to be used in making the acquisition, and a description of the transaction and the names of the parties if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition;

(e) Any plan or proposal which any person making the acquisition may have to liquidate the bank, to sell its assets, to merge it with any other bank, or to make any other major change in its business or corporate structure for management;

(f) The identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on its behalf, who makes solicitations or recommendations to shareholders for the purpose of assisting in the acquisition and a brief description of the terms of the employment, retainer, or arrangement for compensation; and

(g) Copies of all invitations for tenders or advertisements making a tender offer to shareholders for the purchase of their stock to be used in connection with the proposed acquisition.

(2) Notwithstanding any other provision of this section, a bank or domestic bank holding company as defined in RCW 30.04.230 need only notify the director of an intent to acquire control and the date of the proposed acquisition of control at least thirty days before the date of the acquisition of control.

(3) When a person, other than an individual or corporation, is required to file an application under this section, the director may require that the information required by subsection (1)(a), (b), and (f) of this section be given with respect to each person, as defined in RCW 30.04.400(3), who has an interest in or controls a person filing an application under this subsection.

(4) When a corporation is required to file an application under this section, the director may require that information required by subsection (1)(a), (b), and (f) of this section be given for the corporation, each officer and director of the corporation, and each person who is directly or indirectly the beneficial owner of twenty-five percent or more of the outstanding voting securities of the corporation.

(5) If any tender offer, request, or invitation for tenders or other agreements to acquire control is proposed to be made by means of a registration statement under the Securities Act of 1933 (48 Stat. 74, 15 U.S.C., Sec. 77(a)), as amended, or in circumstances requiring the

disclosure of similar information under the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C., Sec. 78(a)), as amended, the registration statement or application may be filed with the director in lieu of the requirements of this section.

(6) Any acquiring party shall also deliver a copy of any notice or application required by this section to the bank proposed to be acquired within two days after the notice or application is filed with the director.

(7) Any acquisition of control in violation of this section shall be ineffective and void.

(8) Any person who willfully or intentionally violates this section or any rule adopted pursuant thereto is guilty of a gross misdemeanor pursuant to chapter 9A.20 RCW. Each day's violation shall be considered a separate violation, and any person shall upon conviction be fined not more than one thousand dollars for each day the violation continues.

[1994 c 92 § 29; 1986 c 279 § 15; 1985 c 305 § 5; 1977 ex.s. c 246 § 2.]

RCW 30.04.410 Bank acquisition or control--Disapproval by director--Change of officers.

(1) The director may disapprove the acquisition of a bank or trust company within thirty days after the filing of a complete application pursuant to RCW 30.04.405 or an extended period not exceeding an additional fifteen days if:

(a) The poor financial condition of any acquiring party might jeopardize the financial stability of the bank or might prejudice the interests of the bank depositors, borrowers, or shareholders;

(b) The plan or proposal of the acquiring party to liquidate the bank, to sell its assets, to merge it with any person, or to make any other major change in its business or corporate structure or management is not fair and reasonable to the bank's depositors, borrowers, or stockholders or is not in the public interest;

(c) The banking and business experience and integrity of any acquiring party who would control the operation of the bank indicates that approval would not be in the interest of the bank's depositors, borrowers, or shareholders;

(d) The information provided by the application is insufficient for the director to make a determination or there has been insufficient time to verify the information provided and conduct an examination of the qualification of the acquiring party; or

(e) The acquisition would not be in the public interest.

(2) An acquisition may be made prior to expiration of the disapproval period if the director issues written notice of intent not to disapprove the action.

(3) The director shall set forth the basis for disapproval of any proposed acquisition in writing and shall provide a copy of such findings and order to the applicants and to the bank involved. Such findings and order shall not be disclosed to any other party and shall not be subject to public disclosure under chapter 42.17 RCW unless the findings and/or order are appealed pursuant to chapter 34.05 RCW.

(4) Whenever such a change in control occurs, each party to the transaction shall report promptly to the director any changes or replacement of its chief executive officer, or of any

director, that occurs in the next twelve-month period, including in its report a statement of the past and present business and professional affiliations of the new chief executive officer or directors.

[1994 c 92 § 30; 1989 c 180 § 3; 1977 ex.s. c 246 § 3.]

RCW 30.04.450 Violations or unsafe or unsound practices--Notice of charges--Contents--Hearing--Cease and desist order.

(1) The director may issue and serve upon a bank or trust company a notice of charges if in the opinion of the director any bank or trust company:

(a) Is engaging or has engaged in an unsafe or unsound practice in conducting the business of the bank or trust company;

(b) Is violating or has violated the law, rule, or any condition imposed in writing by the director in connection with the granting of any application or other request by the bank or trust company or any written agreement made with the director; or

(c) Is about to do the acts prohibited in (a) or (b) of this subsection when the opinion that the threat exists is based upon reasonable cause.

(2) The notice shall contain a statement of the facts constituting the alleged violation or violations or the practice or practices and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the bank or trust company. The hearing shall be set not earlier than ten days nor later than thirty days after service of the notice unless a later date is set by the director at the request of the bank or trust company.

Unless the bank or trust company shall appear at the hearing by a duly authorized representative it shall be deemed to have consented to the issuance of the cease and desist order. In the event of this consent or if upon the record made at the hearing the director finds that any violation or practice specified in the notice of charges has been established, the director may issue and serve upon the bank or trust company an order to cease and desist from the violation or practice. The order may require the bank or trust company and its directors, officers, employees, and agents to cease and desist from the violation or practice and may require the bank to take affirmative action to correct the conditions resulting from the violation or practice.

(3) A cease and desist order shall become effective at the expiration of ten days after the service of the order upon the bank or trust company concerned except that a cease and desist order issued upon consent shall become effective at the time specified in the order and shall remain effective as provided therein unless it is stayed, modified, terminated, or set aside by action of the director or a reviewing court.

[1994 c 92 § 31; 1977 ex.s. c 178 § 1.]

Notes:

Severability--1977 ex.s. c 178: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 178 § 11.]

RCW 30.04.455 Violations or unsafe or unsound practices--Temporary cease and desist order--Issuance.

Whenever the director determines that the acts specified in RCW 30.04.450 or their continuation is likely to cause insolvency or substantial dissipation of assets or earnings of the bank or trust company or to otherwise seriously prejudice the interests of its depositors, the director may also issue a temporary order requiring the bank or trust company to cease and desist from the violation or practice. The order shall become effective upon service on the bank or trust company and shall remain effective unless set aside, limited, or suspended by a court in proceedings under RCW 30.04.460 pending the completion of the administrative proceedings under the notice and until such time as the director shall dismiss the charges specified in the notice or until the effective date of a cease and desist order issued against the bank or trust company under RCW 30.04.450.

[1994 c 92 § 32; 1977 ex.s. c 178 § 2.]

Notes:

Severability--1977 ex.s. c 178: See note following RCW 30.04.450.

RCW 30.04.460 Violations or unsafe or unsound practices--Injunction to set aside, limit, or suspend temporary order.

Within ten days after a bank or trust company has been served with a temporary cease and desist order, the bank or trust company may apply to the superior court in the county of its principal place of business for an injunction setting aside, limiting, or suspending the order pending the completion of the administrative proceedings pursuant to the notice served under RCW 30.04.455.

The superior court shall have jurisdiction to issue the injunction.

[1977 ex.s. c 178 § 3.]

Notes:

Severability--1977 ex.s. c 178: See note following RCW 30.04.450.

RCW 30.04.465 Violations or unsafe or unsound practices--Injunction to enforce temporary order.

In the case of a violation or threatened violation of a temporary cease and desist order issued under RCW 30.04.455, the director may apply to the superior court of the county of the principal place of business of the bank or trust company for an injunction to enforce the order, and the court shall issue an injunction if it determines that there has been a violation or threatened violation.

[1994 c 92 § 33; 1977 ex.s. c 178 § 4.]

Notes:

Severability--1977 ex.s. c 178: See note following RCW 30.04.450.

RCW 30.04.470 Violations or unsafe or unsound practices--Removal of officer or employee or prohibiting participation in bank or trust company affairs--Administrative hearing or judicial review.

(1) Any administrative hearing provided in RCW 30.04.450 or 30.12.042 may be held at such place as is designated by the director and shall be conducted in accordance with chapter 34.05 RCW. The hearing shall be private unless the director determines that a public hearing is necessary to protect the public interest after fully considering the views of the party afforded the hearing.

Within sixty days after the hearing the director shall render a decision which shall include findings of fact upon which the decision is based and shall issue and serve upon each party to the proceeding an order or orders consistent with RCW 30.04.450 or 30.12.042, as the case may be.

Unless a petition for review is timely filed in the superior court of the county of the principal place of business of the affected bank or trust company under subsection (2) of this section and until the record in the proceeding has been filed as therein provided, the director may at any time modify, terminate, or set aside any order upon such notice and in such manner as he or she shall deem proper. Upon filing the record, the director may modify, terminate, or set aside any order only with permission of the court.

The judicial review provided in this section for an order shall be exclusive.

(2) Any party to the proceeding or any person required by an order issued under RCW 30.04.450, 30.04.455, 30.04.465, or 30.12.042 to refrain from any of the violations or practices stated therein may obtain a review of any order served under subsection (1) of this section other than one issued upon consent by filing in the superior court of the county of the principal place of business of the affected bank or trust company within ten days after the date of service of the order a written petition praying that the order of the director be modified, terminated, or set aside. A copy of the petition shall be immediately served upon the director and the director shall then file in the court the record of the proceeding. The court shall have jurisdiction upon the filing of the petition, which jurisdiction shall become exclusive upon the filing of the record to affirm, modify, terminate, or set aside in whole or in part the order of the director except that the director may modify, terminate, or set aside an order with the permission of the court. The judgment and decree of the court shall be final, except that it shall be subject to appellate review under the rules of court.

(3) The commencement of proceedings for judicial review under subsection (2) of this section shall not operate as a stay of any order issued by the director unless specifically ordered by the court.

(4) Service of any notice or order required to be served under RCW 30.04.450, 30.04.455, 30.12.040 or 30.12.042 shall be accomplished in the same manner as required for the service of process in civil actions in superior courts of this state.

[1994 c 92 § 34; 1977 ex.s. c 178 § 8.]

Notes:

Severability--1977 ex.s. c 178: See note following RCW 30.04.450.

RCW 30.04.475 Violations or unsafe or unsound practices--Removal of officer or employee or prohibiting participation in bank or trust company affairs--Jurisdiction of courts in enforcement or issuance of orders, injunctions or judicial review.

The director may apply to the superior court of the county of the principal place of business of the bank or trust company affected for the enforcement of any effective and outstanding order issued under RCW 30.04.450, 30.04.455, 30.04.465, or 30.12.042, and the court shall have jurisdiction to order compliance therewith.

No court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any order or to review, modify, suspend, terminate, or set aside any order except as provided in RCW 30.04.460 and 30.04.470.

[1994 c 92 § 35; 1977 ex.s. c 178 § 9.]

Notes:

Severability--1977 ex.s. c 178: See note following RCW 30.04.450.

RCW 30.04.500 Fairness in lending act--Short title.

RCW 30.04.505 through 30.04.515 shall be known and may be cited as the "fairness in lending act".

[1977 ex.s. c 301 § 10.]

Notes:

Unfair practices of financial institutions: RCW 49.60.175.

RCW 30.04.505 Fairness in lending act--Definitions.

As used in RCW 30.04.505 through 30.04.515:

(1) "Financial institution" means any bank or trust company, mutual savings bank, credit union, mortgage company, or savings and loan association which operates or has a place of business in this state whether regulated by the state or federal government.

(2) "Particular type of loan" refers to a class of loans which is substantially similar with respect to the following:

(a) FHA, VA, or conventional as defined in *RCW 19.106.030(2);

(b) Uniform or nonuniform payment;

(c) Uniform or nonuniform rate of interest;

(d) Purpose; and

(e) The location of the real estate offered as security for the loan as being inside or outside of that financial institution's lending area.

(3) "Varying the terms of a loan" includes, but is not limited to the following practices:

(a) Requiring a greater down payment than is usual for the particular type of a loan involved;

(b) Requiring a shorter period of amortization than is usual for the particular type of loan involved;

(c) Charging a higher interest rate than is usual for the particular type of loan involved;

(d) A deliberate underappraisal of the value of the property offered as security.

[1977 ex.s. c 301 § 11.]

Notes:

***Reviser's note:** RCW 19.106.030 expired on January 1, 1981. See 1977 ex.s. c 301 § 9.

RCW 30.04.510 Fairness in lending act--Unlawful practices.

Subject to RCW 30.04.515, it shall be unlawful for any financial institution, in processing any application for a loan to be secured by a single-family residence to:

(1) Deny or vary the terms of a loan on the basis that a specific parcel of real estate offered as security is located in a specific geographical area, unless building, remodeling, or continued habitation in such specific geographical area is prohibited or restricted by any local, state, or federal law or rules or regulations promulgated thereunder.

(2) Utilize lending standards that have no economic basis.

[1977 ex.s. c 301 § 12.]

RCW 30.04.515 Fairness in lending act--Sound underwriting practices not precluded.

Nothing contained in RCW 30.04.505 through 30.04.510 shall preclude a financial institution from considering sound underwriting practices in processing any application for a loan to any person. Such practices shall include the following:

(1) The willingness and the financial ability of the borrower to repay the loan.

(2) The market value of any real estate and of any other item of property proposed as security for any loan.

(3) Diversification of the financial institution's investment portfolio.

[1977 ex.s. c 301 § 13.]

RCW 30.04.550 Reorganization as subsidiary of bank holding company--Authority.

A state banking corporation may, with the approval of the director and the affirmative vote of the shareholders of such corporation owning at least two-thirds of each class of shares entitled to vote under the terms of such shares, be reorganized to become a subsidiary of a bank holding company or a company that will, upon consummation of such reorganization, become a bank holding company, as defined in the federal bank holding company act of 1956, as amended.

[1994 c 92 § 36; 1986 c 279 § 40; 1982 c 196 § 1.]

Notes:

Severability--1982 c 196: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 196 § 11.]

RCW 30.04.555 Reorganization as subsidiary of bank holding company--Procedure.

A reorganization authorized under RCW 30.04.550 shall be carried out in the following manner:

(1) A plan of reorganization specifying the manner in which the reorganization shall be carried out must be approved by a majority of the entire board of directors of the banking corporation. The plan shall specify the name of the acquiring corporation, the amount of cash, securities of the bank holding company, other consideration, or any combination thereof to be paid to the shareholders of the reorganizing corporation in exchange for their shares of the stock of the corporation. The plan shall also specify the exchange date or the manner in which such exchange date shall be determined, the manner in which the exchange shall be carried out, and such other matters, not inconsistent with this chapter, as shall be determined by the board of directors of the corporation.

(2) The plan of reorganization shall be submitted to the shareholders of the reorganizing corporation at a meeting to be held on the call of the directors. Notice of the meeting of shareholders at which the plan shall be considered shall be given by prepaid first class mail at least twenty days before the date of the meeting, to each stockholder of record of the banking corporation. The notice shall state that dissenting shareholders will be entitled to payment of the value of only those shares which are voted against approval of the plan.

[1994 c 256 § 38; 1986 c 279 § 41; 1982 c 196 § 2.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

Severability--1982 c 196: See note following RCW 30.04.550.

RCW 30.04.560 Reorganization as subsidiary of bank holding company--Dissenter's rights--Conditions.

If the shareholders approve the reorganization by a two-thirds vote of each class of shares entitled to vote under the terms of such shares, and if it is thereafter approved by the director and consummated, any shareholder of the banking corporation who has voted shares against such reorganization at such meeting or has given notice in writing at or prior to such meeting to the banking corporation that he or she dissents from the plan of reorganization and has not voted in favor of the reorganization, shall be entitled to receive the value of the shares determined as provided in RCW 30.04.565. Such dissenter's rights must be exercised by making written demand which shall be delivered to the corporation at any time within thirty days after the date of shareholder approval, accompanied by the surrender of the appropriate stock certificates.

[1994 c 92 § 37; 1986 c 279 § 42; 1982 c 196 § 3.]

Notes:

Severability--1982 c 196: See note following RCW 30.04.550.

RCW 30.04.565 Reorganization as subsidiary of bank holding company--Valuation of shares of dissenting shareholders.

The value of the shares of a dissenting shareholder who has properly perfected dissenter's rights shall be ascertained as of the day prior to the date of the shareholder action approving such reorganization by three appraisers, one to be selected by the owners of two-thirds of the dissenting shares, one by the board of directors of the acquiring bank holding company, and the third by the two so chosen. The valuation agreed upon by any two appraisers shall govern. The dissenting shareholders shall bear, on a pro rata basis based on the number of dissenting shares owned, the cost of their appraisal and one-half of the cost of the third appraisal, and the acquiring bank holding company shall bear the cost of its appraisal and one-half of the cost of the third appraisal. If the appraisal is not completed within ninety days after the effective date of the reorganization, the director shall cause an appraisal to be made which shall be final and binding upon all parties. The cost of such appraisal shall be borne equally by the dissenting shareholders and the acquiring bank holding company. The dissenting shareholders shall share their half of the cost on a pro rata basis based on the number of dissenting shares owned.

[1994 c 256 § 39; 1994 c 92 § 38; 1982 c 196 § 4.]

Notes:

Reviser's note: This section was amended by 1994 c 92 § 38 and by 1994 c 256 § 39, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

Severability--1982 c 196: See note following RCW 30.04.550.

RCW 30.04.570 Reorganization as subsidiary of bank holding company--Approval of director--Certificate of reorganization--Exchange of shares.

The reorganization and exchange authorized by RCW 30.04.550 through 30.04.570 shall become effective as follows:

(1) If the board of directors and shareholders of the state banking corporation and the board of directors of the acquiring corporation approve the plan of reorganization, then both corporations shall apply for the approval of the director, providing such information as the director by rule may prescribe.

(2) If the director approves the reorganization, the director shall issue a certificate of reorganization to the state banking corporation.

(3) Upon the issuance of a certificate of reorganization by the director, or on such later date as shall be provided for in the plan of reorganization, the shares of the state banking corporation shall be deemed to be exchanged in accordance with the plan of reorganization, subject to the rights of dissenters under RCW 30.04.560 and 30.04.565.

[1994 c 92 § 39; 1982 c 196 § 5.]

Notes:

Severability--1982 c 196: See note following RCW 30.04.550.

RCW 30.04.575 Public hearing prior to approval of reorganization--Request.

Prior to the approval of the reorganization, the director, upon request of the board of directors of the bank, or not less than ten percent of its shareholders, shall hold a public hearing at which bank shareholders and other interested parties may appear. Notice of the public hearing shall be sent to each shareholder by prepaid first class mail.

The approval of the reorganization by the director shall be conditioned on a finding that the terms of the reorganization are fair to the shareholders and other interested parties.

[1994 c 256 § 40; 1994 c 92 § 40; 1986 c 279 § 44.]

Notes:

Reviser's note: This section was amended by 1994 c 92 § 40 and by 1994 c 256 § 40, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 30.04.600 Shareholders--Actions authorized without meetings--Written consent.

Any action required by this title to be taken at a meeting of the shareholders of a corporation, or any action that may be taken at a meeting of the shareholders, may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the shareholders entitled to vote with respect to the subject matter thereof.

The consent shall have the same force and effect as a unanimous vote of shareholders and may be stated as such in any articles or documents filed under this title.

[1986 c 279 § 46.]

RCW 30.04.605 Directors, committees--Actions authorized without meetings--Written consent.

Unless otherwise provided by the articles of incorporation or bylaws, any action required by this title to be taken at a meeting of the directors of a bank or trust company, or any action which may be taken at any meeting of the directors or of a committee, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, or all of the members of the committee, as the case may be. Such consent shall have the same effect as a unanimous vote.

[1986 c 279 § 47.]

RCW 30.04.610 Directors, committees--Meetings authorized by conference telephone

or similar communications equipment.

Except as may be otherwise restricted by the articles of incorporation or bylaws, members of the board of directors or any committee designated by the board of directors may participate in a meeting of the board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence, in person, at a meeting.

[1986 c 279 § 48.]

RCW 30.04.650 Automated teller machines and night depositories security.

Chapter 19.174 RCW applies to automated teller machines and night depositories regulated under this title.

[1993 c 324 § 10.]

Notes:

Effective date--1993 c 324: See RCW 19.174.900.

Chapter 30.08 RCW
ORGANIZATION AND POWERS

Sections

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RCW 30.08.010 Incorporators--Paid-in capital stock, surplus, and undivided profits--Requirements.

When authorized by the director, as hereinafter provided, one or more natural persons, citizens of the United States, may incorporate a bank or trust company in the manner herein prescribed. No bank or trust company shall incorporate for less amount nor commence business unless it has a paid-in capital stock, surplus and undivided profits in the amount as may be determined by the director after consideration of the proposed location, management, and the population and economic characteristics for the area, the nature of the proposed activities and operation of the bank or trust company, and other factors deemed pertinent by the director. Each bank and trust company shall before commencing business have subscribed and paid into it in the same manner as is required for capital stock, an amount equal to at least ten percent of the capital stock above required, that shall be carried in the undivided profit account and may be used to defray organization and operating expenses of the company. Any sum not so used shall be transferred to the surplus fund of the company before any dividend shall be declared to the stockholders.

[1994 c 256 § 41; 1994 c 92 § 42; 1986 c 279 § 17; 1973 1st ex.s. c 104 § 3; 1969 c 136 § 3; 1955 c 33 § 30.08.010. Prior: 1947 c 131 § 1; 1929 c 72 § 4; 1923 c 115 § 2; 1917 c 80 § 19; Rem. Supp. 1947 § 3226.]

Notes:

Reviser's note: This section was amended by 1994 c 92 § 42 and by 1994 c 256 § 41, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 30.08.020 Notice of intention to organize--Proposed articles of incorporation--Contents.

Persons desiring to incorporate a bank or trust company shall file with the director a notice of their intention to organize a bank or trust company in such form and containing such information as the director shall prescribe by rule, together with proposed articles of incorporation, which shall be submitted for examination to the director at his or her office.

The proposed articles of incorporation shall state:

(1) The name of such bank or trust company.

(2) The city, village or locality and county where the head office of such corporation is to be located.

(3) The nature of its business, whether that of a commercial bank, or a trust company.

(4) The amount of its capital stock, which shall be divided into shares of a par or no par value as may be provided in the articles of incorporation.

(5) The names and places of residence and mailing addresses of the persons who as directors are to manage the corporation until the first annual meeting of its stockholders.

(6) If there is to be preferred or special classes of stock, a statement of preferences, voting rights, if any, limitations and relative rights in respect of the shares of each class; or a statement that the shares of each class shall have the attributes as shall be determined by the bank's board of directors from time to time with the approval of the director.

(7) Any provision granting the shareholders the preemptive right to acquire additional shares of the bank and any provision granting shareholders the right to cumulate their votes.

(8) Any provision, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the affairs of the corporation, including any provision restricting the transfer of shares, any provision which under this title is required or permitted to be set forth in the bylaws, and any provision permitted by RCW 23B.17.030.

(9) Any provision the incorporators elect to so set forth, not inconsistent with law or the purposes for which the bank is organized, or any provision limiting any of the powers granted in this title.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers granted in this title. The articles of incorporation shall be signed by all of the incorporators.

[1999 c 14 § 11; 1995 c 134 § 3. Prior: 1994 c 256 § 42; 1994 c 92 § 43; 1986 c 279 § 18; 1981 c 73 § 1; 1973 1st ex.s. c 104 § 4; 1959 c 118 § 1; 1957 c 248 § 1; 1955 c 33 § 30.08.020; prior: (i) 1923 c 115 § 3; 1917 c 80 § 20; RRS § 3227. (ii) 1929 c 174 § 1; 1923 c 115 § 4; 1917 c 80 § 21; RRS § 3228.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.

Findings--Construction--1994 c 256: See RCW 43.320.007.

Effective date--1981 c 73: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981." [1981 c 73 § 3.]

RCW 30.08.030 Investigation.

When the notice of intention to organize and proposed articles of incorporation complying with the foregoing requirements have been received by the director, together with the fees required by law, the director shall ascertain from the best source of information at his or her command and by such investigation as he or she may deem necessary, whether the character, responsibility and general fitness of the persons named in such articles are such as to command confidence and warrant belief that the business of the proposed bank or trust company will be honestly and efficiently conducted in accordance with the intent and purpose of this title, whether the resources in the neighborhood of such place and in the surrounding country afford a reasonable promise of adequate support for the proposed bank and whether the proposed bank or trust company is being formed for other than the legitimate objects covered by this title.

[1994 c 92 § 44; 1973 1st ex.s. c 104 § 5; 1955 c 33 § 30.08.030. Prior: 1929 c 72 § 3, part; 1923 c 115 § 5, part; 1917 c 80 § 22, part; RRS § 3229, part.]

RCW 30.08.040 Notice to file articles--Articles approved or refused--Hearing.

After the director is satisfied of the above facts, and, within six months of the date the notice of intention to organize has been received in his or her office, the director shall notify the incorporators to file executed articles of incorporation with the director in triplicate. Unless the director otherwise consents in writing, such articles shall be in the same form and shall contain the same information as the proposed articles and shall be filed with the director within ten days of such notice. Within thirty days after the receipt of such articles of incorporation, the director shall endorse upon each of the triplicates thereof, over his or her official signature, the word "approved," or the word "refused," with the date of such endorsement. In case of refusal the director shall forthwith return one of the triplicates, so endorsed, together with a statement explaining the reason for refusal to the person from whom the articles were received, which refusal shall be conclusive, unless the incorporators, within ten days of the issuance of such notice of refusal, shall request a hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW, as now or hereafter amended.

[1995 c 134 § 4. Prior: 1994 c 256 § 43; 1994 c 92 § 45; 1981 c 302 § 15; 1973 1st ex.s. c 104 § 6; 1955 c 33 § 30.08.040; prior: 1929 c 72 § 3, part; 1923 c 115 § 5, part; 1917 c 80 § 22, part; RRS § 3229, part.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

Severability--1981 c 302: See note following RCW 19.76.100.

RCW 30.08.050 Approved articles to be filed and recorded--Organization complete.

In case of approval the director shall forthwith give notice thereof to the proposed incorporators and file one of the triplicate articles of incorporation in his or her own office, and shall transmit another triplicate to the secretary of state, and the last to the incorporators. Upon receipt from the proposed incorporators of the same fees as are required for filing and recording other articles of incorporation the secretary of state shall file such articles and record the same. Upon the filing of articles of incorporation approved as aforesaid by the director, with the secretary of state, all persons named therein and their successors shall become and be a corporation, which shall have the powers and be subject to the duties and obligations prescribed by this title, and whose existence shall continue from the date of the filing of such articles until terminated pursuant to law; but such corporation shall not transact any business except as is necessarily preliminary to its organization until it has received a certificate of authority as provided herein.

[1994 c 92 § 46; 1986 c 279 § 19; 1981 c 302 § 16; 1957 c 248 § 2; 1955 c 33 § 30.08.050. Prior: 1929 c 72 § 3, part; 1923 c 115 § 5, part; 1917 c 80 § 22, part; RRS § 3229, part.]

Notes:

Severability--1981 c 302: See note following RCW 19.76.100.

RCW 30.08.055 Amending articles--Filing with director--Contents.

A bank or trust company amending its articles of incorporation shall deliver articles of amendment to the director for filing as required for articles of incorporation. The articles of amendment shall set forth:

(1) The name of the bank or trust company;

(2) The text of each amendment adopted;

(3) The date of each amendment's adoption;

(4) If the amendment was adopted by the incorporators or board of directors without shareholder action, a statement to that effect and that shareholder action was not required; and

(5) If shareholder action was required, a statement that the amendment was duly approved by the shareholders in accordance with the provisions of RCW 30.08.090.

[1994 c 256 § 53.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 30.08.060 Certificate of authority--Issuance--Contents.

Before any bank or trust company shall be authorized to do business, and within ninety days after approval of the articles of incorporation or such other time as the director may allow, it shall furnish proof satisfactory to the director that such corporation has a paid-in capital in the amount determined by the director, that the requisite surplus or reserve fund has been accumulated or paid in cash, and that it has in good faith complied with all the requirements of law and fulfilled all the conditions precedent to commencing business imposed by this title. If so satisfied, and within thirty days after receipt of such proof, the director shall issue under his or her hand and official seal, in triplicate, a certificate of authority for such corporation. The certificate shall state that the corporation therein named has complied with the requirements of law, that it is authorized to transact the business of a bank or trust company, or both, as the case may be: PROVIDED, HOWEVER, That the director may make his or her issuance of the certificate to a bank or trust company authorized to accept deposits, conditional upon the granting of deposit insurance by the federal deposit insurance corporation, and in such event, shall set out such condition in a written notice which shall be delivered to the corporation.

One of the triplicate certificates shall be transmitted by the director to the corporation and one of the other two shall be filed by the director in the office of the secretary of state and shall be attached to the articles of incorporation: PROVIDED, HOWEVER, That if the issuance of the certificate is made conditional upon the granting of deposit insurance by the federal deposit insurance corporation, the director shall not transmit or file the certificate until such condition is satisfied.

[1994 c 92 § 47; 1986 c 279 § 20; 1981 c 302 § 17; 1973 1st ex.s. c 104 § 7; 1955 c 33 § 30.08.060. Prior: 1929 c 72 § 3, part; 1923 c 115 § 5, part; 1917 c 80 § 22, part; RRS § 3229, part.]

Notes:

Severability--1981 c 302: See note following RCW 19.76.100.

RCW 30.08.070 Failure to commence business--Effect--Extension of time.

Every corporation heretofore or hereafter authorized by the laws of this state to do business as a bank or trust company, which corporation shall have failed to organize and commence business within six months after certificate of authority to commence business has been issued by the director, shall forfeit its rights and privileges as such corporation, which fact the director shall certify to the secretary of state, and such certificate of forfeiture shall be filed and recorded in the office of the secretary of state in the same manner as the certificate of authority: PROVIDED, That the director may, upon showing of cause satisfactory to him or her, issue an order under his or her hand and seal extending for not more than three months the time within which such organization may be effected and business commenced, such order to be transmitted to the office of the secretary of state and filed and recorded therein.

[1994 c 92 § 48; 1986 c 279 § 21; 1981 c 302 § 18; 1955 c 33 § 30.08.070. Prior: 1931 c 9 § 1; RRS § 3229-1; 1915 c 175 § 41; RRS § 3370.]

Notes:

Severability--1981 c 302: See note following RCW 19.76.100.

RCW 30.08.080 Extension of existence--Application--Investigation--Certificate--Appeal--Winding up for failure to continue existence.

At any time not less than one year prior to the expiration of the time of the existence of any bank or trust company, it may by written application to the director, signed and verified by a majority of its directors and approved in writing by the owners of not less than two-thirds of its capital stock, apply to the director for leave to file amended articles of incorporation, extending its time of existence. Prior to acting upon such application, the director shall make such investigation of the applicant as he or she deems necessary. If the director determines that the applicant is in sound condition, that it is conducting its business in a safe manner and in compliance with law and that no reason exists why it should not be permitted to continue, he or she shall issue to the applicant a certificate authorizing it to file amended articles of incorporation extending the time of its existence until such time as it be dissolved by the act of its shareholders owning not less than two-thirds of its stock, or until its certificate of authority becomes revoked or forfeited by reason of violation of law, or until its affairs be taken over by the director for legal cause and finally wound up by him or her. Otherwise the director shall notify the applicant that he or she refuses to grant such certificate. The applicant may appeal from such refusal in the same manner as in the case of a refusal to grant an original certificate of authority. Otherwise the determination of the director shall be conclusive.

Upon receiving a certificate, as hereinabove provided, the applicant may file amended articles of incorporation, extending the time of its existence for the term authorized, to which shall be attached a copy of the certificate of the director. Such articles shall be filed in the same manner and upon payment of the same fees as for original articles of incorporation.

Should any bank or trust company fail to continue its existence in the manner herein

provided and be not previously dissolved, the director shall at the end of its original term of existence immediately take possession thereof and wind up the same in the same manner as in the case of insolvency.

[1999 c 14 § 12; 1994 c 92 § 49; 1961 c 280 § 1; 1955 c 33 § 30.08.080. Prior: 1943 c 148 § 1; 1917 c 80 § 27; Rem. Supp. 1943 § 3234.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.

RCW 30.08.081 Shares--Certificates not required.

(1) Shares of a bank or trust company may, but need not be, represented by certificates. Unless this title expressly provides otherwise, the rights and obligations of shareholders are identical whether or not their shares are represented by certificates. At a minimum, each share certificate must state the information required to be stated and must be signed as provided in RCW 23B.06.250 and/or 23B.06.270 for corporations.

(2) Unless the articles of incorporation or bylaws provide otherwise, the board of directors of a bank or trust company may authorize the issue of some or all of the shares of any or all of its classes or series without certificates. The authorization does not affect shares already represented by certificates until they are surrendered to the bank or trust company.

(3) Within a reasonable time after the issue or transfer of shares without certificates, the bank or trust company shall send the shareholder a written statement of the information required to be stated on certificates under subsection (1) of this section.

[1994 c 256 § 52.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 30.08.082 Authority to issue preferred or special classes of stock.

(1) Notwithstanding any other provisions of law and if so authorized by its articles of incorporation or amendments thereto made in the manner provided in the case of a capital increase, any bank or trust company may, pursuant to action taken by its board of directors from time to time with the approval of the director, issue shares of preferred or special classes of stock with the attributes and in such amounts and with such par value, if any, as shall be determined by the board of directors from time to time with the approval of the director. No increase of preferred stock shall be valid until the amount thereof shall have been subscribed and actually paid in.

(2) If provided in its articles of incorporation, a bank or trust company may issue shares of preferred or special classes having any one or several of the following provisions:

(a) Subjecting the shares to the right of the bank or trust company to repurchase or retire any such shares at the price fixed by the articles of incorporation for the repurchase or retirement thereof;

(b) Entitling the holders thereof to cumulative, noncumulative, or partially cumulative

dividends;

(c) Having preference over any other class or classes of shares as to the payment of dividends;

(d) Having preference in the assets of the bank or trust company over any other class or classes of shares upon the voluntary or involuntary liquidation of the bank or trust company;

(e) Having voting or nonvoting rights; and

(f) Being convertible into shares of any other class or into shares of any series of the same or any other class, except a class having prior or superior rights and preferences as to dividends or distribution of assets upon liquidation.

[1994 c 256 § 44; 1994 c 92 § 50; 1986 c 279 § 22; 1981 c 89 § 4.]

Notes:

Reviser's note: This section was amended by 1994 c 92 § 50 and by 1994 c 256 § 44, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

Severability--1981 c 89: See note following RCW 30.04.180.

RCW 30.08.083 Authority to divide classes into series--Rights and preferences--Filing of statement.

(1) If the articles of incorporation shall expressly vest authority in the board of directors, then, to the extent that the articles of incorporation shall not have established series, and fixed and determined the variations in the relative rights and preferences as between series, the board of directors have authority to divide any or all of the classes into series and, within the limitation set forth in this section and in the articles of incorporation, fix and determine the relative rights and preferences of the shares of any series so established.

(2) In order for the board of directors to establish a series, where authority to do so is contained in the articles of incorporation, the board of directors shall adopt a resolution setting forth the designation of the series and fixing and determining the relative rights and preferences thereof, or so much thereof as is not fixed and determined by the articles of incorporation.

(3) Prior to the issue of any shares of a series established by resolution adopted by the board of directors, the corporation shall file and execute in the manner provided in this section a statement setting forth:

(a) The name of the bank;

(b) A copy of the resolution establishing and designating the series, and fixing and determining the relative rights and preferences thereof;

(c) The date of adoption of such resolution; and

(d) That the resolution was duly adopted by the board of directors.

(4) The statement shall be executed in triplicate by the bank by one of its officers and shall be delivered to the director. If the director finds that the statement conforms to law, the director shall, when all fees have been paid as provided in this title:

(a) Endorse on each of the triplicate originals the word "Filed," and the effective date of

the filing thereof;

(b) File two of the originals; and

(c) Return the other original to the bank or its representative.

(5) Upon the filing of the statement by the director with the secretary of state, the resolution establishing and designating the series and fixing and determining the relative rights and preferences thereof shall become effective and shall constitute an amendment of the articles of incorporation.

[1994 c 92 § 51; 1986 c 279 § 23.]

RCW 30.08.084 Rights of holders of preferred or special classes of stock--Preference in dividends and liquidation.

Notwithstanding any other provisions of law, whether relating to restriction upon the payment of dividends upon capital stock or otherwise, the holders of shares of preferred or special classes of stock shall be entitled to receive such dividends on the purchase price received by the bank or trust company for such stock as may be provided by the articles of incorporation or by the board of directors of the bank or trust company with the approval of the director.

No dividends shall be declared or paid on common stock until cumulative dividends, if any, on the shares of preferred or special classes of stock shall have been paid in full; and, if the director takes possession of a bank or trust company for purposes of liquidation, no payments shall be made to the holders of the common stock until the holders of the shares of preferred or special classes of stock shall have been paid in full such amount as may be provided under the terms of said shares plus all accumulated dividends, if any.

[1994 c 92 § 52; 1986 c 279 § 24; 1981 c 89 § 5.]

Notes:

Severability--1981 c 89: See note following RCW 30.04.180.

RCW 30.08.086 Determination of capital impairment when capital consists of preferred stock.

If any part of the capital of a bank and trust company consists of preferred stock, the determination of whether or not the capital of such bank is impaired and the amount of such impairment shall be based on the value of its stock as established at the time it was issued, or its par value, if any, even though the amount which the holders of such preferred stock shall be entitled to receive in the event of retirement or liquidation shall be in excess of the originally established value or the par value of such preferred stock.

[1986 c 279 § 25; 1981 c 89 § 6.]

Notes:

Severability--1981 c 89: See note following RCW 30.04.180.

RCW 30.08.087 Authorized but unissued shares of capital stock--Issuance--Consideration.

Any bank or trust company may provide in its articles of incorporation or amendments thereto for authorized but unissued shares of its capital stock. The shares may be issued for such consideration as shall be established by the board from time to time and all consideration received therefor shall be allocated to the capital stock or surplus of the corporation.

[1994 c 256 § 45; 1986 c 279 § 26; 1979 c 106 § 1; 1965 c 140 § 1.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 30.08.088 Authorized but unissued shares of capital stock--When shares become part of capital stock.

The authorized but unissued shares shall not become a part of the capital stock until they have been issued and paid for.

[1994 c 256 § 46; 1994 c 92 § 53; 1986 c 279 § 27; 1979 c 106 § 2; 1965 c 140 § 2.]

Notes:

Reviser's note: This section was amended by 1994 c 92 § 53 and by 1994 c 256 § 46, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 30.08.090 Amendment of articles--Procedure.

Unless the articles of incorporation provide otherwise, the board of directors of a bank or trust company may, by majority vote, amend the bank or trust company's articles of incorporation without shareholder action as follows:

(1) If the bank or trust company has only one class of shares outstanding, to provide, change, or eliminate any provision with respect to the par value of any class of shares;

(2) To delete the name and address of the initial directors;

(3) If the bank or trust company has only one class of shares outstanding, solely to change the number of authorized shares to effectuate a split of, or stock dividend in, the bank or trust company's own shares, or solely to do so and to change the number of authorized shares in proportion thereto;

(4) To change the bank or trust company's name; or

(5) To make any other change expressly permitted by this title to be made without shareholder action.

Other amendments to a bank or trust company's articles of incorporation, in a manner not inconsistent with the provisions of this title, require the affirmative vote of the stockholders representing two-thirds of each class of shares entitled to vote under the terms of the shares at a regular meeting, or special meeting duly called for that purpose in the manner prescribed by the bank or trust company's bylaws. No amendment shall be made whereby a bank becomes a trust company unless such bank first receives permission from the director.

[1994 c 256 § 47; 1994 c 92 § 54; 1987 c 420 § 3; 1986 c 279 § 28; 1965 c 140 § 3; 1955 c 33 § 30.08.090. Prior: 1923 c 115 § 7; 1917 c 80 § 26; RRS § 3233.]

Notes:

Reviser's note: This section was amended by 1994 c 92 § 54 and by 1994 c 256 § 47, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 30.08.092 Increase or decrease of capital stock authorized.

A bank or trust company may increase or decrease its capital stock by amendment to its articles of incorporation. No issuance of capital stock shall be valid, until the amount thereof shall have been actually paid in. No reduction of the capital stock shall be made to an amount less than is required for capital by the director.

[1994 c 256 § 48; 1994 c 92 § 55; 1987 c 420 § 4.]

Notes:

Reviser's note: This section was amended by 1994 c 92 § 55 and by 1994 c 256 § 48, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 30.08.095 Schedule of fees to be established.

The director shall collect fees for the following services:

For filing application for certificate of authority and attendant investigation as outlined in the law;

For filing application for certificate conferring trust powers upon a state or national bank;

For filing articles of incorporation, or amendments thereof, or other certificates required to be filed in his or her office;

For filing merger agreement and attendant investigation;

For filing application to relocate main office or branch and attendant investigation;

For issuing each certificate of authority;

For furnishing copies of papers filed in his or her office, per page.

The director shall establish the amount of the fee for each of the above transactions, and for other services rendered.

Every bank or trust company shall also pay to the secretary of state for filing any instrument with him or her the same fees as are required of general corporations for filing corresponding instruments, and also the same license fees as are required of general corporations.

[1995 c 134 § 5. Prior: 1994 c 256 § 49; 1994 c 92 § 56; 1981 c 302 § 19; 1973 1st ex.s. c 104 § 8; 1969 c 136 § 4; 1955 c 33 § 30.08.095; prior: 1929 c 72 § 1; 1923 c 115 § 1; 1917 c 80 § 12; RRS § 3219. Formerly RCW 30.04.080.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

Severability--1981 c 302: See note following RCW 19.76.100.

Indemnification of directors, officers, employees, etc. by corporation authorized: RCW 23B.08.320, 23B.08.500 through 23B.08.580, 23B.08.600, and 23B.17.030.

RCW 30.08.140 Corporate powers of banks.

Upon the issuance of a certificate of authority to a bank, the persons named in the articles of incorporation and their successors shall thereupon become a corporation and shall have power:

(1) To adopt and use a corporate seal.

(2) To have perpetual succession.

(3) To make contracts.

(4) To sue and be sued, the same as a natural person.

(5) To elect directors who, subject to the provisions of the corporation's bylaws, shall have power to appoint such officers as may be necessary or convenient, to define their powers and duties and to dismiss them at pleasure, and who shall also have general supervision and control of the affairs of such corporation.

(6) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of its affairs.

(7) To invest and reinvest its funds in marketable obligations evidencing the indebtedness of any person, copartnership, association, or corporation in the form of bonds, notes, or debentures commonly known as investment securities except as may by regulation be limited by the director.

(8) To discount and negotiate promissory notes, drafts, bills of exchange and other evidences of debt, to receive deposits of money and commercial paper, to lend money secured or unsecured, to issue all forms of letters of credit, to buy and sell bullion, coins and bills of exchange.

(9) To take and receive as bailee for hire upon terms and conditions to be prescribed by the corporation, for safekeeping and storage, jewelry, plate, money, specie, bullion, stocks, bonds, mortgages, securities and valuable paper of any kind and other valuable personal property, and to rent vaults, safes, boxes and other receptacles for safekeeping and storage of personal property.

(10) If the bank be located in a city of not more than five thousand inhabitants, to act as insurance agent. A bank exercising this power may continue to act as an insurance agent notwithstanding a change of the population of the city in which it is located.

(11) To accept drafts or bills of exchange drawn upon it having not more than six months sight to run, which grow out of transactions involving the importation or exportation of goods; or which grow out of transactions involving the domestic shipment of goods, providing shipping documents conveying or securing title are attached at the time of acceptance; or which are secured at the time of acceptance by a warehouse receipt or other such document conveying or securing title to readily marketable staples. No bank shall accept, either in a foreign or a domestic transaction, for any one person, company, firm or corporation, to an amount equal at

any one time in the aggregate to more than ten percent of its paid up and unimpaired capital stock and surplus unless the bank is secured by attached documents or by some other actual security growing out of the same transaction as the acceptance; and no bank shall accept such bills to an amount equal at any time in the aggregate to more than one-half of its paid up and unimpaired capital stock and surplus: PROVIDED, HOWEVER, That the director, under such general regulations applicable to all banks irrespective of the amount of capital or surplus, as the director may prescribe may authorize any bank to accept such bills to an amount not exceeding at any time in the aggregate one hundred percent of its paid up and unimpaired capital stock and surplus: PROVIDED, FURTHER, That the aggregate of acceptances growing out of domestic transactions shall in no event exceed fifty percent of such capital stock and surplus.

(12) To accept drafts or bills of exchange drawn upon it, having not more than three months sight to run, drawn under regulations to be prescribed by the director by banks or bankers in foreign countries or dependencies or insular possessions of the United States for the purpose of furnishing dollar exchange as required by the usages of trade in the respective countries, dependencies or insular possessions. Such drafts or bills may be acquired by banks in such amounts and subject to such regulations, restrictions and limitations as may be provided by the director: PROVIDED, HOWEVER, That no bank shall accept such drafts or bills of exchange referred to in this subdivision for any one bank to an amount exceeding in the aggregate ten percent of the paid up and unimpaired capital and surplus of the accepting bank unless the draft or bill of exchange is accompanied by documents conveying or securing title or by some other adequate security, and that no such drafts or bills of exchange shall be accepted by any bank in an amount exceeding at any time the aggregate of one-half of its paid up and unimpaired capital and surplus: PROVIDED FURTHER, That compliance by any bank which is a member of the federal reserve system of the United States with the rules, regulations and limitations adopted by the federal reserve board thereof with respect to the acceptance of drafts or bills of exchange by members of such federal reserve system shall be a sufficient compliance with the requirements of this subdivision or paragraph relating to rules, regulations and limitations prescribed by the director.

(13) To have and exercise all powers necessary or convenient to effect its purposes.

(14) To serve as custodian of an individual retirement account and pension and profit sharing plans qualified under internal revenue code section 401(a), the assets of which are invested in deposits of the bank or trust company or are invested, pursuant to directions from the customer owning the account, in securities traded on a national securities market: PROVIDED, That the bank or trust company shall accept no investment responsibilities over the account unless it is granted trust powers by the director.

(15) To be a limited partner in a limited partnership that engages in only such activities as are authorized for the bank.

(16) To exercise any other power or authority permissible under applicable state or federal law conducted by out-of-state state banks with branches in Washington to the same extent if, in the opinion of the director, those powers and authorities affect the operations of banking in Washington or affect the delivery of financial services in Washington.

[1996 c 2 § 5; 1994 c 92 § 58; 1986 c 279 § 29; 1957 c 248 § 3; 1955 c 33 § 30.08.140. Prior: 1931 c 127 § 1; 1919 c 209 § 8; 1917 c 80 § 23; RRS § 3230.]

Notes:

Severability--1996 c 2: See RCW 30.38.900.

RCW 30.08.150 Corporate powers of trust companies.

Upon the issuance of a certificate of authority to a trust company, the persons named in the articles of incorporation and their successors shall thereupon become a corporation and shall have power:

(1) To execute all the powers and possess all the privileges conferred on banks.

(2) To act as fiscal or transfer agent of the United States or of any state, municipality, body politic or corporation and in such capacity to receive and disburse money.

(3) To transfer, register and countersign certificates of stock, bonds or other evidences of indebtedness and to act as attorney in fact or agent of any corporation, foreign or domestic, for any purpose, statutory or otherwise.

(4) To act as trustee under any mortgage, or bonds, issued by any municipality, body politic, or corporation, foreign or domestic, or by any individual, firm, association or partnership, and to accept and execute any municipal or corporate trust.

(5) To receive and manage any sinking fund of any corporation upon such terms as may be agreed upon between such corporation and those dealing with it.

(6) To collect coupons on or interest upon all manner of securities, when authorized so to do, by the parties depositing the same.

(7) To accept trusts from and execute trusts for married persons in respect to their separate property and to be their agent in the management of such property and to transact any business in relation thereto.

(8) To act as receiver or trustee of the estate of any person, or to be appointed to any trust by any court, to act as assignee under any assignment for the benefit of creditors of any debtor, whether made pursuant to statute or otherwise, and to be the depositary of any moneys paid into court.

(9) To be appointed and to accept the appointment of executor of, or trustee under, the last will and testament, or administrator with or without the will annexed, of the estate of any deceased person and to be appointed and to act as guardian of the estate of lunatics, idiots, persons of unsound mind, minors and habitual drunkards: PROVIDED, HOWEVER, That the power hereby granted to trust companies to act as guardian or administrator, with or without the will annexed, shall not be construed to deprive parties of the prior right to have issued to them letters of guardianship, or of administration, as such right now exists under the law of this state.

(10) To execute any trust or power of whatever nature or description that may be conferred upon or entrusted or committed to it by any person or by any court or municipality, foreign or domestic corporation and any other trust or power conferred upon or entrusted or committed to it by grant, assignment, transfer, devise, bequest or by any other authority and to

receive, take, use, manage, hold and dispose of, according to the terms of such trusts or powers any property or estate, real or personal, which may be the subject of any such trust or power.

(11) Generally to execute trusts of every description not inconsistent with law.

(12) To purchase, invest in and sell promissory notes, bills of exchange, bonds, debentures and mortgages and when moneys are borrowed or received for investment, the bonds or obligations of the company may be given therefor, but no trust company hereafter organized shall issue such bonds: PROVIDED, That no trust company which receives money for investment and issues the bonds of the company therefor shall engage in the business of banking or receiving of either savings or commercial deposits: AND PROVIDED, That it shall not issue any bond covering a period of more than ten years between the date of its issuance and its maturity date: AND PROVIDED FURTHER, That if for any cause, the holder of any such bond upon which one or more annual rate installments have been paid, shall fail to pay the subsequent annual rate installments provided in said bond such holder shall, on or before the maturity date of said bond, be paid not less than the full sum which he has paid in on account of said bond.

[1973 1st ex.s. c 154 § 48; 1955 c 33 § 30.08.150. Prior: 1929 c 72 § 4, part; 1923 c 115 § 6, part; 1921 c 94 § 1, part; 1917 c 80 § 24, part; RRS § 3231, part.]

Notes:

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

RCW 30.08.155 Powers and authorities of trust companies--Federally chartered trust companies--Findings of director.

Notwithstanding any restrictions, limitations, and requirements of law, in addition to all powers, express or implied, that a trust company has under the laws of this state, a trust company shall have the powers and authorities conferred as of June 11, 1998, upon a federally chartered trust company doing business in this state. A trust company may exercise the powers and authorities conferred on a federally chartered trust company after this date only if the director finds that the exercise of such powers and authorities:

(1) Serves the convenience and advantage of trustors; and

(2) Maintains the fairness of competition and parity between state-chartered trust companies and federally chartered trust companies.

As used in this section, "powers and authorities" include without limitation powers and authorities in corporate governance and operational matters.

The restrictions, limitations, and requirements applicable to specific powers or authorities of federally chartered trust companies shall apply to trust companies exercising those powers or authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to exercising the powers or authorities granted trust companies solely under this section.

[1998 c 45 § 2.]

RCW 30.08.160 Report of bond liability--Collateral.

Any trust company receiving moneys for investment, and for which it shall give its bonds as in RCW 30.08.150(12) provided, shall within ten days after any regular report is called for from banks or trust companies by the director, make a statement of its total liability, on all bonds issued and then in force, certified by its board of directors, and shall at the same time deposit with the state treasurer, for the benefit of the holders of such bonds or obligations, sufficient securities or money so that it will have on deposit with said state treasurer a sufficient amount of said securities, which may be exchanged for other securities as necessity may require, or money to, at any time, pay all of said liability. In the event of its failure to make such deposits, it shall cease doing such business: PROVIDED, That whenever money shall have been deposited with the treasurer, it may be withdrawn at any time upon a like amount of securities being deposited in its stead: AND PROVIDED FURTHER, That the securities deposited shall consist of such securities as are by this title permitted for the investment of trust funds.

[1994 c 92 § 59; 1955 c 33 § 30.08.160. Prior: 1917 c 80 § 25; RRS § 3232.]

RCW 30.08.170 Securities may be held in name of nominee.

Any trust company incorporated under the laws of this state and any national banking association authorized to act in a fiduciary capacity in this state, when acting in a fiduciary capacity, either alone or jointly with an individual or individuals, may, with the consent of such individual fiduciary or fiduciaries, who are hereby authorized to give such consent, cause any stocks, securities, or other property now held or hereafter acquired to be registered and held in the name of a nominee or nominees of such corporate or association fiduciary without mention of the fiduciary relationship. Any such fiduciary shall be liable for any loss occasioned by the acts of any of its nominees with respect to such stocks, securities or other property so registered.

[1955 c 33 § 30.08.170. Prior: 1947 c 146 § 1; Rem. Supp. 1947 § 3292b.]

RCW 30.08.180 Reports of resources and liabilities.

Every bank and trust company shall make at least three regular reports each year to the director, as of the dates which he or she shall designate, according to form prescribed by him or her, verified by the president, manager or cashier and attested by at least two directors, which shall exhibit under appropriate heads the resources and liabilities of such corporation. The dates designated by the director shall be the dates designated by the comptroller of the currency of the United States for reports of national banking associations.

Every such corporation shall also make such special reports as the director shall call for.

[1995 c 344 § 3; 1994 c 92 § 60; 1955 c 33 § 30.08.180. Prior: 1919 c 209 § 4; 1917 c 80 § 5; RRS § 3212.]

RCW 30.08.190 Time of filing--Availability--Penalty.

(1) Every regular report shall be filed with the director within thirty days from the date of

issuance of the notice. Every special report shall be filed with the director within such time as shall be specified by him or her in the notice therefor.

(2) The director shall provide a copy of any regular report free of charge to any person that submits a written request for the report.

(3) Every bank and trust company which fails to file any report, required to be filed under subsection (1) of this section and within the time specified, shall be subject to a penalty of fifty dollars per day for each day's delay. A civil action for the recovery of any such penalty may be brought by the attorney general in the name of the state.

[1995 c 344 § 4; 1995 c 134 § 6. Prior: 1994 c 256 § 51; 1994 c 92 § 61; 1977 c 38 § 1; 1955 c 33 § 30.08.190; prior: 1917 c 80 § 6; RRS § 3213.]

Notes:

Reviser's note: This section was amended by 1995 c 134 § 6 and by 1995 c 344 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

Chapter 30.12 RCW
OFFICERS, EMPLOYEES, AND STOCKHOLDERS

Sections

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RCW 30.12.010 Directors--Election--Meetings--Oath--Vacancies.

Every bank and trust company shall be managed by not less than five directors, who need not be residents of this state. Directors shall be elected by the stockholders and hold office for such term as is specified in the articles of incorporation, not exceeding three years, and until their successors are elected and have qualified. In the first instance the directors shall be those named in the articles of incorporation and afterwards, those elected at the annual meeting of the stockholders to be held at least once each year on a day to be specified by the bank's or trust company's bylaws. Shareholders may not cumulate their votes unless the articles of incorporation specifically so provide. If for any cause no election is held at that time, it may be held at an adjourned meeting or at a subsequent meeting called for that purpose in the manner prescribed by the corporation's bylaws. The directors shall meet at least once each quarter and whenever required by the director. A majority of the then serving board of directors shall constitute a quorum for the transaction of business. At all stockholders' meetings, each share shall be entitled to one vote, unless the articles of incorporation provide otherwise. Any stockholder may vote in person or by written proxy.

Each director, so far as the duty devolves upon him or her, shall diligently and honestly administer the affairs of such corporation and shall not knowingly violate or willingly permit to be violated any provision of law applicable to such corporation. Vacancies in the board of directors shall be filled by the board.

[1994 c 256 § 54; 1994 c 92 § 62; 1987 c 420 § 1; 1986 c 279 § 30; 1982 c 196 § 8; 1981 c 89 § 3; 1975 c 35 § 1; 1969 c 136 § 8; 1957 c 190 § 1; 1955 c 33 § 30.12.010. Prior: 1947 c 129 § 1; 1917 c 80 § 30; Rem. Supp. 1947 § 3237.]

Notes:

Reviser's note: This section was amended by 1994 c 92 § 62 and by 1994 c 256 § 54, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

Severability--1982 c 196: See note following RCW 30.04.550.

Severability--1981 c 89: See note following RCW 30.04.180.

RCW 30.12.020 Meetings, where held--Corporate records.

All meetings of the stockholders of any bank or trust company, except organization meetings and meetings held with the consent of all stockholders, must be held in the county in

which the head office or any branch of the corporation is located. Meetings of the directors of any bank or trust company may be held either within or without this state. Every such corporation shall keep records in which shall be recorded the names and residences of the stockholders thereof, the number of shares held by each, and also the transfers of stock, showing the time when made, the number of shares and by whom transferred. In all actions, suits and proceedings, said records shall be prima facie proof of the facts shown therein. All of the corporate books, including the certificate book, stockholders' ledger and minute book or a copy thereof shall be kept at the corporation's principal place of business. Any books, record, and minutes may be in written form or any other form capable of being converted to written form within a reasonable time.

[1994 c 256 § 55; 1986 c 279 § 31; 1969 c 136 § 9; 1955 c 33 § 30.12.020. Prior: 1927 c 179 § 1; 1917 c 80 § 31; RRS § 3238.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 30.12.025 Rights of shareholder to examine and make extracts of records--Penalty--Financial statements.

Any person who has been a shareholder of record at least six months immediately preceding his or her demand or who is the holder of record of at least five percent of all the outstanding shares of a bank or trust company, upon written demand stating the purpose thereof, has the right to examine, in person, or by agent or attorney, at any reasonable time or times, for any proper purpose, the bank or trust company's minutes of the proceedings of its shareholders, its shareholder records, and its existing publicly available records. The person is entitled to make extracts therefrom, except that the person is not entitled to view or make extracts of any portion of minutes that refer or relate to information which is confidential.

Any officer or agent who, or a bank or trust company that, refuses to allow any such shareholder or his or her agent or attorney, to examine and make extracts from its minutes of the proceedings of its shareholders, record of shareholders, or existing publicly available books and records, for any proper purpose, shall be liable to the shareholder for actual damages or other remedy afforded the shareholder by law.

It is a defense to any action for penalties under this section that the person suing therefor has, within two years: (1) Sold or offered for sale any list of shareholders for shares of such bank or trust company or any other bank or trust company; (2) aided or abetted any person in procuring any list of shareholders for any such purpose; (3) improperly used any information secured through any prior examination of existing publicly available books and records, or minutes, or record of shareholders of such bank or trust company or any other bank or trust company; or (4) not acted in good faith or for a proper purpose in making his or her demand.

Nothing in this section impairs the power of any court of competent jurisdiction, upon proof by a shareholder of proper purpose, irrespective of the period of time during which the shareholder has been a shareholder of record, and irrespective of the number of shares held by him or her, to compel the production for examination by the shareholder of the existing publicly

available books and records, minutes, and record of shareholders of a bank or trust company.

Upon the written request of any shareholder of a bank or trust company, the bank or trust company shall mail to the shareholder its most recent financial statements showing in reasonable detail its assets and liabilities and the results of its operations. As used in this section, "shareholder" includes the holder of voting trust certificates for shares.

[1986 c 279 § 32.]

RCW 30.12.030 Fidelity bonds--Casualty insurance.

(1) Except as otherwise permitted by the director under specified terms and conditions, the board of directors of each bank and trust company shall direct and require good and sufficient surety company fidelity bonds issued by a company authorized to engage in the insurance business in the state of Washington on all active officers and employees, whether or not they draw salary or compensation, which bonds shall provide for indemnity to such bank or trust company, on account of any losses sustained by it as the result of any dishonest, fraudulent or criminal act or omission committed or omitted by them acting independently or in collusion or combination with any person or persons. Such bonds may be individual, schedule or blanket form, and the premiums therefor shall be paid by the bank or trust company.

(2) The said directors shall also direct and require suitable insurance protection to the bank or trust company against burglary, robbery, theft and other similar insurance hazards to which the bank or trust company may be exposed in the operations of its business on the premises or elsewhere.

The said directors shall be responsible for prescribing at least once in each year the amount or penal sum of such bonds or policies and the sureties or underwriters thereon, after giving due consideration to all known elements and factors constituting such risk or hazard. Such action shall be recorded in the minutes of the board of directors.

[1994 c 92 § 63; 1986 c 279 § 33; 1955 c 33 § 30.12.030. Prior: 1947 c 132 § 1; 1927 c 224 § 1; 1917 c 80 § 32; Rem. Supp. 1947 § 3239.]

RCW 30.12.040 Removal of delinquent officer or employee or prohibiting participation in bank or trust company affairs--Grounds--Notice.

The director may serve upon a director, officer, or employee of any bank or trust company a written notice of the director's intention to remove the person from office or to prohibit the person from participation in the conduct of the affairs of the bank or trust company, or both, whenever:

(1) In the opinion of the director any director, officer, or employee of any bank or trust company has committed or engaged in:

(a) Any violation of law or rule or of a cease and desist order which has become final;

(b) Any unsafe or unsound practice in connection with the bank or trust company; or

(c) Any act, omission, or practice which constitutes a breach of his or her fiduciary duty as director, officer, or employee; and

(2) The director determines that:

(a) The bank or trust company has suffered or may suffer substantial financial loss or other damage; or

(b) The interests of its depositors could be seriously prejudiced by reason of the violation or practice or breach of fiduciary duty; and

(c) The violation or practice or breach of fiduciary duty is one involving personal dishonesty, recklessness, or incompetence on the part of the director, officer, or employee.

[1994 c 92 § 64; 1977 ex.s. c 178 § 5; 1955 c 33 § 30.12.040. Prior: 1933 c 42 § 1; 1917 c 80 § 10; RRS § 3217.]

Notes:

Severability--1977 ex.s. c 178: See note following RCW 30.04.450.

RCW 30.12.042 Removal of delinquent officer or employee or prohibiting participation in bank or trust company affairs--Notice contents--Hearing--Order of removal or prohibition.

A notice of an intention to remove a director, officer, or employee from office or to prohibit his or her participation in the conduct of the affairs of a bank or trust company shall contain a statement of the facts which constitute grounds therefor and shall fix a time and place at which a hearing will be held. The hearing shall be set not earlier than ten days nor later than thirty days after the date of service of the notice unless an earlier or later date is set by the director at the request of the director, officer, or employee for good cause shown or of the attorney general of the state.

Unless the director, officer, or employee appears at the hearing personally or by a duly authorized representative, the person shall be deemed to have consented to the issuance of an order of removal or prohibition or both. In the event of such consent or if upon the record made at the hearing the director finds that any of the grounds specified in the notice have been established, the director may issue such orders of removal from office or prohibition from participation in the conduct of the affairs of the bank or trust company as the director may consider appropriate.

Any order shall become effective at the expiration of ten days after service upon the bank and the director, officer, or employee concerned except that an order issued upon consent shall become effective at the time specified in the order.

An order shall remain effective except to the extent it is stayed, modified, terminated, or set aside by the director or a reviewing court.

[1994 c 92 § 65; 1977 ex.s. c 178 § 6.]

Notes:

Severability--1977 ex.s. c 178: See note following RCW 30.04.450.

RCW 30.12.044 Removal of delinquent officer or employee or prohibiting participation in bank or trust company affairs--Effect upon quorum--Procedure.

If at any time because of the removal of one or more directors under this chapter there shall be on the board of directors of a bank or trust company less than a quorum of directors, all powers and functions vested in or exercisable by the board shall vest in and be exercisable by the director or directors remaining until such time as there is a quorum on the board of directors. If all of the directors of a bank or trust company are removed under this chapter, the director shall appoint persons to serve temporarily as directors until such time as their respective successors take office.

[1994 c 92 § 66; 1977 ex.s. c 178 § 7.]

Notes:

Severability--1977 ex.s. c 178: See note following RCW 30.04.450.

RCW 30.12.045 Removal of delinquent officer or employee or prohibiting participation in bank or trust company affairs--Administrative hearing--Judicial review.

See RCW 30.04.470.

RCW 30.12.046 Removal of delinquent officer or employee or prohibiting participation in bank or trust company affairs--Jurisdiction of courts in enforcement or issuance of orders, injunctions or judicial review.

See RCW 30.04.475.

RCW 30.12.047 Removal of delinquent officer or employee or prohibiting participation in bank or trust company affairs--Violation of final order--Penalty.

Any present or former director, officer, or employee of a bank or trust company or any other person against whom there is outstanding an effective final order served upon the person and who participates in any manner in the conduct of the affairs of the bank or trust company involved; or who directly or indirectly solicits or procures, transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorizations with respect to any voting rights in the bank or trust company; or who, without the prior approval of the director, votes for a director or serves or acts as a director, officer, employee, or agent of any bank or trust company shall upon conviction for a violation of any order, be guilty of a gross misdemeanor punishable as prescribed under chapter 9A.20 RCW, as now or hereafter amended.

[1994 c 92 § 67; 1977 ex.s. c 178 § 10.]

Notes:

Severability--1977 ex.s. c 178: See note following RCW 30.04.450.

RCW 30.12.060 Loans to officers or employees.

(1) Any bank or trust company shall be permitted to make loans to any employee of such corporation, or to purchase, discount or acquire, as security or otherwise, the obligation or debt

of any employee to any other person, to the same extent as if the employee were in no way connected with the corporation. Any bank or trust company shall be permitted to make loans to any officer of such corporation, or to purchase, discount or acquire, as security or otherwise, the obligation or debt of any officer to any other person: PROVIDED, That the total value of the loans made and obligation acquired for any one officer shall not exceed such amount as shall be prescribed by the director pursuant to regulations adopted in accordance with the Administrative Procedure Act, chapter 34.05 RCW, as now or hereafter amended: AND PROVIDED FURTHER, That no such loan shall be made, or obligation acquired, in excess of five percent of a bank's capital and unimpaired surplus or twenty-five thousand dollars, whichever is larger, unless a resolution authorizing the same shall be adopted by a vote of a majority of the board of directors of such corporation prior to the making of such loan or discount, and such vote and resolution shall be entered in the corporate minutes. In no event shall the loan or obligation acquired exceed five hundred thousand dollars in the aggregate without prior approval by a majority of the corporation's board of directors. No loan in excess of five percent of a bank's capital and unimpaired surplus or twenty-five thousand dollars, whichever is larger, shall be made by any bank or trust company to any director of such corporation nor shall the note or obligation in excess of five percent of a bank's capital and unimpaired surplus or twenty-five thousand dollars, whichever is larger, of such director be discounted by any such corporation, or by any officer or employee thereof in its behalf, unless a resolution authorizing the same shall be adopted by a vote of a majority of the entire board of directors of such corporation exclusive of the vote of such interested director, and such vote and resolution shall be entered in the corporate minutes. In no event may the loan or obligation acquired exceed five hundred thousand dollars in the aggregate without prior approval by a majority of the corporation's board of directors.

Each bank or trust company shall at such times and in such form as may be required by the director, report to the director all outstanding loans to directors of such bank or trust company.

The amount of any endorsement or agreement of suretyship or guaranty of any such director to the corporation shall be construed to be a loan within the provisions of this section. Any modification of the terms of an existing obligation (excepting only such modifications as merely extend or renew the indebtedness) shall be construed to be a loan within the meaning of this section.

(2) "Unimpaired surplus," as used in this section, consists of the sum of the following amounts:

(a) Fifty percent of the reserve for possible loan losses;

(b) Subordinated notes and debentures;

(c) Surplus;

(d) Undivided profits; and

(e) Reserve for contingencies and other capital reserves, excluding accrued dividends on preferred stock.

[1994 c 92 § 69; 1985 c 305 § 6; 1969 c 136 § 5; 1959 c 165 § 1; 1955 c 33 § 30.12.060. Prior: 1947 c 147 § 1, part; 1933 c 42 § 22, part; 1917 c 80 § 52, part; Rem. Supp. 1947 § 3259, part.]

RCW 30.12.070 Unsafe loans and discounts to directors.

The director may at any time, if in his or her judgment excessive, unsafe or improvident loans are being made or are likely to be made by a bank or trust company to any of its directors, or to any corporation, copartnership or association of which such director is a stockholder, member, co-owner, or in which such director is financially interested, or like discounts of the notes or obligations of any such director, corporation, copartnership or association are being made or are likely to be made, require such bank or trust company to submit to him or her for approval all proposed loans to, or discounts of the note or obligation of, any such director, corporation, copartnership or association, and thereafter such proposed loans and discounts shall be reported upon such forms and with such information concerning the desirability and safety of such loans or discounts and of the responsibility and financial condition of the person, corporation, copartnership or association to whom such loan is to be made or whose note or obligation is to be discounted and of the amount and value of any collateral that may be offered as security therefor, as the director may require, and no such loan or discount shall be made without his or her written approval thereon.

[1994 c 92 § 70; 1955 c 33 § 30.12.070. Prior: 1947 c 147 § 1, part; 1933 c 42 § 22, part; 1917 c 80 § 52, part; Rem. Supp. 1947 § 3259, part.]

RCW 30.12.090 False entries, statements, etc.--Penalty.

Every person who shall knowingly subscribe to or make or cause to be made any false statement or false entry in the books of any bank or trust company or shall knowingly subscribe to or exhibit any false or fictitious paper or security, instrument or paper, with the intent to deceive any person authorized to examine into the affairs of any bank or trust company or shall make, state or publish any false statement of the amount of the assets or liabilities of any bank or trust company shall be guilty of a felony.

[1955 c 33 § 30.12.090. Prior: 1917 c 80 § 56; RRS § 3263.]

RCW 30.12.100 Destroying or secreting records--Penalty.

Every officer, director or employee or agent of any bank or trust company who, for the purpose of concealing any fact or suppressing any evidence against himself or herself, or against any other person, abstracts, removes, mutilates, destroys or secretes any paper, book or record of any bank or trust company, or of the director, or of anyone connected with his or her office, shall be guilty of a felony.

[1994 c 92 § 71; 1955 c 33 § 30.12.100. Prior: 1917 c 80 § 56; RRS § 3264.]

RCW 30.12.110 Commission, etc., for procuring loan--Penalty.

No officer, director, agent, employee or stockholder of any bank or trust company shall,

directly or indirectly, receive a bonus, commission, compensation, remuneration, gift, speculative interest or gratuity of any kind from any person, firm or corporation other than the bank or as allowed by RCW 30.12.115 for granting, procuring or endeavoring to procure, for any person, firm or corporation, any loan by or out of the funds of such bank or trust company or the purchase or sale of any securities or property for or on account of such bank or trust company or for granting or procuring permission for any person, firm or corporation to overdraw any account with such bank or trust company. Any person violating this section shall be guilty of a gross misdemeanor.

[1986 c 279 § 35; 1955 c 33 § 30.12.110. Prior: 1919 c 209 § 20; RRS § 3290.]

RCW 30.12.115 Transactions in which director or officer has an interest.

(1) If a transaction is fair to a corporation at the time it is authorized, approved, or ratified, the fact that a director or an officer had a direct or indirect interest in the transaction is not grounds for either invalidating the transaction or imposing liability on the director or officer.

(2) In any proceeding seeking to invalidate a transaction with the corporation in which a director or an officer had a direct or indirect interest in a transaction with the corporation, the person asserting the validity of the transaction has the burden of proving fairness unless:

(a) The material facts of the transaction and the director's or officer's interest was disclosed or known to the board of directors, or a committee of the board, and the board or committee authorized, approved, or ratified the transaction; or

(b) The material facts of the transaction and the director's or officer's interest was disclosed or known to the shareholders entitled to vote, and they authorized, approved, or ratified the transaction.

(3) For purposes of this section, a director or an officer of a corporation has an indirect interest in a transaction with the corporation if:

(a) Another entity in which the director or officer has a material financial interest, or in which such person is a general partner, is a party to the transaction; or

(b) Another entity of which the director or officer is a director, officer, or trustee is a party to the transaction, and the transaction is or should be considered by the board of directors of the corporation.

(4) For purposes of subsection (3)(a) of this section, a transaction is authorized, approved, or ratified only if it receives the affirmative vote of a majority of the directors on the board of directors or on the committee who have no direct or indirect interest in the transaction. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsection (3)(a) of this section if the transaction is otherwise authorized, approved, or ratified as provided in that subsection.

(5) For purposes of subsection (3)(b) of this section, a transaction is authorized, approved, or ratified only if it receives the vote of a majority of shares entitled to be counted

under this subsection. All outstanding shares entitled to vote under this title or the articles of incorporation are entitled to be counted under this subsection except shares owned by or voted under the control of a director or an officer who has a direct or indirect interest in the transaction. Shares owned by or voted under the control of an entity described in subsection (3)(a) of this section shall not be counted to determine whether shareholders have authorized, approved, or ratified a transaction for purposes of subsection (3)(b) of this section. The vote of the shares owned by or voted under the control of a director or an officer who has a direct or indirect interest in the transaction and shares owned by or voted under the control of an entity described in subsection (3)(a) of this section, however, shall be counted in determining whether the transaction is approved under other sections of this title and for purposes of determining a quorum.

[1986 c 279 § 36.]

RCW 30.12.120 Loans to officers or employees from trust funds--Penalty.

No corporation doing a trust business shall make any loan to any officer, or employee from its trust funds, nor shall it permit any officer, or employee to become indebted to it in any way out of its trust funds. Every officer, director, or employee of any such corporation, who knowingly violates any provision of this section, or who aids or abets any other person in any such violation, shall be guilty of a felony.

[1955 c 33 § 30.12.120. Prior: 1917 c 80 § 53; RRS § 3260.]

RCW 30.12.130 Trust company as legal representative--Oath by officer.

When any trust company shall be appointed executor, administrator, or trustee of any estate or guardian of the estate of any infant or other incompetent, it shall be lawful for any duly authorized officer of such corporation to take and subscribe for such corporation any and all oaths or affirmations required of such an appointee.

[1955 c 33 § 30.12.130. Prior: 1917 c 80 § 50; RRS § 3257.]

RCW 30.12.180 Levy of assessments.

Whenever the director shall notify the board of directors of a bank or trust company to levy an assessment upon the stock of such corporation and the holders of two-thirds of the stock shall consent thereto, such board shall, within ten days from the issuance of such notice, adopt a resolution for the levy of such assessment, and shall immediately upon the adoption of such resolution serve notice upon each stockholder, personally or by mail, at his or her last known address, to pay such assessment; and that if the same be not paid within twenty days from the date of the issuance of such notice, his or her stock will be subject to sale and all amounts previously paid thereon shall be subject to forfeiture. If any stockholder fail within said twenty days to pay the assessment as provided in this section, it shall be the duty of the board of

directors to cause a sufficient amount of the capital stock of such stockholder to be sold to make good the deficiency. The sale shall be held at such time and place as shall be designated by the board of directors and shall be either public or private, as the board shall deem best. At any time after the expiration of sixty days from the expiration of said twenty-day period the director may require any stock upon which the assessment remains unpaid to be canceled and deducted from the capital of the corporation. If such cancellation shall reduce the capital of the corporation below the minimum required by this title or its articles of incorporation the capital shall, within thirty days thereafter be increased to the required amount by original subscription, in default of which the director may take possession of such corporation in the manner provided by law in case of insolvency.

[1994 c 92 § 72; 1955 c 33 § 30.12.180. Prior: 1923 c 115 § 8; 1917 c 80 § 34; RRS § 3241.]

RCW 30.12.190 General penalty--Effect of conviction.

Every person who shall violate, or knowingly aid or abet the violation of any provision of RCW 30.04.010, 30.04.030, 30.04.050, 30.04.060, 30.04.070, 30.04.075, 30.04.111, 30.04.120, 30.04.130, 30.04.180, 30.04.210, 30.04.220, 30.04.280, *30.04.290, 30.04.300, 30.08.010, 30.08.020, 30.08.030, 30.08.040, 30.08.050, 30.08.060, 30.08.080, 30.08.090, 30.08.095, **30.08.110, ***30.08.120, 30.08.140, 30.08.150, 30.08.160, 30.08.180, 30.08.190, 30.12.010, 30.12.020, 30.12.030, 30.12.060, 30.12.070, 30.12.130, 30.12.180, 30.12.190, 30.16.010, 30.20.060, ****30.40.010, 30.44.010, 30.44.020, 30.44.030, 30.44.040, 30.44.050, 30.44.060, 30.44.070, 30.44.080, 30.44.090, 30.44.100, 30.44.130, 30.44.140, 30.44.150, 30.44.160, 30.44.170, 30.44.240, 30.44.250, *****43.19.020, 43.19.030, 43.19.050, and 43.19.090, and every person who fails to perform any act which it is therein made his duty to perform, shall be guilty of a misdemeanor. No person who has been convicted for the violation of the banking laws of this or any other state or of the United States shall be permitted to engage in or become an officer or official of any bank or trust company organized and existing under the laws of this state.

[1989 c 220 § 2; 1983 c 3 § 47; 1955 c 33 § 30.12.190. Prior: 1919 c 209 § 18; 1917 c 80 § 80; RRS § 3287.]

Notes:

Reviser's note: *(1) RCW 30.04.290 was repealed by 1994 c 256 § 124, without cognizance of its amendment by 1994 c 92 § 27. It has been decodified for publication purposes pursuant to RCW 1.12.025. RCW 30.04.290 was subsequently repealed by 1997 c 101 § 7.

**(2) RCW 30.08.110 was repealed by 1994 c 256 § 124.

***(3) RCW 30.08.120 was repealed by 1994 c 256 § 124, without cognizance of its amendment by 1994 c 92 § 57. It has been decodified for publication purposes pursuant to RCW 1.12.025. RCW 30.08.120 was subsequently repealed by 1997 c 101 § 7.

****(4) RCW 30.40.010 was decodified September 1996.

*****(5) RCW 43.19.020, 43.19.030, 43.19.050, and 43.19.090 were recodified as RCW 43.320.060, 43.320.070, 43.320.080, and 43.320.100, respectively, pursuant to 1993 c 472 § 30, effective October 1, 1993.

RCW 30.12.205 Stock purchase options--Incentive bonus contracts, stock purchase or bonus plans, and profit sharing plans.

Subject to any restrictions in its articles of incorporation and in accordance with and subject to the provisions of RCW 30.08.088, the board of directors of a bank or trust company may grant options entitling the holders thereof to purchase from the corporation shares of any class of its stock. The instrument evidencing the option shall state the terms upon which, the time within which, and the price at which such shares may be purchased from the corporation upon the exercise of such option. If any such options are granted by contract, or are to be granted pursuant to a plan, to officers or employees of the bank or trust company, then the contract or the plan shall require the approval, within twelve months of its approval by the board of directors, of the holders of a majority of its voting capital stock. Subsequent amendments to any such contract or plan which do not change the price or duration of any option, the maximum number of shares which may be subject to options, or the class of employees eligible for options may be made by the board of directors without further shareholder approval.

Subject to any restrictions in its articles of incorporation, the board of directors of a bank or trust company shall have the authority to enter into any plans or contracts providing for compensation for its officers and employees, including, but not being limited to, incentive bonus contracts, stock purchase or bonus plans and profit sharing plans.

[1986 c 279 § 37.]

RCW 30.12.220 Preemptive rights of shareholders to acquire unissued shares--Articles of incorporation may limit or permit--Later acquisition.

The articles of incorporation of any bank or trust company organized under this title may limit or permit the preemptive rights of a shareholder to acquire unissued shares of the corporation and may thereafter by amendment limit, deny, or grant to shareholders of any class of stock the preemptive right to acquire additional shares of the corporation whether then or thereafter authorized.

[1979 c 106 § 8.]

RCW 30.12.230 Immunity of shareholders of bank insured by the federal deposit insurance corporation.

The shareholders of a banking corporation organized under the laws of this state and the deposits of which are insured by the federal deposit insurance corporation shall not be liable for any debts or obligations of the bank.

[1986 c 279 § 50.]

RCW 30.12.240 Violations--Director liability.

If the directors of any bank shall knowingly violate, or knowingly permit any of the officers, agents, or servants of the bank to violate any of the provisions of this title or any lawful regulation or directive of the director, and if the directors are aware that such facts and

circumstances constitute such violations, then each director who participated in or assented to the violation is personally and individually liable for all damages which the state or any insurer of the deposits sustains due to the violation.

[1994 c 92 § 73; 1989 c 180 § 7.]

Chapter 30.16 RCW
CHECKS

Sections

30.16.010 Certification--Effect--Penalty.

Notes:
Negotiable instruments: Title 62A RCW.

RCW 30.16.010 Certification--Effect--Penalty.

No director, officer, agent or employee of any bank or trust company shall certify a check unless the amount thereof actually stands to the credit of the drawer on the books of such corporation and when certified must be charged to the account of the drawer. Every violation of this provision shall be a gross misdemeanor. Any such check so certified by a duly authorized person shall be a good and valid obligation of the bank or trust company in the hands of an innocent holder.

[1955 c 33 § 30.16.010. Prior: 1917 c 80 § 44; RRS § 3251.]

Chapter 30.20 RCW
DEPOSITS

Sections

30.20.005 Deposits by individuals governed by chapter 30.22 RCW.
30.20.025 Receipt for deposits--Contents.
30.20.060 Deposits and accounts--Regulations--Passbooks or records--Deposit contract.
30.20.090 Adverse claim to a deposit to be accompanied by court order or bond--Exceptions.

Notes:
Payment to slayers: RCW 11.84.110.
Receiving deposits after insolvency prohibited: State Constitution Art. 12 § 12.

RCW 30.20.005 Deposits by individuals governed by chapter 30.22 RCW.

Deposits made by individuals in a national bank, state bank, trust company, or other

banking institution subject to the supervision of the director are governed by chapter 30.22 RCW.

[1994 c 92 § 74; 1981 c 192 § 23.]

Notes:

Effective date--1981 c 192: See RCW 30.22.900.

RCW 30.20.025 Receipt for deposits--Contents.

Each person making a deposit in a bank or trust company shall be given a receipt that shall show or in conjunction with the deposit slip can be used to trace the name of the bank or trust company, the name of the account, the account number, the date, and the amount deposited. If specifically requested by the depositor when making the deposit, the receipt must expressly show the name of the bank or trust company, the date, the amount deposited, plus either the name of the account or the account number or both the name of the account and the account number.

[1985 c 305 § 2. Formerly RCW 30.04.085.]

RCW 30.20.060 Deposits and accounts--Regulations--Passbooks or records--Deposit contract.

A bank or trust company shall repay all deposits to the depositor or his or her lawful representative when required at such time or times and with such interest as the regulations of the corporation shall prescribe. These regulations shall be prescribed by the directors of the bank or trust company and may contain provisions with respect to the terms and conditions upon which any account or deposit will be maintained by the bank or trust company. These regulations and any amendments shall be available to depositors on request, and shall be posted in a conspicuous place in the principal office and each branch in this state or, if the regulations and any amendments are not so posted, a description of changes in the regulations after an account is opened shall be mailed to depositors pursuant to 12 U.S.C. Sec. 4305(c) or otherwise. All these rules and regulations and all amendments shall be binding upon all depositors. At the option of the bank, a passbook shall be issued to each savings account depositor, or a record maintained in lieu of a passbook. A deposit contract may be adopted by the bank or trust company in lieu of or in addition to account rules and regulations and shall be enforceable and amendable in the same manner as account rules and regulations or as provided in the deposit contract. A copy of the contract shall be provided to the depositor.

[1996 c 2 § 8; 1986 c 279 § 38; 1961 c 280 § 3; 1959 c 106 § 5; 1955 c 33 § 30.20.060. Prior: 1945 c 69 § 1; 1935 c 93 § 1; 1917 c 80 § 38; Rem. Supp. 1945 § 3244a.]

Notes:

Severability--1996 c 2: See RCW 30.38.900.

RCW 30.20.090 Adverse claim to a deposit to be accompanied by court order or

bond--Exceptions.

Notice to any national bank, state bank, trust company, mutual savings bank or bank under the supervision of the director, doing business in this state of an adverse claim to a deposit standing on its books to the credit of any person may be disregarded without liability by said bank or trust company unless said adverse claimant shall also either procure a restraining order, injunction or other appropriate process against said bank or trust company from a court of competent jurisdiction in a cause therein instituted by him or her wherein the person to whose credit the deposit stands is made a party and served with summons or shall execute to said bank or trust company, in form and with sureties acceptable to it, a bond, in an amount which is double either the amount of said deposit or said adverse claim, whichever is the lesser, indemnifying said bank or trust company from any and all liability, loss, damage, costs and expenses, for and on account of the payment of such adverse claim or the dishonor of the check or other order of the person to whose credit the deposit stands on the books of said bank or trust company: PROVIDED, That where the person to whose credit the deposit stands is a fiduciary for such adverse claimant, and the facts constituting such relationship, and also the facts showing reasonable cause of belief on the part of said claimant that the said fiduciary is about to misappropriate said deposit, are made to appear by the affidavit of such claimant, the bank or trust company shall without liability refuse to deliver such property for a period of not more than five business days from the date that the bank received the adverse claimant's affidavit, without liability for the sufficiency or truth of the facts alleged in the affidavit, after which time the claim shall be treated as any other claim under this section.

This section shall not apply to accounts subject to chapter 30.22 RCW.

[1994 c 92 § 75; 1981 c 192 § 25; 1979 c 143 § 1; 1961 c 280 § 4.]

Notes:

Effective date--1981 c 192: See RCW 30.22.900.

Chapter 30.22 RCW
FINANCIAL INSTITUTION INDIVIDUAL ACCOUNT DEPOSIT ACT

Sections

30.22.010 Short title.
30.22.020 Purposes.
30.22.030 Construction.
30.22.040 Definitions.
30.22.041 Definitions.
30.22.050 Types of accounts which financial institution may establish.
30.22.060 Requirements of contract of deposit.
30.22.070 Accounts of minors and incompetents.
30.22.080 Accounts of married persons.
30.22.090 Ownership of funds during lifetime of depositor.
30.22.100 Ownership of funds after death of a depositor.
30.22.110 Controversies between owners.
30.22.120 Right to rely on form of account--Discharge of financial institutions.

30.22.130 Rights as between individuals preserved.
30.22.140 Payment of funds to a depositor.
30.22.150 Payment to minors and incompetents.
30.22.160 Payment to trust and P.O.D. account beneficiaries.
30.22.170 Payment to agents of depositors.
30.22.180 Payment to personal representatives.
30.22.190 Payment to heirs and creditors of a deceased depositor.
30.22.200 Payment to foreign personal representative--Release of financial institution.
30.22.210 Authority to withhold payment.
30.22.220 Adverse claim bond.
30.22.230 Authority to charge a customer for furnishing items or copies of items.
30.22.240 Records--Disclosure--Requests by law enforcement--Fees.
30.22.245 Records--Admission as evidence--Certificate.
30.22.250 No duty to request information.
30.22.900 Effective date--1981 c 192.
30.22.901 Severability--1995 c 186.

RCW 30.22.010 Short title.

This chapter shall be known and may be cited as the financial institution individual account deposit act.

[1981 c 192 § 1.]

RCW 30.22.020 Purposes.

The purposes of this chapter are:

(1) To provide a consistent law applicable to all financial institutions authorized to accept deposits from individuals with respect to payments by the institutions to individuals claiming rights to the deposited funds; and

(2) To qualify and simplify the law concerning the respective ownership interests of individuals to funds held on deposit by financial institutions, both as to the relationship between the individual depositors and beneficiaries of an account, and to the financial institution-depositor-beneficiary relationships; and

(3) To simplify and make consistent the law pertaining to payments by financial institutions of deposited funds both before and after the death of a depositor or depositors, including provisions for the validity and effect of certain nontestamentary transfers of deposits upon the death of one or more depositors.

[1981 c 192 § 2.]

RCW 30.22.030 Construction.

When construing sections and provisions of this chapter, the sections and provisions shall:

(1) Be liberally construed and applied to promote the purposes of the chapter; and

(2) Be considered part of a general act which is intended as unified coverage of the subject matter, and no part of the chapter shall be deemed impliedly repealed by subsequent legislation if such construction can be reasonably avoided; and

(3) Not be held invalid because of the invalidity of other sections or provisions of the chapter as long as the section or provision in question can be given effect without regard to the invalid section or provision, and to this end the sections and provisions of this chapter are declared to be severable; and

(4) Not be construed by reference to section or subsection headings as used in the chapter since these do not constitute any part of the law; and

(5) Not be deemed to alter the community or separate property nature of any funds held on deposit by a financial institution or any individual's community or separate property rights thereto, and a depositor's community and/or separate property rights to funds on deposit shall not be affected by the form of the account; and

(6) Not be construed as authorizing or extending the authority of any financial institution to accept deposits or to permit a financial institution to accept deposits from such persons or entities or upon such terms as would contravene any other applicable federal or state law.

[1981 c 192 § 3.]

RCW 30.22.040 Definitions.

Unless the context of this chapter otherwise requires, the terms contained in this section have the meanings indicated.

(1) "Account" means a contract of deposit between a depositor or depositors and a financial institution; the term includes a checking account, savings account, certificate of deposit, savings certificate, share account, savings bond, and other like arrangements.

(2) "Actual knowledge" means written notice to a manager of a branch of a financial institution, or an officer of the financial institution in the course of his employment at the branch, pertaining to funds held on deposit in an account maintained by the branch received within a period of time which affords the financial institution a reasonable opportunity to act upon the knowledge.

(3) "Individual" means a human being; "person" includes an individual, corporation, partnership, limited partnership, joint venture, trust, or other entity recognized by law to have separate legal powers.

(4) "Agent" means a person designated by a depositor or depositors in a contract of deposit or other document to have the authority to deposit and to make payments from an account in the name of the depositor or depositors.

(5) "Agency account" means an account to which funds may be deposited and from which payments may be made by an agent designated by a depositor. In the event there is more than one depositor named on an account, each depositor may designate the same or a different agent for the purpose of depositing to or making payments of funds from a depositor's account.

(6) "Single account" means an account in the name of one depositor only.

(7) "Joint account without right of survivorship" means an account in the name of two or more depositors and which contains no provision that the funds of a deceased depositor become the property of the surviving depositor or depositors.

(8) "Joint account with right of survivorship" means an account in the name of two or more depositors and which provides that the funds of a deceased depositor become the property of one or more of the surviving depositors.

(9) "Trust and P.O.D. accounts" means accounts payable on request to a depositor during the depositor's lifetime, and upon the depositor's death to one or more designated beneficiaries, or which are payable to two or more depositors during their lifetimes, and upon the death of all depositors to one or more designated beneficiaries. The term "trust account" does not include deposits by trustees or other fiduciaries where the trust or fiduciary relationship is established other than by a contract of deposit with a financial institution.

(10) "Trust or P.O.D. account beneficiary" means a person or persons, other than a codepositor, who has or have been designated by a depositor or depositors to receive the depositor's funds remaining in an account upon the death of a depositor or all depositors.

(11) "Depositor", when utilized in determining the rights of individuals to funds in an account, means an individual who owns the funds. When utilized in determining the rights of a financial institution to make or withhold payment, and/or to take any other action with regard to funds held under a contract of deposit, "depositor" means the individual or individuals who have the current right to payment of funds held under the contract of deposit without regard to the actual rights of ownership thereof by these individuals. A trust or P.O.D. account beneficiary becomes a depositor only when the account becomes payable to the beneficiary by reason of having survived the depositor or depositors named on the account, depending upon the provisions of the contract of deposit.

(12) "Financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business and accept deposits in this state under state or federal law.

(13) "Depositor's funds" or "funds of a depositor" means the amount of all deposits belonging to or made for the benefit of a depositor, less all withdrawals of the funds by the depositor or by others for the depositor's benefit, plus the depositor's prorated share of any interest or dividends included in the current balance of the account and any proceeds of deposit life insurance added to the account by reason of the death of a depositor.

(14) "Payment(s)" of sums on deposit includes withdrawal, payment by check or other directive of a depositor or his agent, any pledge of sums on deposit by a depositor or his agent, any set-off or reduction or other disposition of all or part of an account balance, and any payments to any person under RCW 30.22.120, 30.22.140, 30.22.150, 30.22.160, 30.22.170, 30.22.180, 30.22.190, 30.22.200, and 30.22.220.

(15) "Proof of death" means a certified or authenticated copy of a death certificate, or photostatic copy thereof, purporting to be issued by an official or agency of the jurisdiction where the death purportedly occurred, or a certified or authenticated copy of a record or report of a governmental agency, domestic or foreign, that a person is dead. In either case, the proofs constitute prima facie proof of the fact, place, date, and time of death, and identity of the

decedent and the status of the dates, circumstances, and places disclosed by the record or report.

(16) "Request" means a request for withdrawal, or a check or order for payment, which complies with all conditions of the account, including special requirements concerning necessary signatures and regulations of the financial institution; but if the financial institution conditions withdrawal or payment on advance notice, for purposes of this chapter the request for withdrawal or payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for withdrawal.

(17) "Withdrawal" means payment to a person pursuant to check or other directive of a depositor.

[1981 c 192 § 4.]

Notes:
Powers of attorney or agent in probate and trust banking transactions: RCW 11.94.030.

RCW 30.22.041 Definitions.

The definitions in this section apply throughout this section and RCW 30.22.240 and 30.22.245.

(1) "Customer" means any person, partnership, limited partnership, corporation, trust, or other legal entity that is transacting or has transacted business with a financial institution, that is using or has used the services of an institution, or for which a financial institution has acted or is acting as a fiduciary.

(2) "Financial institution" means state and national banks and trust companies, state and federal savings banks, state and federal savings and loan associations, and state and federal credit unions.

(3) "Law enforcement officer" means an employee of a public law enforcement agency organized under the authority of a county, city, or town and designated to obtain deposit account information by the chief law enforcement officer of that agency.

[1995 c 186 § 1.]

RCW 30.22.050 Types of accounts which financial institution may establish.

The types of accounts in which funds may be deposited with a financial institution include, but are not limited to, the following:

(1) A single account;

(2) A joint account without right of survivorship;

(3) A joint account with right of survivorship;

(4) An agency account;

(5) A trust or P.O.D. account; and

(6) Any compatible combination of the foregoing.

In each case, the type of account shall be determined by the terms of the contract of deposit between the depositor and the financial institution. The financial institution shall

describe to a potential depositor the various types of accounts available.

[1981 c 192 § 5.]

RCW 30.22.060 Requirements of contract of deposit.

The contract of deposit shall be in writing and signed by all individuals who have a current right to payment of funds from an account. The designation of an agent, or trust or P.O.D. account beneficiary by a depositor of a joint account without right of survivorship, or the designation of an agent by a depositor of a joint account with right of survivorship or by a depositor of a trust or P.O.D. account does not require the signature of a codepositor. A financial institution may insert such additional terms and conditions in a contract of deposit as it deems appropriate.

[1981 c 192 § 6.]

RCW 30.22.070 Accounts of minors and incompetents.

A minor or incompetent may enter into a valid and enforceable contract of deposit with the financial institution and any account in the name of a minor or incompetent shall, in the absence of clear and convincing evidence of a different intention at the time it is created, be held for the exclusive right and benefit of the minor or incompetent free from the control of all other persons.

[1981 c 192 § 7.]

RCW 30.22.080 Accounts of married persons.

A financial institution may enter into a contract of deposit without regard to whether the depositor is married and without regard as to whether the funds on deposit are the community or separate property of the depositor.

[1981 c 192 § 8.]

RCW 30.22.090 Ownership of funds during lifetime of depositor.

Subject to community property rights, during the lifetime of a depositor, or the joint lifetimes of depositors:

(1) Funds on deposit in a single account belong to the depositor.

(2) Funds on deposit in a joint account without right of survivorship and in a joint account with right of survivorship belong to the depositors in proportion to the net funds owned by each depositor on deposit in the account, unless the contract of deposit provides otherwise or there is clear and convincing evidence of a contrary intent at the time the account was created.

(3) Funds on deposit in a trust or P.O.D. account belong to the depositor and not to the trust or P.O.D. account beneficiary or beneficiaries; if two or more depositors are named on the

trust or P.O.D. account, their rights of ownership to the funds on deposit in the account are governed by subsection (2) of this section.

(4) Ownership of funds on deposit in an agency account shall be determined in accordance with subsections (1), (2), and (3) of this section depending upon whether the principal is a depositor on a single account, joint account, joint account with right of survivorship, or trust or P.O.D. account.

[1981 c 192 § 9.]

RCW 30.22.100 Ownership of funds after death of a depositor.

Subject to community property rights and subject to the terms and provisions of any community property agreement, upon the death of a depositor:

(1) Funds which remain on deposit in a single account belong to the depositor's estate.

(2) Funds belonging to a deceased depositor which remain on deposit in a joint account without right of survivorship belong to the depositor's estate, unless the depositor has also designated a trust or P.O.D. account beneficiary of the depositor's interest in the account.

(3) Funds belonging to a deceased depositor which remain on deposit in a joint account with right of survivorship belong to the surviving depositors unless there is clear and convincing evidence of a contrary intent at the time the account was created. If there is more than one individual having right of survivorship, the funds belong equally to the surviving depositors unless the contract of deposit otherwise provides. If there is more than one surviving depositor, the rights of survivorship shall continue between the surviving depositors.

(4) Funds remaining on deposit in a trust or P.O.D. account belong to the trust or P.O.D. account beneficiary designated by the deceased depositor unless the account has also been designated as a joint account with right of survivorship, in which event the funds remaining on deposit in the account do not belong to the trust or P.O.D. account beneficiary until the death of the last surviving depositor and the rights of the surviving depositors shall be determined by subsection (3) of this section. If the deceased depositor has designated more than one trust or P.O.D. account beneficiary, and more than one of the beneficiaries survive the depositor, the funds belong equally to the surviving beneficiaries unless the depositor has specifically designated a different method of distribution in the contract of deposit; if two or more beneficiaries survive, there is no right of survivorship as between them unless the terms of the account or deposit agreement expressly provide for rights of survivorship between the beneficiaries.

(5) Upon the death of a depositor of an agency account, the agency shall terminate and any funds remaining on deposit belonging to the deceased depositor shall become the property of the depositor's estate or such other persons who may be entitled thereto, depending upon whether the account was a single account, joint account, joint account with right of survivorship, or a trust or P.O.D. account.

Any transfers to surviving depositors or to trust or P.O.D. account beneficiaries pursuant to the terms of this section are declared to be effective by reason of the provisions of the account contracts involved and this chapter and are not to be considered as testamentary dispositions.

The rights of survivorship and of trust and P.O.D. account beneficiaries arise from the express terms of the contract of deposit and cannot, under any circumstances, be changed by the will of a depositor.

[1981 c 192 § 10.]

RCW 30.22.110 Controversies between owners.

RCW 30.22.090 and 30.22.100 are intended to establish ownership of funds on deposit in the accounts stated, as between depositors and/or trust or P.O.D. account beneficiaries, and the provisions thereof are relevant only as to controversies between such persons and their creditors, and other successors, and have no bearing on the power of any person to receive payment of funds maintained in the accounts or the right of a financial institution to make payments to any person as provided by the terms of the contract of deposit.

[1981 c 192 § 11.]

RCW 30.22.120 Right to rely on form of account--Discharge of financial institutions.

In making payments of funds deposited in an account, a financial institution may rely conclusively and entirely upon the form of the account and the terms of the contract of deposit at the time the payments are made. A financial institution is not required to inquire as to either the source or the ownership of any funds received for deposit to an account, or to the proposed application of any payments made from an account. Unless a financial institution has actual knowledge of the existence of dispute between depositors, beneficiaries, or other persons claiming an interest in funds deposited in an account, all payments made by a financial institution from an account at the request of any depositor to the account and/or the agent of any depositor to the account in accordance with this section and RCW 30.22.140, 30.22.150, 30.22.160, 30.22.170, 30.22.180, 30.22.190, 30.22.200, and 30.22.220 shall constitute a complete release and discharge of the financial institution from all claims for the amounts so paid regardless of whether or not the payment is consistent with the actual ownership of the funds deposited in an account by a depositor and/or the actual ownership of the funds as between depositors and/or the beneficiaries of P.O.D. and trust accounts, and/or their heirs, successors, personal representatives, and assigns.

[1981 c 192 § 12.]

RCW 30.22.130 Rights as between individuals preserved.

The protection accorded to financial institutions under RCW 30.22.120, 30.22.140, 30.22.150, 30.22.160, 30.22.170, 30.22.180, 30.22.190, 30.22.200, 30.22.210, and 30.22.220 shall have no bearing on the actual rights of ownership to deposited funds by a depositor, and/or between depositors, and/or by and between beneficiaries of trust and P.O.D. accounts, and their heirs, successors, personal representatives, and assigns.

[1981 c 192 § 13.]

RCW 30.22.140 Payment of funds to a depositor.

Payments of funds on deposit in a single account may be made by a financial institution to or for the depositor regardless of whether the depositor is, in fact, the actual owner of the funds. Payments of funds on deposit in an account having two or more depositors may be made by a financial institution to or for any one or more of the depositors named on the account without regard to the actual ownership of the funds by or between the depositors, and without regard to whether any other depositor or depositors so named are deceased or incompetent at the time the payments are made.

[1981 c 192 § 14.]

RCW 30.22.150 Payment to minors and incompetents.

Financial institutions may make payments of funds on deposit in an account established by a depositor who is a minor or incompetent without regard to whether it has actual knowledge of the minority or incompetency of the depositor unless the branch of the financial institution at which the account is maintained has received written notice to withhold payment to the minor or incompetent by the guardian of his estate and had a reasonable opportunity to act upon the notice.

[1981 c 192 § 15.]

RCW 30.22.160 Payment to trust and P.O.D. account beneficiaries.

Financial institutions may pay any funds remaining on deposit in an account to a trust or P.O.D. account beneficiary or beneficiaries when the financial institution has received proofs of death of all depositors to the account who pursuant to the terms of the contract of deposit were required to predecease the beneficiary. If there is more than one trust or P.O.D. account beneficiary, financial institutions shall not, unless the contract of deposit otherwise provides, pay to any one such beneficiary more than that amount which is obtained by dividing the total of the funds on deposit in the account by the number of trust or P.O.D. account beneficiaries.

[1981 c 192 § 16.]

RCW 30.22.170 Payment to agents of depositors.

Any funds on deposit in an account may be paid by a financial institution to or upon the order of any agent of any depositor. The contract of deposit or other document creating such agency may provide, in accordance with chapter 11.94 RCW, that any such agent's powers to receive payments and make withdrawals from an account continues in spite of, or arises by virtue of, the incompetency of a depositor, in which event the agent's powers to make payments

and withdrawals from an account on behalf of a depositor is not affected by the incompetency of a depositor. Except as provided in this section, the authority of an agent to receive payments or make withdrawals from an account terminates with the death or incompetency of the agent's principal: PROVIDED, That a financial institution is not liable for any payment or withdrawal made to or by an agent for a deceased or incompetent depositor unless the financial institution making the payment or permitting the withdrawal had actual knowledge of the incompetency or death at the time payment was made.

[1981 c 192 § 17.]

RCW 30.22.180 Payment to personal representatives.

Financial institutions may pay any funds remaining on deposit in an account which belongs to a deceased depositor to the personal representative of the depositor's estate under any of the following circumstances:

(1) When the decedent was the depositor on a single account; or

(2) When the decedent was a depositor on a joint account without right of survivorship or the only surviving depositor on a joint account with right of survivorship, and has not designated a trust or P.O.D. account beneficiary of the decedent's interest, and the financial institution has received the proofs of death necessary to establish the deaths of the other depositors named on the account; or

(3) When the decedent was a beneficiary of a P.O.D. or trust account and the financial institution has received proofs of death of the beneficiary and all depositors to the account who, pursuant to the terms of the contract of deposit, were required to predecease the beneficiary; or

(4) When consent to the payment has been given in writing by all depositors and beneficiaries of the account; or

(5) When so ordered or directed by a superior court of the state or other court having jurisdiction over the matter.

[1981 c 192 § 18.]

RCW 30.22.190 Payment to heirs and creditors of a deceased depositor.

In each case, where it is provided in RCW 30.22.180 that a financial institution may make payment of funds deposited in an account to the personal representative of the estate of a deceased depositor or beneficiary, the financial institution may make payment of the funds to the following persons under the circumstances provided:

(1) In those instances where the deceased depositor left a surviving spouse, and the deceased depositor and the surviving spouse shall have executed a community property agreement which by its terms would include funds of the deceased depositor remaining in the account, a financial institution may make payment of all funds in the name of the deceased spouse to the surviving spouse upon receipt of a certified copy of the community property agreement as recorded in the office of a county auditor of the state and an affidavit of the surviving spouse that the community property agreement was validly executed and in full force

and effect upon the death of the depositor.

(2) In those instances where the balance of the funds in the name of a deceased depositor does not exceed two thousand five hundred dollars, payment of the decedent's funds remaining in the account may be made to the surviving spouse, next of kin, funeral director, or other creditor who may appear to be entitled thereto upon receipt of proof of death and an affidavit to the effect that no personal representative has been appointed for the deceased depositor's estate. As a condition to the payment, a financial institution may require such waivers, indemnity, receipts, and acquittance and additional proofs as it may consider proper.

(3) In those instances where the person entitled presents an affidavit which meets the requirements of chapter 11.62 RCW.

A person receiving a payment from a financial institution pursuant to subsections (2) and (3) of this section is answerable and accountable therefor to any personal representative of the deceased depositor's estate wherever and whenever appointed.

[1989 c 220 § 3; 1981 c 192 § 19.]

RCW 30.22.200 Payment to foreign personal representative--Release of financial institution.

In each case where it is provided in this chapter that payment may be made to the personal representative of the estate of a deceased depositor or trust or P.O.D. account beneficiary, financial institutions may make payment of the funds on deposit in a deceased depositor's or beneficiary's account to the personal representative of the decedent's estate appointed under the laws of any other state or territory or country after:

(1) At least sixty days have elapsed since the date of the deceased depositor's death; and

(2) Upon receipt of the following:

(a) Proof of death of the deceased depositor or beneficiary;

(b) Proof of the appointment and continuing authority of the personal representative requesting payment;

(c) The personal representative's, or its agent's, affidavit to the effect that to the best of his or her knowledge no personal representative has been or will be appointed under the laws of this state; and

(d) Receipt of either an estate tax release from the department of revenue or the personal representative's, or its agent's, affidavit that the estate is not subject to Washington estate tax. However, if a personal representative of the deceased depositor's or beneficiary's estate is appointed and qualified as such under the laws of this state, and delivers proof of the appointment and qualification to the office or branch of the financial institution in which the deposit is maintained prior to the transmissions of the sums on deposit to the foreign personal representative, then the funds shall be paid to the personal representative of the deceased depositor's or beneficiary's estate who has been appointed and qualified in this state.

(3) The financial institution paying, delivering, transferring, or issuing funds on deposit in a deceased depositor's or beneficiary's account in accordance with the provisions of this section is discharged and released to the same extent as if such person has dealt with a personal

representative of the decedent, unless at the time of such payment, delivery, transfer, or issuance such institution had actual knowledge of the falsity of any statement or affidavit required to be provided under this section. Such institution is not required to see to the application of funds, or to inquire into the truth of any matter specified in any statement or affidavit required to be provided under this section.

[1988 c 29 § 9; 1981 c 192 § 20.]

RCW 30.22.210 Authority to withhold payment.

Nothing contained in this chapter shall be deemed to require any financial institution to make any payment from an account to a depositor, or any trust or P.O.D. account beneficiary, or any other person claiming an interest in any funds deposited in the account, if the financial institution has actual knowledge of the existence of a dispute between the depositors, beneficiaries, or other persons concerning their respective rights of ownerships to the funds contained in, or proposed to be withdrawn, or previously withdrawn from the account, or in the event the financial institution is otherwise uncertain as to who is entitled to the funds pursuant to the contract of deposit. In any such case, the financial institution may, without liability, notify, in writing, all depositors, beneficiaries, or other persons claiming an interest in the account of either its uncertainty as to who is entitled to the distributions or the existence of any dispute, and may also, without liability, refuse to disburse any funds contained in the account to any depositor, and/or trust or P.O.D. account beneficiary thereof, and/or other persons claiming an interest therein, until such time as either:

(1) All such depositors and/or beneficiaries have consented, in writing, to the requested payment; or

(2) The payment is authorized or directed by a court of proper jurisdiction.

[1981 c 192 § 21.]

RCW 30.22.220 Adverse claim bond.

Notwithstanding RCW 30.22.210, a financial institution may, without liability, pay or permit withdrawal of any funds on deposit in an account to a depositor and/or agent of a depositor and/or trust or P.O.D. account beneficiary, and/or other person claiming an interest therein, even when the financial institution has actual knowledge of the existence of the dispute, if the adverse claimant shall execute to the financial institution, in form and with security acceptable to it, a bond in an amount which is double either the amount of the deposit or the adverse claim, whichever is the lesser, indemnifying the financial institution from any and all liability, loss, damage, costs, and expenses, for and on account of the payment of the adverse claim or the dishonor of the check or other order of the person in whose name the deposit stands on the books of the financial institution: PROVIDED, That where the person in whose name the deposit stands is a fiduciary for the adverse claimant, and the facts constituting such relationship, and also the facts showing reasonable cause of belief on the part of the claimant that the fiduciary is about to misappropriate the deposit, are made to appear by the affidavit of the

claimant, the financial institution shall, without liability, refuse to deliver the property for a period of not more than five business days from the date that the financial institution receives the adverse claimant's affidavit, without liability for the sufficiency or truth of the facts alleged in the affidavit, after which time the claim shall be treated as any other claim under this section.

[1981 c 192 § 22.]

RCW 30.22.230 Authority to charge a customer for furnishing items or copies of items.

A financial institution may charge a customer for furnishing items or copies of items as defined in RCW 62A.4-104, in excess of the number of free items or copies of items provided for in RCW 62A.4-406(b), fifty cents per copy furnished plus fees for retrieval at a rate not to exceed the rate assessed when complying with summons issued by the Internal Revenue Service.

[1993 c 229 § 118.]

Notes:

Recovery of attorneys' fees--Effective date--1993 c 229: See RCW 62A.11-111 and 62A.11-112.

RCW 30.22.240 Records--Disclosure--Requests by law enforcement--Fees.

(1) If a financial institution discloses information in good faith concerning its customer or customers in accordance with this section, it shall not be liable to its customers or others for such disclosure or its consequences. Good faith will be presumed if the financial institution follows the procedures set forth in this section.

(2) A request for financial records made by a law enforcement officer shall be submitted to the financial institution in writing stating that the officer is conducting a criminal investigation of actual or attempted withdrawals from an account at the institution and that the officer reasonably believes a statutory notice of dishonor has been given pursuant to RCW 62A.3-515, fifteen days have elapsed, and the item remains unpaid. The request shall include the name and number of the account and be accompanied by a copy of:

(a) The front and back of at least one unpaid check or draft drawn on the account that has been presented for payment no fewer than two times or has been drawn on a closed account; and

(b) A statement of the dates or time period relevant to the investigation.

(3) To the extent permitted by federal law, under subsection (2) of this section a financial institution shall within a reasonable time disclose to a requesting law enforcement officer so much of the following information as has been requested concerning the account upon which the dishonored check or draft was drawn, to the extent the records can be located:

(a) The date the account was opened; the details and amount of the opening deposit to the account; and if closed, the reason the account was closed, the date the account was closed, and balance at date of closing;

(b) A copy of the statements of the account for the relevant period including dates under investigation and the preceding and following thirty days and the closing statement, if the account was closed;

(c) A copy of the front and back of the signature card; and

(d) If the account was closed by the financial institution, the name of the person notified of its closing and a copy of the notice of the account's closing and whether such notice was returned undelivered.

(4) Financial institutions may charge requesting parties a reasonable fee for the actual costs of providing services under this chapter. These fees may not exceed rates charged to federal agencies for similar requests. In the event an investigation results in conviction, the court may order the defendant to pay costs incurred by law enforcement under chapter 186, Laws of 1995.

[1995 c 186 § 2.]

RCW 30.22.245 Records--Admission as evidence--Certificate.

Records obtained pursuant to this chapter shall be admitted as evidence in all courts of this state, under Washington rule of evidence 902, when accompanied by a certificate substantially in the following form:

CERTIFICATE

1. The accompanying documents are true and correct copies of the records of [name of financial institution]. The records were made in the regular course of business of the financial institution at or near the time of the acts, events, or conditions which they reflect.
2. They are produced in response to a request made under RCW 30.22.240.
3. The undersigned is authorized to execute this certificate. I CERTIFY, under penalty of perjury under the laws of the State of Washington, that the foregoing statements are true and correct.

Date	Signature
Place of Signing	Type or Print Name/ Title/Telephone No.

[1995 c 186 § 3.]

RCW 30.22.250 No duty to request information.

RCW 9.38.015 does not create a duty for financial institutions to request the information set forth in RCW 9.38.015(1).

[1995 c 186 § 5.]

RCW 30.22.900 Effective date--1981 c 192.

This act shall take effect on July 1, 1982.

[1981 c 192 § 34.]

RCW 30.22.901 Severability--1995 c 186.

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

[1995 c 186 § 7.]

Chapter 30.24 RCW
INVESTMENT OF TRUST FUNDS

Sections

30.24.080 Securities in default ineligible.

Notes:

Fiduciary bonds, premium as lawful expense: RCW 48.28.020.
Investment of trust funds generally: Chapter 11.100 RCW.
Release of powers of appointment: Chapter 11.95 RCW.

RCW 30.24.080 Securities in default ineligible.

Nothing in this chapter shall be construed as authorizing any fiduciary to invest funds held in trust, in any bonds, mortgages, notes or other securities, during any default in payment of either principal or interest thereof.

[1955 c 33 § 30.24.080. Prior: 1947 c 100 § 8; 1941 c 41 § 16; Rem. Supp. 1947 § 3255-16.]

Chapter 30.32 RCW
DEALINGS WITH FEDERAL LOAN AGENCIES

Sections

30.32.010 Membership in federal reserve system--Investment in stock of Federal Deposit Insurance Corporation.
30.32.020 Investment in federal home loan bank stock or bonds.
30.32.030 May borrow from home loan bank.

30.32.040 Federal home loan bank as depositary.

RCW 30.32.010 Membership in federal reserve system--Investment in stock of Federal Deposit Insurance Corporation.

Any bank, trust company or mutual savings bank may become a member of the federal reserve system of the United States and to that end may comply with all laws of the United States and all rules, regulations and requirements promulgated pursuant thereto, including the investment of its funds in the stock of a federal reserve bank; and any bank, trust company or mutual savings bank, whether a member of the federal reserve system or not, may invest its funds in the stock of the Federal Deposit Insurance Corporation created by the act of congress approved June 16, 1933, and may participate in the insurance of bank deposits and obligate itself for the cost of such participation by assessments or otherwise in accordance with the laws of the United States.

[1955 c 33 § 30.32.010. Prior: 1933 ex.s. c 9 § 1; RRS § 3235-1.]

RCW 30.32.020 Investment in federal home loan bank stock or bonds.

Any savings and loan association, building and loan association, bank, trust company, savings bank, or mutual savings bank may become a member of and invest its funds in the bonds and/or the capital stock of a federal home loan bank, and vote such stock in the manner prescribed by its board of directors.

[1955 c 33 § 30.32.020. Prior: 1933 c 105 § 1; RRS § 3294-1.]

RCW 30.32.030 May borrow from home loan bank.

Any such bank, trust company, insurance company, or association, may borrow from any home loan bank and as security for borrowing may pledge therewith the notes, mortgages, trust deeds which it holds as shall be required by federal law, and under such rules and regulations as shall be adopted by a federal home loan bank.

[1955 c 33 § 30.32.030. Prior: 1933 c 105 § 2; RRS § 3294-2.]

RCW 30.32.040 Federal home loan bank as depositary.

Any such bank, trust company, insurance company or association, may designate a federal home loan bank as a depositary for its funds.

[1955 c 33 § 30.32.040. Prior: 1933 c 105 § 3; RRS § 3294-3.]

Chapter 30.36 RCW

CAPITAL NOTES OR DEBENTURES

Sections

30.36.010 Definitions.
30.36.020 Issuance and sale--Status--Conversion rights.
30.36.030 Stock at less than par--Impairment.
30.36.040 Impairment to be corrected before retirement of notes or debentures.
30.36.050 Not subject to assessments--Liability of holders.

RCW 30.36.010 Definitions.

Capital notes or debentures, where used in this chapter, shall mean notes or other obligations issued by a bank, trust company or mutual savings bank, for money obtained and used as additional capital or to replace impaired capital stock: PROVIDED, Such notes or other obligations are subordinate to the rights of depositors and other creditors.

The term "capital" where used in this chapter shall mean capital stock and/or capital notes.

[1955 c 33 § 30.36.010. Prior: 1935 c 42 § 1; RRS § 3295-1.]

RCW 30.36.020 Issuance and sale--Status--Conversion rights.

With the approval of the director, any bank, trust company or mutual savings bank may at any time, through action of its board of directors or trustees, issue and sell its capital notes or debentures. Such capital notes or debentures shall be subordinate to the claims of depositors and other creditors. The holders of capital notes or debentures issued by a bank or trust company shall have such conversion rights as may be provided in the articles of incorporation with the approval of the director.

[1994 c 92 § 76; 1979 c 106 § 5; 1955 c 33 § 30.36.020. Prior: 1935 c 42 § 2; RRS 3295-2.]

RCW 30.36.030 Stock at less than par--Impairment.

Where any bank, trust company or mutual savings bank has issued and has outstanding capital notes or debentures, it may carry its capital stock on its books at a sum less than par, and it shall not be considered impaired so long as the amount of such capital notes or debentures equals or exceeds the impairment as found by the director.

[1994 c 92 § 77; 1955 c 33 § 30.36.030. Prior: 1935 c 42 § 3; RRS § 3295-3.]

RCW 30.36.040 Impairment to be corrected before retirement of notes or debentures.

Before such capital notes or debentures are retired or paid by the bank, trust company or mutual savings bank, any existing impairment of its capital stock must be overcome or corrected to the satisfaction of the director.

[1994 c 92 § 78; 1955 c 33 § 30.36.040. Prior: 1935 c 42 § 4; RRS § 3295-4.]

RCW 30.36.050 Not subject to assessments--Liability of holders.

Such capital notes or debentures shall in no case be subject to any assessment. The holders of such capital notes or debentures shall not be held individually responsible, as such holders, for any debts, contracts or engagements of such institution, and as such holders, shall not be held liable for assessments to restore impairments in the capital of such institution.

[1955 c 33 § 30.36.050. Prior: 1935 c 42 § 5; RRS § 3295-5.]

Chapter 30.38 RCW
INTERSTATE BANKING

Sections

30.38.005 Definitions.
30.38.010 Out-of-state bank may engage in banking in this state--Conditions--Director's approval of interstate combination.
30.38.020 Out-of-state bank with host branches--Relocation of head office--Reincorporation--Application--Director's approval required.
30.38.030 Out-of-state bank may maintain and operate branches--Powers and authorities.
30.38.040 Examinations of any branch of an out-of-state state bank--Reporting requirements for any branch of an out-of-state bank--Supervisory agreements--Joint examinations or enforcement actions--Assessments.
30.38.050 Branch of out-of-state state bank--Violations--Unsafe and unsound operations--Enforcement actions--Notice to home state regulator.
30.38.060 Rules.
30.38.070 Out-of-state state bank becomes resulting bank--Branches in this state--RCW 30.49.125(5) does not apply--When established and maintained--Notice to director.
30.38.080 Application of Washington laws--Declaration of invalidity.
30.38.900 Severability--1996 c 2.

RCW 30.38.005 Definitions.

As used in this chapter, unless a different meaning is required by the context, the following words and phrases have the following meanings:

(1) "Bank" means any national bank, state bank, and district bank, as those terms are defined in 12 U.S.C. Sec. 1813(a).

(2) "Bank holding company" has the meaning set forth in 12 U.S.C. Sec. 1841(a)(1).

(3) "Bank supervisory agency" means:

(a) Any agency of another state with primary responsibility for chartering and supervising banks; and

(b) The office of the comptroller of the currency, the federal deposit insurance

corporation, the board of governors of the federal reserve system, and any successor to these agencies.

(4) "Control" shall be construed consistently with the provisions of 12 U.S.C. Sec. 1841(a)(2).

(5) "Home state" means with respect to a:

(a) State bank, the state by which the bank is chartered; or

(b) National bank, the state in which the main office of the bank is located under federal law.

(6) "Home state regulator" means, with respect to an out-of-state state bank, the bank supervisory agency of the state in which the bank is chartered.

(7) "Host state" means a state, other than the home state of a bank, in which the bank maintains, or seeks to establish and maintain a branch.

(8) "Interstate combination" means the:

(a) Merger or consolidation of banks with different home states, and the conversion of branches of any bank involved in the merger or consolidation into branches of the resulting bank; or

(b) Purchase of all or substantially all of the assets, including all or substantially all of the branches, of a bank whose home state is different from the home state of the acquiring bank.

(9) "Out-of-state bank" means a bank whose home state is a state other than Washington.

(10) "Out-of-state state bank" means a bank chartered under the laws of any state other than Washington.

(11) "Resulting bank" means a bank that has resulted from an interstate combination under this chapter.

(12) "State" means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(13) "Washington bank" means a bank whose home state is Washington.

(14) "Washington state bank" means a bank organized under Washington banking law.

[1996 c 2 § 10.]

RCW 30.38.010 Out-of-state bank may engage in banking in this state--Conditions--Director's approval of interstate combination.

(1) An out-of-state bank may engage in banking in this state without violating RCW 30.04.280 only if the conditions and filing requirements of this chapter are met and the bank was lawfully engaged in banking in this state on June 6, 1996, or resulted from an interstate combination pursuant to RCW 30.49.125 or 32.32.500, or resulted from a relocation of a head office of a state bank pursuant to 12 U.S.C. Sec. 30 and RCW 30.04.215(3), or resulted from a relocation of a main office of a national bank pursuant to 12 U.S.C. Sec. 30, or from the establishment of a branch of a savings bank in compliance with RCW 32.04.030(2). Nothing in this section affects the authorities of alien banks as defined by RCW 30.42.020 to engage in banking within this state.

(2) The director, consistent with 12 U.S.C. Sec. 1831u(b)(2)(D), may approve an interstate combination if the standard on which the approval is based does not discriminate against out-of-state banks, out-of-state bank holding companies, or subsidiaries of those banks or holding companies.

[1996 c 2 § 11.]

RCW 30.38.020 Out-of-state bank with host branches--Relocation of head office--Reincorporation--Application-- Director's approval required.

An out-of-state bank with host branches in this state may relocate its head office in Washington and reincorporate as a Washington state bank if the director finds that the bank meets the standards as to capital structures, operations, business experience, and character of officers and directors, and the bank follows the procedures specified in this section.

The bank shall file with the director on a form prescribed by the director, an application to relocate its head office to Washington. Within six months upon acceptance of a complete application, the director shall notify the bank to file, in triplicate, an executed and acknowledged certificate of reincorporation signed by a majority of the entire board of directors that at least two-thirds of each class of voting stock of the bank entitled to vote thereon has approved the: (1) Head office relocation; (2) change to a Washington state bank; and (3) new articles of incorporation.

Within thirty days after receipt of the certificate and articles, the director shall endorse upon each of the triplicate copies, over the director's official signature, the word "approved" or the word "refused," with the date of the endorsement. In case of refusal the director shall immediately return one of the triplicates, so endorsed, together with a statement explaining the reason for refusal to the bank from whom the certificate and articles were received. The refusal shall be conclusive, unless the bank, within ten days of the issuance of the notice of refusal, requests a hearing under chapter 34.05 RCW.

[1996 c 2 § 12.]

RCW 30.38.030 Out-of-state bank may maintain and operate branches--Powers and authorities.

(1) If authorized to engage in banking in this state under RCW 30.38.010, an out-of-state bank may maintain and operate the branches in Washington of a Washington bank with which the out-of-state bank or its predecessors engaged in an interstate combination.

(2) The out-of-state bank may establish or acquire and operate additional branches in Washington to the same extent that any Washington bank may establish or acquire and operate a branch in Washington under applicable federal and state law.

(3) The out-of-state state bank may, at such branches, unless otherwise limited by the bank's home state law, exercise any powers and authorities that are authorized under the laws of this state for Washington state banks.

(4) The out-of-state state bank may, at these branches, exercise additional powers and

authorities that are authorized under the laws of its home state, only if the director determines in writing that the exercise of the additional powers and authorities in this state will not threaten the safety and soundness of banks in this state and serves the convenience and needs of Washington consumers. Washington state banks also may exercise the powers and authorities under RCW 30.08.140(16) or 32.08.140(15).

[1996 c 2 § 13.]

RCW 30.38.040 Examinations of any branch of an out-of-state state bank--Reporting requirements for any branch of an out-of-state bank--Supervisory agreements--Joint examinations or enforcement actions--Assessments.

(1) The director may make examinations of any branch in this state of an out-of-state state bank as the director deems necessary to determine whether the branch is being operated in compliance with the laws of this state or is conducting its activities in accordance with safe and sound banking practices. The provisions applicable to examinations and sharing of information of Washington state banks shall apply to these examinations.

(2) The director may prescribe requirements for reports regarding any branches of an out-of-state bank that operates a branch in Washington pursuant to this chapter. The required reports shall be provided by the bank or by the bank supervisory agency having primary responsibility for the bank. Any reporting requirements prescribed by the director under this subsection shall be consistent with the reporting requirements applicable to Washington state banks and appropriate for the purpose of enabling the director to carry out his or her responsibilities under this chapter.

(3) The director may enter into supervisory agreements with any bank supervisory agency that has concurrent jurisdiction over a Washington state bank or an out-of-state state bank operating a branch in this state pursuant to this chapter to engage the services of that agency's examiners at a reasonable rate of compensation, or to provide the services of the director's examiners to that agency at a reasonable rate of compensation. These contracts are exempt from the requirements of chapter 39.29 RCW. The director also may enter into supervisory agreements with other appropriate bank supervisory agencies and the bank to prescribe the applicable laws governing powers and authorities, including but not limited to corporate governance and operational matters, of Washington branches of an out-of-state bank chartered by another state or out-of-state branches of a Washington state bank. The supervisory agreement may resolve conflict of laws among home and host states and specify the manner in which the examination, supervision, and application processes shall be coordinated among the home and host states.

(4) The director may enter into joint examinations or joint enforcement actions with other bank supervisory agencies having concurrent jurisdiction over any branch in Washington of an out-of-state state bank or any branch of a Washington state bank in any host state. The director also may at any time take action independently if the director deems it necessary or appropriate to carry out his or her responsibilities under this chapter or to ensure compliance with the laws of this state. However, in the case of an out-of-state state bank, the director shall recognize the

exclusive authority of the home state regulator over corporate governance and operational matters and the primary responsibility of the home state regulator with respect to safety and soundness matters, unless otherwise specified in the supervisory agreement executed pursuant to this section.

(5) Each out-of-state state bank that maintains one or more branches in this state may be assessed and, if assessed, shall pay supervisory and examination fees in accordance with the laws of this state and rules of the director. The director is authorized to enter into agreements to share fees with other bank supervisory agencies or any organization affiliated with or representing one or more bank supervisory agencies.

[1996 c 2 § 14.]

RCW 30.38.050 Branch of out-of-state state bank--Violations--Unsafe and unsound operations--Enforcement actions--Notice to home state regulator.

If the director determines that a branch maintained by an out-of-state state bank in this state is being operated in violation of the laws of this state, or that the branch is being operated in an unsafe and unsound manner, the director has the authority to take all enforcement actions he or she would be empowered to take if the branch were a Washington state bank. However, the director shall promptly give notice to the home state regulator of each enforcement action taken against an out-of-state state bank and, to the extent practicable, shall consult and cooperate with the home state regulator in pursuing and resolving the enforcement action.

[1996 c 2 § 15.]

RCW 30.38.060 Rules.

The director may adopt those rules necessary to implement chapter 2, Laws of 1996.

[1996 c 2 § 16.]

RCW 30.38.070 Out-of-state state bank becomes resulting bank--Branches in this state--RCW 30.49.125(5) does not apply--When established and maintained--Notice to director.

(1) Any out-of-state state bank that will be the resulting bank pursuant to an interstate combination involving any bank with branches in Washington, if RCW 30.49.125(5) does not apply, shall notify the director of the proposed combination not later than three days after the date of filing of an application for the combination with the responsible federal bank supervisory agency, and shall submit a copy of the application to the director and pay applicable application fees, if any, required by the director. In lieu of notice from the out-of-state state bank the director may accept notice from the bank's home state regulator. The director has the authority to waive any procedures required by Washington merger laws if the director finds that the provision is in conflict with the applicable federal law or in conflict with the applicable law of the state of the

resulting bank.

(2) An out-of-state state bank that has established and maintains a branch in this state pursuant to this chapter shall give at least thirty days' prior written notice or, in the case of an emergency transaction, shorter notice as is consistent with the applicable state or federal law, to the director of any transaction that would cause a change of control with respect to the bank or any bank holding company that controls the bank, with the result that an application would be required to be filed pursuant to the federal change in bank control act of 1978, as amended, 12 U.S.C. Sec. 1817(j), or the federal bank holding company act of 1956, as amended, 12 U.S.C. Sec. 1841 et seq., or any successor statutes. In lieu of notice from the out-of-state state bank the director may accept notice from the bank's home state regulator.

[1996 c 2 § 17.]

RCW 30.38.080 Application of Washington laws--Declaration of invalidity.

(1) The laws of Washington applicable to Washington state banks regarding community reinvestment, consumer protection, fair lending, and the establishment of intrastate branches apply to any branch in Washington of an out-of-state national bank or out-of-state state bank to the same extent as Washington laws apply to a Washington state bank. In lieu of taking action directly against an out-of-state state bank to enforce compliance with these Washington laws on host state branches, the director may refer action to the home state regulator, but the director retains enforcement powers to ensure that compliance is satisfactory to the director.

(2) Any host state branch of a Washington state bank shall comply with all applicable host state laws concerning community reinvestment, consumer protection, fair lending, and the establishment of intrastate branches.

(3) In the event that the responsible federal chartering authority, pursuant to applicable federal law, or in the event a court of competent jurisdiction declares that any Washington state law is invalid with respect to an out-of-state or national bank, that Washington state law is also invalid with respect to Washington state banks and to host branches of out-of-state state banks to that same extent. The director may, from time to time, publish by rule Washington state laws that have been found invalidated pursuant to federal law and procedures. This subsection does not impair, in any manner, the authority of the state attorney general to enforce antitrust laws applicable to banks, bank holding companies, or affiliates of those banks or bank holding companies.

[1996 c 2 § 18.]

RCW 30.38.900 Severability--1996 c 2.

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

[1996 c 2 § 32.]

Chapter 30.42 RCW
ALIEN BANKS

Sections

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30.42.900 Severability--1973 1st ex.s. c 53.

RCW 30.42.010 Purpose.

The purpose of this chapter is to establish a legal and regulatory framework for operation by alien banks in the state of Washington that will:

(1) Create a financial climate which will benefit the economy of the state of Washington;

(2) Provide a well regulated and supervised financial system to assist the movement of foreign capital into Washington state for the support and diversification of the local industrial base;

(3) Assist the development of the economy of the state of Washington without disrupting business relationships of state and federal financial institutions.

[1973 1st ex.s. c 53 § 1.]

RCW 30.42.020 Definitions.

For the purposes of this chapter, the following terms shall be defined as follows:

(1) "Alien bank" means a bank organized under the laws of a foreign country and having its principal place of business in that country, the majority of the beneficial ownership and control of which is vested in citizens of countries other than the United States of America.

(2) "Office" means a branch or agency of an alien bank carrying on business in this state pursuant to this chapter.

(3) "Branch" means an office of an alien bank that is exercising the powers authorized by RCW 30.42.105, 30.42.115, and 30.42.155.

(4) "Agency" means an office of an alien bank that is exercising the powers authorized by RCW 30.42.180.

(5) "Bureau" means an alien bank's operation in this state exercising the powers authorized by RCW 30.42.230.

[1994 c 92 § 80; 1983 c 3 § 48; 1973 1st ex.s. c 53 § 2.]

RCW 30.42.030 Authorization and compliance with chapter required.

An alien bank shall not establish and operate an office or bureau in this state unless it is authorized to do so by the director and unless it first complies with all of the provisions of this chapter and then only to the extent expressly permitted by this chapter.

[1994 c 92 § 81; 1973 1st ex.s. c 53 § 3.]

RCW 30.42.040 More than one office prohibited.

An alien bank shall not be permitted to have more than one office in this state.

[1973 1st ex.s. c 53 § 4.]

RCW 30.42.050 Acquisition or serving on board of directors or trustees of other financial institutions prohibited.

An alien bank shall not take over or acquire an existing federal or state-chartered bank, trust company, mutual savings bank, savings and loan association, or credit union or any branch of any such bank, trust company, mutual savings bank, savings and loan association, or credit union in this state; nor shall any designee, officer, agent or employee of an alien bank serve on the board of directors of any federal or state bank, trust company, savings and loan association, or credit union, or the board of trustees of a mutual savings bank.

[1973 1st ex.s. c 53 § 5.]

RCW 30.42.060 Conditions to be met before opening office in state.

An alien bank shall not hereafter open an office in this state until it has met the following conditions:

(1) It has filed with the director an application in such form and containing such information as shall be prescribed by the director.

(2) It has designated the director by a duly executed instrument in writing, its agent, upon whom process in any action or proceeding arising out of a transaction with the Washington office may be served. Such service shall have the same force and effect as if the alien bank were a Washington corporation and had been lawfully served with process within the state. The director shall forward by mail, postage prepaid, a copy of every process served upon him or her under the provisions of this subdivision, addressed to the manager or agent of such bank at its office in this state.

(3) It has allocated and assigned to its office within this state paid-in capital of not less than two hundred thousand dollars or such larger amounts as the director in his or her discretion may require.

(4) It has filed with the director a letter from its chief executive officer guaranteeing that the alien bank's entire capital and surplus is and shall be available for all liabilities and obligations of its office doing business in this state.

(5) It has paid the fees required by law and established by the director pursuant to RCW 30.08.095.

(6) It has received from the director his or her certificate authorizing the transaction of business in conformity with this chapter.

[1994 c 92 § 82; 1973 1st ex.s. c 53 § 6.]

RCW 30.42.070 Allocated paid-in capital--Requirements.

The capital allocated as required in RCW 30.42.060(3) shall be maintained within this state at all times in cash or in director approved interest bearing bonds, notes, debentures, or other obligations: (1) Of the United States or of any agency or instrumentality thereof, or guaranteed by the United States; or (2) of this state, or of a city, county, town, or other municipal corporation, or instrumentality of this state or guaranteed by this state, or such other assets as the director may approve. Such capital shall be deposited with a bank qualified to do business in and having its principal place of business within this state, or in a national bank qualified to engage

in banking in this state. Such bank shall issue a written receipt addressed and delivered to the director reciting that such deposit is being held for the sole benefit of the United States domiciled creditors of such alien bank's Washington office and that the same is subject to his or her order without offset for the payment of such creditors. For the purposes of this section, the term "creditor" shall not include any other offices, branches, subsidiaries, or affiliates of such alien bank. Subject to the approval of the director, reasonable arrangements may be made for substitution of securities. So long as it shall continue business in this state in conformance with this chapter and shall remain solvent, such alien bank shall be permitted to collect all interest and/or income from the assets constituting such allocated capital.

Should any securities so depreciate in market value and/or quality as to reduce the deposit below the amount required, additional money or securities shall be deposited promptly in amounts sufficient to meet such requirements. The director may make an investigation of the market value and of the quality of any security deposited at the time such security is presented for deposit or at any time thereafter. The director may make such charge as may be reasonable and proper for such investigation.

[1994 c 92 § 83; 1982 c 95 § 1; 1979 c 106 § 6; 1973 1st ex.s. c 53 § 7.]

Notes:

Effective date--1982 c 95: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1982." [1982 c 95 § 9.]

RCW 30.42.080 Separate assets--Books and records--Priority as to assets.

Every alien bank maintaining an office in this state shall keep the assets of its Washington office entirely separate and apart from the assets of its other operations as though the Washington office was conducted as a separate and distinct entity. Every such alien bank shall keep separate books of account and records for its Washington office and shall observe with respect to such office the applicable requirements of this chapter and the applicable rules and regulations of the director. The United States domiciled creditors of such alien bank's Washington office shall be entitled to priority with respect to the assets of its Washington office before such assets may be used or applied for the benefit of its other creditors or transferred to its general business.

[1994 c 92 § 84; 1973 1st ex.s. c 53 § 8.]

RCW 30.42.090 Approval of application--Criteria--Reciprocity.

The director may give or withhold his or her approval of an application by an alien bank to establish an office in this state at his or her discretion. The director's decision shall be based on the information submitted to his or her office in the application required by RCW 30.42.060 and such additional investigation as the director deems necessary or appropriate. Prior to granting approval to said application, the director shall have ascertained to his or her satisfaction that all of the following are true:

(1) The proposed location offers a reasonable promise of adequate support for the proposed office;

(2) The proposed office is not being formed for other than legitimate objects;

(3) The proposed officers of the proposed office have sufficient banking experience and ability to afford reasonable promise of successful operation;

(4) The reputation and financial standing of the alien bank is such as to command the confidence and warrant belief that the business of the proposed office will be conducted honestly and efficiently in accordance with the intent and purpose of this chapter, as set forth in RCW 30.42.010;

(5) The principal purpose of establishing such office shall be within the intent of this chapter.

The director shall not grant an application for an office of an alien bank unless the law of the foreign country under which laws the alien bank is organized permits a bank with its principal place of business in this state to establish in that foreign country a branch, agency or similar operation.

[1994 c 92 § 85; 1973 1st ex.s. c 53 § 9.]

RCW 30.42.100 Notice of approval--Filing--Time period for commencing business.

If the director approves the application, he or she shall notify the alien bank of his or her approval and shall file certified copies of its charter, certificate or other authorization to do business with the secretary of state. Upon such filing, the director shall issue a certificate of authority stating that the alien bank is authorized to conduct business through a branch or agency in this state at the place designated in accordance with this chapter. Each such certificate shall be conspicuously displayed at all times in the place of business specified therein.

The office of the alien bank must commence business within six months after the issuance of the director's certificate: PROVIDED, That the director for good cause shown may extend such period for an additional time not to exceed three months.

[1994 c 92 § 86; 1985 c 305 § 7; 1973 1st ex.s. c 53 § 10.]

RCW 30.42.105 Power to make loans and to guarantee obligations.

An approved branch of an alien bank shall have the same power to make loans and guarantee obligations as a state bank chartered pursuant to Title 30 RCW: PROVIDED, HOWEVER, That the base for computing the applicable loan limitation shall be the entire capital and surplus of the alien bank. The director may adopt rules limiting the amount of loans to full-time employees of the branch.

[1994 c 92 § 87; 1982 c 95 § 4.]

Notes:

Effective date--1982 c 95: See note following RCW 30.42.070.

RCW 30.42.115 Solicitation and acceptance of deposits.

(1) Any branch of an alien bank that received approval of its branch application pursuant to RCW 30.42.090, or that had filed its branch application pursuant to RCW 30.42.060, on or before July 27, 1978, and any approved branch of an alien bank that has designated Washington as its home state pursuant to section 5 of the International Banking Act of 1978, shall have the same power to solicit and accept deposits as a state bank chartered pursuant to Title 30 RCW, except that acceptance of initial deposits of less than one hundred thousand dollars shall be limited to deposits of the following:

(a) Any business entity, including any corporation, partnership, association, or trust, that engages in commercial activity for profit: PROVIDED, That there shall be excluded from this category any such business entity that is organized under the laws of any state or the United States, is majority-owned by United States citizens or residents, and has total assets, including assets of majority owned subsidiaries, of less than one million five hundred thousand dollars as of the date of the initial deposit;

(b) Any governmental unit, including the United States government, any state government, any foreign government and any political subdivision or agency of the foregoing;

(c) Any international organization which is composed of two or more nations;

(d) Any draft, check, or similar instrument for the transmission of funds issued by the branch;

(e) Any depositor who is not a citizen of the United States and who is not a resident of the United States at the time of the initial deposit;

(f) Any depositor who established a deposit account on or before July 1, 1982, and who has continuously maintained the deposit account since that date: PROVIDED, That this subparagraph (f) of this subsection shall be effective only until July 1, 1985;

(g) Any other person: PROVIDED, That the amount of deposits under this subparagraph (g) of this subsection may not exceed four percent of the average of the branch's deposits for the last thirty days of the most recent calendar quarter, excluding deposits in the branch of other offices, branches, agencies, or wholly owned subsidiaries of the alien bank.

(2) As used in subsection (1) of this section, "initial deposit" means the first deposit transaction between a depositor and the branch. Different deposit accounts that are held by a depositor in the same right and capacity may be added together for purposes of determining the dollar amount of that depositor's initial deposit.

(3) Approved branches of alien banks, other than those described in subsection (1) of this section, may solicit and accept deposits only from foreign governments and their agencies and instrumentalities, persons, or entities conducting business principally at their offices or establishments abroad, and such other deposits that:

(a) Are to be transmitted abroad;

(b) Consist of collateral or funds to be used for payment of obligations to the branch;

(c) Consist of the proceeds of collections abroad that are to be used to pay for exported or imported goods or for other costs of exporting or importing or that are to be periodically transferred to the depositor's account at another financial institution;

(d) Consist of the proceeds of extensions of credit by the branch; or

(e) Represent compensation to the branch for extensions of credit or services to the customer.

(4) A branch may accept deposits, subject to the limitations set forth in subsections (1) and (3) of this section, only upon the same terms and conditions (including nature and extent of such deposits, withdrawal, and the payment of interest thereon) that banks organized under the laws of this state which are members of the Federal Reserve System may accept such deposits. Any branch that is not subject to reserve requirements under regulations of the Federal Reserve Board shall maintain deposit reserves in this state, pursuant to rules adopted by the director, to the same extent they must be maintained by banks organized under the laws of this state which are members of the Federal Reserve System.

[1994 c 92 § 88; 1985 c 305 § 8; 1982 c 95 § 6.]

Notes:

Effective date--1982 c 95: See note following RCW 30.42.070.

RCW 30.42.120 Requirements for accepting deposits or transacting business.

A branch shall not commence to transact in this state the business of accepting deposits or transact such business thereafter unless it has met the following requirements:

(1) It has obtained federal deposit insurance corporation insurance covering its eligible deposit liabilities within this state, or in lieu thereof, made arrangements satisfactory to the director for maintenance within this state of additional capital equal to not less than five percent of its deposit liabilities, computed on the basis of the average daily net deposit balances covering semimonthly periods as prescribed by the director. Such additional capital shall be deposited in the manner provided in RCW 30.42.070.

(2) It holds in this state currency, bonds, notes, debentures, drafts, bills of exchange, or other evidences of indebtedness or other obligations payable in the United States or in United States funds or, with the approval of the director, in funds freely convertible into United States funds or such other assets as are approved by the director, in an amount not less than one hundred percent of the aggregate amount of liabilities of such alien bank payable at or through its office in this state. When calculating the value of the assets so held, credit shall be given for the amounts deposited pursuant to RCW 30.42.060(3) and 30.42.120(1), but there shall be excluded all amounts due from the head office and any other branch, agency, or other office or wholly-owned subsidiary of the bank, except those amounts due from such offices or subsidiaries located within the United States and payable in United States dollars.

(3) If deposits are not insured by the federal deposit insurance corporation, then that fact shall be disclosed to all depositors pursuant to rules of the director.

(4) If the branch conducts an international banking facility, the deposits of which are exempt from reserve requirements of the federal reserve banking system, the liabilities of that facility shall be excluded from the deposit and other liabilities of the branch for the purposes of subsection (1) of this section.

[1994 c 92 § 89; 1982 c 95 § 2; 1975 1st ex.s. c 285 § 2; 1973 1st ex.s. c 53 § 12.]

Notes:

Effective date--1982 c 95: See note following RCW 30.42.070.

RCW 30.42.130 Taking possession by director--Reasons--Disposition of deposits--Claims--Priorities.

The director may take possession of the office of an alien bank for the reasons stated and in the manner provided in chapter 30.44 RCW. Upon the director taking such possession of a branch, no deposit liabilities of which are insured by the federal deposit insurance corporation, the amounts deposited pursuant to RCW 30.42.120(1) shall thereupon become the property of the director, free and clear of any and all liens and other claims, and shall be held by the director in trust for the United States domiciled depositors of the office in this state of such alien bank. Upon obtaining the approval of the superior court of Thurston county, the director shall reduce such deposited capital to cash and as soon as practicable distribute it to such depositors.

If sufficient cash is available, such distribution shall be in equal amounts to each such depositor: PROVIDED, That no such depositor receives more than the amount of his or her deposit or an amount equal to the maximum amount insured by the federal deposit insurance corporation, whichever is less. If sufficient cash is not available, such distribution shall be on a pro rata basis to each such depositor: PROVIDED, That no such depositor receives more than the maximum amount insured by the federal deposit insurance corporation. If any cash remains after such distribution, it shall be distributed pro rata to those depositors whose deposits have not been paid in full: PROVIDED, That no depositor receives more than the amount of his deposit. For purposes of this section, the term "depositor" shall not include any other offices, subsidiaries or affiliates of such alien bank.

The term "deposit" as used in this section shall mean the unpaid balance of money or its equivalent received or held by the branch in the usual course of its business and for which it has given or is obligated to give credit, either conditionally or unconditionally to a demand, time or savings account, or which is evidenced by its certificate of deposit, or a check or draft drawn against a deposit account and certified by the branch, or a letter of credit or traveler's checks on which the branch is primarily liable.

Claims of depositors and creditors shall be made and disposed of in the manner provided in chapter 30.44 RCW in the event of insolvency or inability of the bank to pay its creditors in this state. The capital deposit of the bank shall be available for claims of depositors and creditors. The claims of depositors and creditors shall be paid from the capital deposit in the following order or priority:

(1) Claims of depositors not paid from the amounts deposited pursuant to RCW 30.42.120(1);

(2) Claims of Washington domiciled creditors;

(3) Other creditors domiciled in the United States; and

(4) Creditors domiciled in foreign countries.

The director shall proceed in accordance with and have all the powers granted by chapter 30.44 RCW.

[1994 c 92 § 90; 1973 1st ex.s. c 53 § 13.]

RCW 30.42.140 Investigations--Examinations.

The director, without previous notice, shall visit the office of an alien bank doing business in this state pursuant to this chapter at least once every eighteen months, and more often if necessary, for the purpose of making a full investigation into the condition of such office, and for that purpose they are hereby empowered to administer oaths and to examine under oath any director or member of its governing body, officer, employee, or agent of such alien bank or office. The director shall make such other full or partial examination as he or she deems necessary. The director shall collect, from each alien bank for each examination of the conditions of its office in this state, the estimated actual cost of such examination.

[2001 c 176 § 1; 1994 c 92 § 91; 1982 c 95 § 3; 1973 1st ex.s. c 53 § 14.]

NOTES:

Effective date--1982 c 95: See note following RCW 30.42.070.

RCW 30.42.145 Examination reports and information--Confidential--Privileged--Penalty.

See RCW 30.04.075.

RCW 30.42.150 Loans subject to usury laws.

Loans made by an office shall be subject to the laws of the state of Washington relating to usury.

[1973 1st ex.s. c 53 § 15.]

RCW 30.42.155 Powers and activities.

(1) In addition to the taking of deposits and making of loans as provided in this chapter, a branch of an alien bank shall have the power only to carry out these other activities:

(a) Borrow funds from banks and other financial institutions;

(b) Make investments to the same extent as a state bank chartered pursuant to Title 30 RCW;

(c) Buy and sell foreign exchange;

(d) Receive checks, bills, drafts, acceptances, notes, bonds, coupons, and other securities for collection abroad and collect such instruments in the United States for customers abroad;

(e) Hold securities in safekeeping for, or buy and sell securities upon the order and for the risk of, customers abroad;

(f) Act as paying agent for securities issued by foreign governments or other organizations organized under foreign law and not qualified under the laws of the United States, or of any state or the District of Columbia, to do business in the United States;

(g) In order to prevent loss on debts previously contracted a branch may acquire shares in

a corporation: PROVIDED, That the shares are disposed of as soon as practical but in no event later than two years from the date of acquisition;

(h) Issue letters of credit and create acceptances;

(i) Act as paying agent or trustee in connection with revenue bonds issued pursuant to chapter 39.84 RCW, in which the user is: (i) A corporation organized under the laws of a country other than the United States, or a subsidiary or affiliate owned or controlled by such a corporation; or (ii) a corporation, partnership, or other business organization, the majority of the beneficial ownership of which is owned by persons who are citizens of a country other than the United States and who are not residents of the United States, and any subsidiary or affiliate owned or controlled by such an organization; or in which the bank purchases twenty-five percent or more of the bond issue. For the purposes of chapter 39.84 RCW, such an alien bank shall be deemed to possess trust powers.

(2) In addition to the powers and activities expressly authorized by this section, a branch shall have the power to carry on such additional activities which are necessarily incidental to the activities expressly authorized by this section.

[1982 c 95 § 5.]

Notes:

Effective date--1982 c 95: See note following RCW 30.42.070.

RCW 30.42.160 Powers as to real estate.

An alien bank may purchase, hold and convey real estate for the following purposes and no other:

(1) Such as shall be necessary for the convenient transaction of its business, including with its banking offices other apartments in the same building to rent as a source of income: PROVIDED, That not to exceed thirty percent of its capital and surplus and undivided profits may be so invested without the approval of the director.

(2) Such as shall be purchased or conveyed to it in satisfaction, or on account of, debts previously contracted in the course of business.

(3) Such as it shall purchase at sale under judgments, decrees, liens or mortgage foreclosures, against securities held by it.

(4) Such as it may take title to or for the purpose of investing in real estate conditional sales contracts.

(5) Such as shall be convenient for the residences of its employees.

No real estate except that specified in subsections (1) and (5) of this section may be carried as an asset on the corporation's books for a longer period than five years from the date title is acquired thereto, unless an extension of time be granted by the director.

[1994 c 92 § 92; 1975 1st ex.s. c 285 § 3; 1973 1st ex.s. c 53 § 16.]

RCW 30.42.170 Advertising, status of federal insurance on deposits to be included--Gifts for new deposits.

(1) An alien bank that advertises the services of its branch in the state of Washington shall indicate on all advertising materials whether or not deposits placed with its branch are insured by the federal deposit insurance corporation.

(2) A branch shall not make gifts to a new deposit customer of a greater value than five dollars in total. The value of the gifts shall be the cost to the branch of acquiring said gift.

[1973 1st ex.s. c 53 § 17.]

RCW 30.42.180 Approved agencies--Powers and activities.

An approved agency of an alien bank may engage in the business of making loans and guaranteeing obligations for the financing of the international movement of goods and services and for all operational needs including working capital and short-term operating needs and for the acquisition of fixed assets. Other than such activities, such agency may engage only in the following activities:

(1) Borrow funds from banks and other financial institutions;

(2) Buy and sell foreign exchange;

(3) Receive checks, bills, drafts, acceptances, notes, bonds, coupons, and other securities for collection abroad and collect such instruments in the United States for customers abroad;

(4) Hold securities in safekeeping for, or buy and sell securities upon the order and for the risk of, customers abroad;

(5) Act as paying agent for securities issued by foreign governments or other organizations organized under foreign law and not qualified under the laws of the United States, or any state or the District of Columbia to do business in the United States;

(6) In order to prevent loss on debts previously contracted, an agency may acquire shares in a corporation: PROVIDED, That the shares are disposed of as soon as practical, but in no event later than two years from the date of acquisition;

(7) Issue letters of credit and create acceptances;

(8) In addition to the powers and activities expressly authorized by this section, an agency shall have the power to carry on such additional activities which are necessarily incidental to the activities expressly authorized by this section.

[1973 1st ex.s. c 53 § 18.]

RCW 30.42.190 Bonding requirements for officers and employees.

All officers and employees of an office shall be subject to the same bonding requirements as are officers and employees of banks incorporated under the laws of this state.

[1973 1st ex.s. c 53 § 19.]

RCW 30.42.200 Books and accounts--English language.

The books and accounts of an office and a bureau shall be kept in words and figures of

the English language.

[1973 1st ex.s. c 53 § 20.]

RCW 30.42.210 Bureaus--Application procedure.

(1) Application procedure. An alien bank shall not establish and operate a bureau in this state unless it is authorized to do so and unless it has met the following conditions:

(a) It has filed with the director an application in such form and containing such information as shall be prescribed by the director;

(b) It has paid the fee required by law and established by the director pursuant to RCW 30.08.095;

(c) It has received from the director a certificate authorizing the applicant bank to establish and operate a bureau in conformity herewith.

(2) Upon receipt of the bank's application, and the conducting of such examination or investigation as the director deems necessary and appropriate and being satisfied that the opening of such bureau will be consistent with the purposes of this chapter, the director may grant approval for the bureau and issue a certificate authorizing the alien bank to establish and operate a bureau in the state of Washington.

[1994 c 92 § 93; 1973 1st ex.s. c 53 § 21.]

RCW 30.42.220 Bureaus--Approval--Certificate of authority--Time limit for commencing business.

If the director approves the application, he or she shall notify the alien bank of his or her approval and shall file certified copies of its charter, certificate, or other authorization to do business with the secretary of state and with the recording officer of the county in which the bureau is to be located. Upon such filing, the director shall issue a certificate of authority stating that the alien bank is authorized to operate a bureau in this state at the place designated in accordance with this chapter. No such certificate shall be transferable or assignable. Such certificate shall be conspicuously displayed at all times in the place of business specified therein.

A bureau of an alien bank must commence business within six months after the issuance of the director's certificate: PROVIDED, That the director for good cause shown may extend such period for an additional time not to exceed three months.

[1994 c 92 § 94; 1973 1st ex.s. c 53 § 22.]

RCW 30.42.230 Bureaus--Number--Powers.

An alien bank may have as many bureaus in this state as the director will authorize. A bureau in this state may provide information about services offered by the alien bank, its subsidiaries and affiliates and may gather and provide business and economic information. A bureau may not take deposits, make loans or transact other commercial or banking business in

this state.

[1994 c 92 § 95; 1973 1st ex.s. c 53 § 23.]

RCW 30.42.240 Bureaus--Examinations.

The director is empowered to examine the bureau operations of an alien bank whenever he or she deems it necessary. The director shall collect from such alien bank the estimated actual cost of such examination.

[1994 c 92 § 96; 1973 1st ex.s. c 53 § 24.]

RCW 30.42.250 Temporary facilities at trade fairs, etc.

An alien bank may operate temporary facilities at trade fairs or other commercial events of short duration without first obtaining the approval of the director: PROVIDED, That the activities of such temporary facility are limited solely to the dissemination of information: AND PROVIDED FURTHER, If an alien bank engages in such activity, it shall notify the director in writing prior to opening of the nature and location of such facility. The director is empowered to investigate the operation of such temporary facility if he or she deems it necessary, and to collect from the alien bank the estimated actual cost thereof.

[1994 c 92 § 97; 1973 1st ex.s. c 53 § 25.]

RCW 30.42.260 Reports.

(1) An office of an alien bank shall file the following reports with the director within such times and in such form as the director shall prescribe by rule:

(a) A statement of condition of the office;

(b) A capital position report of the office;

(c) A consolidated statement of condition of an alien bank.

(2) An office of an alien bank shall publish such reports as the director by rule may prescribe.

(3) An alien bank operating a bureau in this state shall file a copy of the alien bank's annual financial report with the director as soon as possible following the end of each fiscal year and shall file such other material as the director may prescribe by rule.

[1994 c 92 § 98; 1973 1st ex.s. c 53 § 26.]

RCW 30.42.270 Taxation.

An office of an alien bank shall be taxed on the same basis as are banks incorporated under the laws of this state.

[1973 1st ex.s. c 53 § 27.]

RCW 30.42.280 Directors, officers, and employees--Duties, responsibilities and restrictions--Removal.

The directors or other governing body of an alien bank and the officers and employees of its office in this state shall be subject to all of the duties, responsibilities and restrictions to which the directors, officers and employees of a bank organized under the laws of this state are subject insofar as such duties, responsibilities and restrictions are not inconsistent with the intent of this chapter. An officer or employee of the office of an alien bank doing business in this state pursuant to this chapter may be removed for the reasons stated and in the manner provided in RCW 30.12.040, as now or hereafter amended.

[1973 1st ex.s. c 53 § 28.]

RCW 30.42.290 Compliance--Violations--Penalties.

(1) The director shall have the responsibility for assuring compliance with the provisions of this chapter. An alien bank that conducts business in this state in violation of any provisions of this chapter shall be guilty of a misdemeanor and in addition thereto shall be liable in the sum of one hundred dollars per day that each such offense continues, such sum to be recovered by the attorney general in a civil action in the name of the state.

(2) Every person who shall knowingly subscribe to or make or cause to be made any false entry in the books of any alien bank office or bureau doing business in this state pursuant to this chapter or shall knowingly subscribe to or exhibit any false or fictitious paper or security, instrument or paper, with the intent to deceive any person authorized to examine into the affairs of any such office or bureau or shall make, state or publish any false statement of the amount of the assets or liabilities of any such office or bureau shall be guilty of a felony.

(3) Every director or member of the governing body, officer, employee or agent of such alien bank operating an office or bureau in this state who conceals or destroys any fact or otherwise suppresses any evidence relating to a violation of this chapter is guilty of a felony.

(4) Any person who transacts business in this state on behalf of an alien bank which is subject to the provisions of this chapter, but which is not authorized to transact such business pursuant to this chapter is guilty of a misdemeanor and in addition thereto shall be liable in the sum of one hundred dollars per day for each day that such offense continues, such sum to be recovered by the attorney general in a civil action in the name of the state.

[1994 c 92 § 99; 1973 1st ex.s. c 53 § 29.]

RCW 30.42.300 Suspension or revocation of certificate to operate--Grounds.

If the director finds that any alien bank to which he or she has issued a certificate to operate an office or bureau in this state pursuant to this chapter has violated any law or rule, or has conducted its affairs in an unauthorized manner, or has been unresponsive to the director's lawful orders or directions, or is in an unsound or unsafe condition, or cannot with safety and expediency continue business, or if he or she finds that the alien bank's country is unjustifiably

refusing to allow banks qualified to do business in and having their principal office within this state to operate offices or similar operations in such country, the director may suspend or revoke the certificate of such alien bank and notify it of such suspension or revocation.

[1994 c 92 § 100; 1973 1st ex.s. c 53 § 30.]

RCW 30.42.310 Change of location.

An alien bank licensed to maintain an office or bureau in this state pursuant to this chapter may apply to the director for leave to change the location of its office or bureau. Such applications shall be accompanied by an investigation fee as established in accordance with RCW 30.42.330. Leave for a change of location shall be granted if the director finds that the proposed new location offers reasonable promise of adequate support for the office.

[1994 c 92 § 101; 1973 1st ex.s. c 53 § 31.]

RCW 30.42.320 Rules.

The director shall have power to adopt uniform rules to govern examination and reports of alien bank offices and bureaus doing business in this state pursuant to this chapter and the form in which they shall report their assets, liabilities, and reserves, charge off bad debts and otherwise keep their records and accounts and otherwise to govern the administration of this chapter.

[1994 c 92 § 102; 1973 1st ex.s. c 53 § 32.]

RCW 30.42.330 Fees.

The director shall collect in advance from an alien bank for filing its application for an office or a bureau and the attendant investigation, and for such other applications, approvals or certificates provided herein, such fee as shall be established by rule adopted pursuant to the administrative procedure act, chapter 34.05 RCW, as now or hereafter amended. The alien bank shall also pay to the secretary of state and the county recording officer for filing instruments as required by this chapter the same fees as are charged general corporations for the filing of similar instruments and also the same license fees as are required of foreign corporations doing business in this state.

[1994 c 92 § 103; 1973 1st ex.s. c 53 § 33.]

RCW 30.42.340 Alien banks or branches in business on or before effective date.

(1) Any branch of an alien bank that is conducting business in this state on July 16, 1973 pursuant to RCW 30.04.300 shall not be subject to the provisions of this chapter, and shall continue to conduct its business pursuant to RCW 30.04.300.

(2) Except as provided in subsection (1) of this section, any alien bank that is conducting

business in this state on July 16, 1973 shall be subject to the provisions of this chapter: PROVIDED, That any such alien bank which has operated an agency or similar operation in this state for at least the five years immediately preceding such effective date shall not be denied a certificate to operate an agency.

[1973 1st ex.s. c 53 § 34.]

RCW 30.42.900 Severability--1973 1st ex.s. c 53.

If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1973 amendatory act, or the application of the provisions to other persons or circumstances shall not be affected.

[1973 1st ex.s. c 53 § 38.]

Chapter 30.43 RCW
SATELLITE FACILITIES

Sections

30.43.005 Finding--Definition of "off-premises electronic facilities."

RCW 30.43.005 Finding--Definition of "off-premises electronic facilities."

The legislature finds that the establishment and operation of off-premises electronic facilities, inside and outside the state of Washington, and the participation by financial institutions in arrangements for the sharing of such facilities, facilitates the delivery of financial services to the citizens of the state of Washington. The term "off-premises electronic facilities" includes, without limitation, automated teller machines, cash-dispensing machines, point-of-sale terminals, and merchant-operated terminals.

[1994 c 256 § 57.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

Chapter 30.44 RCW
INSOLVENCY AND LIQUIDATION

Sections

30.44.010 Delinquencies, notice to correct--Possession may be taken.
30.44.020 Director may order levy of assessment.
30.44.030 Director's right to take possession may be contested.
30.44.040 Notice of taking possession.
30.44.050 Powers and duties of director.

30.44.060 Notice to creditors--Claims.
30.44.070 Inventory--List of claims.
30.44.080 Objections to approved claims.
30.44.090 Dividends.
30.44.100 Receiver prohibited except in emergency.
30.44.110 Preferences prohibited--Penalty.
30.44.120 Receiving deposits when insolvent--Penalty.
30.44.130 Expense of liquidation.
30.44.140 Liquidation after claims are paid.
30.44.150 Unclaimed dividends--Disposition.
30.44.160 Voluntary closing--Notice.
30.44.170 Voluntary liquidation--Notice to creditors.
30.44.180 Unclaimed dividends on voluntary liquidation.
30.44.190 Disposition of unclaimed personal property.
30.44.200 Duty of director--Notice to owner.
30.44.210 Final notice after two years--Sale.
30.44.220 Disposition of proceeds--Escheat.
30.44.230 Procedure as to papers, documents, etc.
30.44.240 Transfer of assets and liabilities to another bank or trust company.
30.44.250 Reopening.
30.44.260 Destruction of records after liquidation.
30.44.270 Federal deposit insurance corporation as receiver or liquidator--Appointment--Powers and duties.
30.44.280 Payment or acquisition of deposit liabilities by federal deposit insurance corporation--Not hindered by judicial review--Liability.

RCW 30.44.010 Delinquencies, notice to correct--Possession may be taken.

Whenever it shall in any manner appear to the director that any bank or trust company has violated any provision of law or is conducting its business in an unsafe manner or that it refuses to submit its books, papers, or concerns to lawful inspection or that any director or officer thereof refuses to submit to examination on oath touching its concerns, or that it has failed to carry out any authorized order or direction of an examiner, the director may give notice to the bank or trust company so offending or delinquent or whose director or officer is thus offending or delinquent to correct such offense or delinquency and if such bank or trust company fails to comply with the terms of such notice within thirty days from the date of its issuance or within such further time as the director may allow, then the director may take possession of such bank or trust company as in case of insolvency.

[1994 c 92 § 107; 1955 c 33 § 30.44.010. Prior: 1917 c 80 § 59; 1915 c 98 § 1; RRS § 3266.]

RCW 30.44.020 Director may order levy of assessment.

Whenever it shall in any manner appear to the director that any offense or delinquency referred to in RCW 30.44.010 renders a bank or trust company in an unsound or unsafe condition to continue its business or that its capital or surplus is reduced or impaired below the amount required by its articles of incorporation or by this title, or that it has suspended payment of its

obligations or is insolvent, the director may notify such bank or trust company to levy an assessment on its stock or otherwise to make good such impairment or offense or other delinquency within such time and in such manner as he or she may specify or if he or she deems necessary he or she may take possession thereof without notice.

The board of directors of any such bank or trust company, with the consent of the holders of record of two-thirds of the capital stock expressed either in writing or by vote at a stockholders' meeting called for that purpose, shall have power and authority to levy such assessment upon the stockholders pro rata and to forfeit the stock upon which any such assessment is not paid, in the manner prescribed in RCW 30.12.180.

[1994 c 92 § 108; 1955 c 33 § 30.44.020. Prior: 1923 c 115 § 9; 1917 c 80 § 60; RRS § 3267.]

Notes:
Levy of assessments: RCW 30.12.180.

RCW 30.44.030 Director's right to take possession may be contested.

Within ten days after the director takes possession thereof, a bank or trust company may serve a notice upon the director to appear before the superior court of the county wherein such corporation is located and at a time to be fixed by said court, which shall not be less than five nor more than fifteen days from the date of the service of such notice, to show cause why such corporation should not be restored to the possession of its assets. Upon the return day of such notice, or such further day as the matter may be continued to, the court shall summarily hear said cause and shall dismiss the same, if it be found that possession was taken by the director in good faith and for cause, but if it find that no cause existed for the taking possession of such corporation, it shall require the director to restore such bank or trust company to possession of its assets and enjoin him or her from further interference therewith without cause.

[1994 c 92 § 109; 1955 c 33 § 30.44.030. Prior: 1917 c 80 § 68; RRS § 3275.]

RCW 30.44.040 Notice of taking possession.

Upon taking possession of any bank or trust company, the director shall forthwith give written notice thereof to all persons having possession of any assets of such corporation. No person knowing of the taking of such possession by the director shall have a lien or charge for any payment thereafter advanced or clearance thereafter made or liability thereafter incurred against any of the assets of such corporation.

[1994 c 92 § 110; 1955 c 33 § 30.44.040. Prior: 1917 c 80 § 61; 1915 c 98 § 2; RRS § 3268.]

RCW 30.44.050 Powers and duties of director.

Upon taking possession of any bank or trust company, the director shall proceed to collect the assets thereof and to preserve, administer and liquidate the business and assets of such corporation. With the approval of the superior court of the county in which such corporation is

located, he or she may sell, compound or compromise bad or doubtful debts, and upon such terms as the court shall direct borrow, mortgage, pledge or sell all or any part of the real estate and personal property of such corporation. He or she shall deliver to each purchaser or lender an appropriate deed, mortgage, agreement of pledge or other instrument of title or security. If real estate is situated outside of said county, a certified copy of the orders authorizing and confirming the sale or mortgage thereof shall be filed for record in the office of the auditor of the county in which such property is situated. He or she may appoint special assistants and other necessary agents to assist in the administration and liquidation of such corporation, a certificate of such appointment to be filed with the clerk of the county in which such corporation is located. He or she shall require each special assistant to give a surety company bond, conditioned as he or she shall provide, the premium of which shall be paid out of the assets of such corporation. He or she may also employ an attorney for legal assistance in such administration and liquidation.

[1994 c 92 § 111; 1955 c 33 § 30.44.050. Prior: 1933 c 42 § 25; 1917 c 80 § 62; 1915 c 98 § 3; RRS § 3269.]

RCW 30.44.060 Notice to creditors--Claims.

The director shall publish once a week for four consecutive weeks in a newspaper which he or she shall select, a notice requiring all persons having claims against such corporation to make proof thereof at the place therein specified not later than ninety days from the date of the first publication of said notice, which date shall be therein stated. He or she shall mail similar notices to all persons whose names appear as creditors upon the books of the corporation. He or she may approve or reject any claims, but shall serve notice of rejection upon the claimant by mail or personally. An affidavit of service of such notice shall be prima facie evidence thereof. No action shall be brought on any claim after three months from the date of service of notice of rejection.

Claims of depositors may be presented after the expiration of the time fixed in the notice, and, if approved, shall be entitled to their proportion of prior dividends, if there be funds sufficient therefor, and shall share in the distribution of the remaining assets.

After the expiration of the time fixed in the notice the director shall have no power to accept any claim except the claim of a depositor, and all claims except the claims of depositors shall be barred.

[1994 c 92 § 112; 1955 c 33 § 30.44.060. Prior: 1923 c 115 § 10; 1917 c 80 § 63; 1915 c 98 § 4; RRS § 3270.]

RCW 30.44.070 Inventory--List of claims.

Upon taking possession of such corporation, the director shall make an inventory of the assets in duplicate and file one in his or her office and one in the office of the county clerk. Upon the expiration of the time fixed for the presentation of claims, he or she shall make a duplicate list of claims presented, segregating those approved and those rejected, to be filed as aforesaid. He or she shall also make and file a supplemental list of claims at least fifteen days before the declaration of any dividend, and in any event at least every six months.

[1994 c 92 § 113; 1955 c 33 § 30.44.070. Prior: 1917 c 80 § 65; 1915 c 98 § 6; RRS § 3272.]

RCW 30.44.080 Objections to approved claims.

Objection may be made by any interested person to any claim approved by the director, which objection shall be determined by the court upon such notice to the claimant and objector as the court shall prescribe.

[1994 c 92 § 114; 1955 c 33 § 30.44.080. Prior: 1917 c 80 § 67; 1915 c 98 § 8; RRS § 3274.]

RCW 30.44.090 Dividends.

At any time after the expiration of the date fixed for the presentation of claims, the director, subject to the approval of the court, may declare one or more dividends out of the funds remaining in his or her hands after the payment of expenses.

[1994 c 92 § 115; 1955 c 33 § 30.44.090. Prior: 1917 c 80 § 66; 1915 c 98 § 7; RRS § 3273.]

RCW 30.44.100 Receiver prohibited except in emergency.

No receiver shall be appointed by any court for any bank or trust company nor shall any assignment of any bank or trust company for the benefit of creditors be valid, excepting only that a court otherwise having jurisdiction may in case of imminent necessity appoint a temporary receiver to take possession of and preserve the assets of such corporation. Immediately upon any such appointment, the clerk of such court shall notify the director by telegraph and mail of such appointment and the director shall forthwith take possession of such bank or trust company, as in case of insolvency, and such temporary receiver shall upon demand of the director surrender up to him or her such possession and all assets which shall have come into the hands of such receiver. The director shall in due course pay such receiver out of the assets of such corporation such amount as the court shall allow.

[1994 c 92 § 116; 1955 c 33 § 30.44.100. Prior: 1917 c 80 § 69; 1915 c 98 § 9; RRS § 3276.]

RCW 30.44.110 Preferences prohibited--Penalty.

Every transfer of its property or assets by any bank or trust company in this state, made in contemplation of insolvency, or after it shall have become insolvent, with a view to the preference of one creditor over another, or to prevent the equal distribution of its property and assets among its creditors, shall be void. Every director, officer or employee making any such transfer shall be guilty of a felony.

[1955 c 33 § 30.44.110. Prior: 1917 c 80 § 55; RRS § 3262.]

RCW 30.44.120 Receiving deposits when insolvent--Penalty.

An officer, director or employee of any bank or trust company who shall fraudulently receive for it any deposit, knowing that such bank or trust company is insolvent, shall be guilty of a felony.

[1955 c 33 § 30.44.120. Prior: 1933 c 42 § 26; 1917 c 80 § 81; RRS § 3288.]

Notes:
Receiving deposits after insolvency prohibited: State Constitution Art. 12 § 12.

RCW 30.44.130 Expense of liquidation.

All expenses incurred by the director in taking possession, administering and winding up any such corporation, including the expenses of assistants and reasonable fees for any attorney who may be employed in connection therewith, and the reasonable compensation of any special assistant placed in charge of such corporation shall be a first charge upon the assets thereof. Such charges shall be fixed by the director, subject to the approval of the court.

[1994 c 92 § 117; 1955 c 33 § 30.44.130. Prior: 1917 c 80 § 64; 1915 c 98 § 5; RRS § 3271.]

RCW 30.44.140 Liquidation after claims are paid.

When all proper claims of depositors and creditors (not including stockholders) have been paid, as well as all expenses of administration and liquidation and proper provision has been made for unclaimed or unpaid deposits and dividends, and assets still remain in his or her hands, the director shall call a meeting of the stockholders of such corporation, giving thirty days' notice thereof, by one publication in a newspaper published in the county where such corporation is located. At such meeting, each share shall entitle the holder thereof to a vote in person or by proxy. A vote by ballot shall be taken to determine whether the director shall wind up the affairs of such corporation or the stockholders appoint an agent to do so. The director, if so required, shall wind up such corporation and distribute its assets to those entitled thereto. If the appointment of an agent is determined upon, the stockholders shall forthwith select such agent by ballot. Such agent shall file a bond to the state of Washington in such amount and so conditioned as the director shall require. Thereupon the director shall transfer to such agent the assets of such corporation then remaining in his or her hands, and be relieved from further responsibility in reference to such corporation. Such agent shall convert the assets of such corporation into cash and distribute the same to the parties thereunto entitled, subject to the supervision of the court. In case of his or her death, removal or refusal to act, the stockholders may select a successor with like powers.

[1994 c 92 § 118; 1955 c 33 § 30.44.140. Prior: 1917 c 80 § 70; RRS § 3277.]

RCW 30.44.150 Unclaimed dividends--Disposition.

Any dividends to depositors or other creditors of such bank or trust company remaining uncalled for and unpaid in the hands of the director for six months after order of final

distribution, shall be deposited in a bank or trust company to his or her credit, in trust for the benefit of the persons entitled thereto and subject to the supervision of the court shall be paid by him or her to them upon receipt of satisfactory evidence of their right thereto.

All moneys so deposited remaining unclaimed for five years after deposit shall escheat to the state for the benefit of the permanent school fund and shall be paid by the director into the state treasury. It shall not be necessary to have the escheat adjudged in a suit or action.

[1994 c 92 § 119; 1955 c 33 § 30.44.150. Prior: 1923 c 115 § 11; 1917 c 80 § 71; RRS § 3278.]

RCW 30.44.160 Voluntary closing--Notice.

Any bank or trust company may place itself under the control of the director to be liquidated as herein provided by posting a notice on its door as follows: "This bank (trust company) is in the hands of the State Director of Financial Institutions."

Immediately upon the posting of such notice, the officers of such corporation shall notify the director thereof by telegraph and mail. The posting of such notice or the taking possession of any bank or trust company by the director shall be sufficient to place all of its assets and property of every nature in his or her possession and bar all attachment proceedings.

[1994 c 92 § 120; 1955 c 33 § 30.44.160. Prior: 1917 c 80 § 72; RRS § 3279.]

RCW 30.44.170 Voluntary liquidation--Notice to creditors.

Any bank or trust company may, upon receipt of written permission from the director, go into voluntary liquidation by a vote of its stockholders owning two-thirds of its capital stock. When such liquidation is authorized, the directors of such corporation shall publish in a newspaper published in the place where such corporation is located, once a week for four consecutive weeks, a notice requiring creditors of such corporation to present their claims against it for payment.

[1994 c 92 § 121; 1955 c 33 § 30.44.170. Prior: 1917 c 80 § 74; RRS § 3281.]

RCW 30.44.180 Unclaimed dividends on voluntary liquidation.

Whenever any bank or trust company shall voluntarily liquidate, any dividends to depositors or other creditors of such bank or trust company remaining uncalled for and unpaid at the conclusion of the liquidation shall be transmitted to the director and shall be deposited by him or her in a bank or trust company to his or her credit in trust for the benefit of the persons entitled thereto, and shall be paid by him or her to them upon receipt of satisfactory evidence of their right thereto.

All moneys so deposited remaining unclaimed for five years after deposit shall escheat to the state for the benefit of the permanent school fund and shall be paid by the director into the state treasury. It shall not be necessary to have the escheat adjudged in a suit or action.

[1994 c 92 § 122; 1955 c 33 § 30.44.180. Prior: 1947 c 148 § 1; Rem. Supp. 1947 § 3281-1.]

RCW 30.44.190 Disposition of unclaimed personal property.

Whenever any bank or trust company shall be liquidated, voluntarily or involuntarily, and shall retain in its possession at the conclusion of the liquidation, uncalled for and unclaimed personal property left with it for safekeeping, such property shall, in the presence of at least one witness, be inventoried by the liquidating agent and sealed in separate packages, each package plainly marked with the name and last known address of the person in whose name the property stands on the books of the bank or trust company. If the property is in safe deposit boxes, such boxes shall be opened by the liquidating agent in the presence of at least one witness, and the property inventoried, sealed in packages and marked as above required. All the packages shall be transmitted to the director, together with certificates signed by the liquidating agent and witness or witnesses, listing separately the property standing in the name of any one person on the books of the bank or trust company, together with the date of inventory, and name and last known address of the person in whose name the property stands.

[1994 c 92 § 123; 1955 c 33 § 30.44.190. Prior: 1947 c 148 § 2; Rem. Supp. 1947 § 3281-2.]

RCW 30.44.200 Duty of director--Notice to owner.

Upon receiving possession of the packages, the director shall cause them to be opened in the presence of at least one witness, the property reinventoried, and the packages resealed, and held for safekeeping. The liquidated bank, its directors, officers, and shareholders, and the liquidating agent shall thereupon be relieved of responsibility and liability for the property so delivered to and received by the director. The director shall send immediately to each person in whose name the property stood on the books of the liquidated bank or trust company, at his or her last known address, in a securely closed, postpaid and registered letter, a notice that the property listed will be held in his or her name for a period of not less than two years. At any time after the mailing of such notice, and before the expiration of two years, such person may require the delivery of the property so held, by properly identifying himself or herself and offering evidence of his or her right thereto, to the satisfaction of the director.

[1994 c 92 § 124; 1955 c 33 § 30.44.200. Prior: 1947 c 148 § 3; Rem. Supp. 1947 § 3281-3.]

RCW 30.44.210 Final notice after two years--Sale.

After the expiration of two years from the time of mailing the notice, the director shall mail in a securely closed postpaid registered letter, addressed to the person at his or her last known address, a final notice stating that two years have elapsed since the sending of the notice referred to in RCW 30.44.200, and that the director will sell all the property or articles of value set out in the notice, at a specified time and place, not less than thirty days after the time of mailing the final notice. Unless the person shall, on or before the day mentioned, claim the property, identify himself or herself and offer evidence of his or her right thereto, to the satisfaction of the director, the director may sell all the property or articles of value listed in the

notice, at public auction, at the time and place stated in the final notice: PROVIDED, That a notice of the time and place of sale has been published once within ten days prior to the sale in a newspaper of general circulation in the county where the sale is held. Any such property held by the director, the owner of which is not known, may be sold at public auction after it has been held by the director for two years, provided, that a notice of the time and place of sale has been published once within ten days prior to the sale in a newspaper of general circulation in the county where the sale is held.

[1994 c 92 § 125; 1985 c 469 § 15; 1955 c 33 § 30.44.210. Prior: 1947 c 148 § 4; Rem. Supp. 1947 § 3281-4.]

RCW 30.44.220 Disposition of proceeds--Escheat.

The proceeds of such sale shall be deposited by the director in a bank or trust company to his or her credit, in trust for the benefit of the person entitled thereto, and shall be paid by him or her to such person upon receipt of satisfactory evidence of his or her right thereto.

All moneys so deposited remaining unclaimed for five years after deposit shall escheat to the state for the benefit of the permanent school fund and shall be paid by the director into the state treasury. It shall not be necessary to have the escheat adjudged in a suit or action.

[1994 c 92 § 126; 1955 c 33 § 30.44.220. Prior: 1947 c 148 § 5; Rem. Supp. 1947 § 3281-5.]

RCW 30.44.230 Procedure as to papers, documents, etc.

Whenever the personal property held by a liquidated bank or trust company shall consist either wholly or in part, of documents, letters, or other papers of a private nature, such documents, letters, or papers shall not be sold, but shall be retained by the director for a period of five years, and, unless sooner claimed by the owner, may be thereafter destroyed in the presence of the director and at least one other witness.

[1994 c 92 § 127; 1955 c 33 § 30.44.230. Prior: 1947 c 148 § 6; Rem. Supp. 1947 § 3281-6.]

RCW 30.44.240 Transfer of assets and liabilities to another bank or trust company.

A bank or trust company may for the purpose of voluntary liquidation transfer its assets and liabilities to another bank or trust company, by a vote, or with the written consent of the stockholders of record owning two-thirds of its capital stock, but only with the written consent of the director and upon such terms and conditions as he or she may prescribe. Upon any such transfer being made, or upon the liquidation of any such corporation for any cause whatever or upon its being no longer engaged in the business of a bank or trust company, the director shall terminate its certificate of authority, which shall not thereafter be revived or renewed. When the certificate of authority of any such corporation shall have been revoked, it shall forthwith collect and distribute its remaining assets, and when that is done the director shall certify the fact to the secretary of state, whereupon the corporation shall cease to exist and the secretary of state shall note that fact upon his or her records.

[1994 c 92 § 128; 1955 c 33 § 30.44.240. Prior: 1953 c 236 § 1; 1923 c 115 § 12; 1919 c 209 § 17; 1917 c 80 § 75; RRS § 3282.]

RCW 30.44.250 Reopening.

Whenever the director has taken possession of a bank or trust company for any cause, he or she may wind up such corporation and cancel its certificate of authority, unless enjoined from so doing, as herein provided. Or if at any time within ninety days after taking possession, he or she shall determine that all impairment and delinquencies have been made good, and that it is safe and expedient for such corporation to reopen, he or she may permit such corporation to reopen upon such terms and conditions as he or she shall prescribe. Before being permitted to reopen, every such corporation shall pay all of the expenses of the director, as herein elsewhere defined.

[1994 c 92 § 129; 1955 c 33 § 30.44.250. Prior: 1917 c 80 § 73; RRS § 3280.]

RCW 30.44.260 Destruction of records after liquidation.

Where any files, records, documents, books of account or other papers have been taken over and are in the possession of the director in connection with the liquidation of any insolvent banks or trust companies under the laws of this state, the director may, in his or her discretion at any time after the expiration of one year from the declaration of the final dividend, or from the date when such liquidation has been entirely completed, destroy any of the files, records, documents, books of account or other papers which may appear to the director to be obsolete or unnecessary for future reference as part of the liquidation and files of his or her office.

[1994 c 92 § 130; 1955 c 33 § 30.44.260. Prior: 1925 ex.s. c 55 § 1; RRS § 3277-1.]

RCW 30.44.270 Federal deposit insurance corporation as receiver or liquidator--Appointment--Powers and duties.

The federal deposit insurance corporation is hereby authorized and empowered to be and act without bond as receiver or liquidator of any bank or trust company the deposits in which are to any extent insured by that corporation and which shall have been closed on account of inability to meet the demands of its depositors. In the event of such closing, the director may appoint the federal deposit insurance corporation as receiver or liquidator of such bank or trust company. If the corporation accepts such appointment, it shall have and possess all the powers and privileges provided by the laws of this state with respect to a liquidator of a bank or trust company, its depositors and other creditors, and be subject to all the duties of such liquidator, except insofar as such powers, privileges, or duties are in conflict with the provisions of the federal deposit insurance act, as now or hereafter amended.

[1994 c 92 § 131; 1973 1st ex.s. c 54 § 1.]

RCW 30.44.280 Payment or acquisition of deposit liabilities by federal deposit insurance corporation--Not hindered by judicial review--Liability.

The pendency of any proceedings for judicial review of the director's actions in taking possession and control of a bank or trust company and its assets for the purpose of liquidation shall not operate to defer, delay, impede, or prevent the payment or acquisition by the federal deposit insurance corporation of the deposit liabilities of the bank or trust company which are insured by the corporation. During the pendency of any proceedings for judicial review, the director shall make available to the federal deposit insurance corporation such facilities in or of the bank or trust company and such books, records, and other relevant data of the bank or trust company as may be necessary or appropriate to enable the corporation to pay out or to acquire the insured deposit liabilities of the bank or trust company. The federal deposit insurance corporation and its directors, officers, agents, and employees, and the director and his or her agents and employees shall be free from liability to the bank or trust company, its directors, stockholders, and creditors for or on account of any action taken in connection herewith.

[1994 c 92 § 132; 1973 1st ex.s. c 54 § 2.]

Chapter 30.46 RCW
SUPERVISORY DIRECTION--CONSERVATORSHIP

Sections

30.46.010 Definitions.
30.46.020 Grounds for determining need for supervisory direction--Abatement of determination--Supervisory direction, procedure--Conservator.
30.46.030 Supervisory direction--Appointment of representative to supervise--Restrictions on operations.
30.46.040 Conservator--Appointment--Grounds--Powers, duties, and functions.
30.46.050 Costs as charge against bank's assets.
30.46.060 Request for review of action--Stay of action--Orders subject to review.
30.46.070 Suits against bank or conservator, where brought--Suits by conservator.
30.46.080 Duration of conservator's term--Rehabilitated banks--Management.
30.46.090 Authority of director.
30.46.100 Rules.

RCW 30.46.010 Definitions.

For the purposes of this chapter the following terms shall be defined as follows:

(1) "Unsafe condition" shall mean and include, but not be limited to, any one or more of the following circumstances:

(a) If a bank's capital is impaired or impairment of capital is threatened;

(b) If a bank violates the provisions of Title 30 RCW or any other law or regulation applicable to banks;

(c) If a bank conducts a fraudulent or questionable practice in the conduct of its business

that endangers the bank's reputation or threatens its solvency;

(d) If a bank conducts its business in an unsafe or unauthorized manner;

(e) If a bank violates any conditions of its charter or any agreement entered with the director; or

(f) If a bank fails to carry out any authorized order or direction of the examiner or the director.

(2) "Exceeded its powers" shall mean and include, but not be limited to the following circumstances:

(a) If a bank has refused to permit examination of its books, papers, accounts, records, or affairs by the director, assistant director, or duly commissioned examiners; or

(b) If a bank has neglected or refused to observe an order of the director to make good, within the time prescribed, any impairment of its capital.

(3) "Consent" includes and means a written agreement by the bank to either supervisory direction or conservatorship under this chapter.

[1994 c 92 § 133; 1975 1st ex.s. c 87 § 1.]

RCW 30.46.020 Grounds for determining need for supervisory direction--Abatement of determination--Supervisory direction, procedure--Conservator.

If upon examination or at any other time it appears to the director that any bank is in an unsafe condition and its condition is such as to render the continuance of its business hazardous to the public or to its depositors and creditors, or if such bank appears to have exceeded its powers or has failed to comply with the law, or if such bank gives its consent, then the director shall upon his or her determination (1) notify the bank of his or her determination, and (2) furnish to the bank a written list of the director requirements to abate his or her determination, and (3) if the director makes further determination to directly supervise, he or she shall notify the bank that it is under the supervisory direction of the director and that the director is invoking the provisions of this chapter. If placed under supervisory direction the bank shall comply with the lawful requirements of the director within such time as provided in the notice of the director, subject however, to the provisions of this chapter. If the bank fails to comply within such time the director may appoint a conservator as hereafter provided.

[1994 c 92 § 134; 1975 1st ex.s. c 87 § 2.]

RCW 30.46.030 Supervisory direction--Appointment of representative to supervise--Restrictions on operations.

During the period of supervisory direction the director may appoint a representative to supervise such bank and may provide that the bank may not do any of the following during the period of supervisory direction, without the prior approval of the director or the appointed representative.

(1) Dispose of, convey or encumber any of the assets;

(2) Withdraw any of its bank accounts;

(3) Lend any of its funds;
(4) Invest any of its funds;
(5) Transfer any of its property; or
(6) Incur any debt, obligation, or liability.

[1994 c 92 § 135; 1975 1st ex.s. c 87 § 3.]

RCW 30.46.040 Conservator--Appointment--Grounds--Powers, duties, and functions.

After the period of supervisory direction specified by the director for compliance, if he or she determines that such bank has failed to comply with the lawful requirements imposed, upon due notice and hearing or by consent of the bank, the director may appoint a conservator, who shall immediately take charge of such bank and all of its property, books, records, and effects. The conservator shall conduct the business of the bank and take such steps toward the removal of the causes and conditions which have necessitated such order, as the director may direct. During the pendency of the conservatorship the conservator shall make such reports to the director from time to time as may be required by the director, and shall be empowered to take all necessary measures to preserve, protect, and recover any assets or property of such bank, including claims or causes of actions belonging to or which may be asserted by such bank, and to deal with the same in his or her own name as conservator, and shall be empowered to file, prosecute, and defend any suit and suits which have been filed or which may thereafter be filed by or against such bank which are deemed by the conservator to be necessary to protect all of the interested parties for a property affected thereby. The director, or any newly appointed assistant, may be appointed to serve as conservator. If the director, however, is satisfied that such bank is not in condition to continue business in the interest of its depositors or creditors under the conservator as above provided, the director may proceed with appropriate remedies provided by other provisions of this title.

[1994 c 92 § 136; 1975 1st ex.s. c 87 § 4.]

RCW 30.46.050 Costs as charge against bank's assets.

All costs incident to supervisory direction and the conservatorship shall be fixed and determined by the director and shall be a charge against the assets of the bank to be allowed and paid as the director may determine.

[1994 c 92 § 137; 1975 1st ex.s. c 87 § 5.]

RCW 30.46.060 Request for review of action--Stay of action--Orders subject to review.

During the period of the supervisory direction and during the period of conservatorship, the bank may request the director to review an action taken or proposed to be taken by the representative or conservator; specifying wherein the action complained of is believed not to be in the best interest of the bank, and such request shall stay the action specified pending review of

such action by the director. Any order entered by the director appointing a representative and providing that the bank shall not do certain acts as provided in RCW 30.46.030 and 30.46.040, any order entered by the director appointing a conservator, and any order by the director following the review of an action of the representative or conservator as herein above provided shall be subject to review in accordance with the administrative procedure act of the state of Washington.

[1994 c 92 § 138; 1975 1st ex.s. c 87 § 6.]

RCW 30.46.070 Suits against bank or conservator, where brought--Suits by conservator.

Any suit filed against a bank or its conservator, after the entrance of an order by the director placing such bank in conservatorship and while such order is in effect, shall be brought in the superior court of Thurston county and not elsewhere. The conservator appointed hereunder for such bank may file suit in any superior court or other court of competent jurisdiction against any person for the purpose of preserving, protecting, or recovering any asset or property of such bank including claims or causes of action belonging to or which may be asserted by such bank.

[1994 c 92 § 139; 1975 1st ex.s. c 87 § 7.]

RCW 30.46.080 Duration of conservator's term--Rehabilitated banks--Management.

The conservator shall serve for such time as is necessary to accomplish the purposes of the conservatorship as intended by this chapter. If rehabilitated, the rehabilitated bank shall be returned to management or new managements under such conditions as are reasonable and necessary to prevent recurrence of the condition which occasioned the conservatorship.

[1975 1st ex.s. c 87 § 8.]

RCW 30.46.090 Authority of director.

If the director determines to act under authority of this chapter, the sequence of his or her acts and proceedings shall be as set forth in this chapter. However, it is the purpose and substance of this chapter to authorize administrative discretion—to allow the director administrative discretion in the event of unsound banking operations—and in furtherance of that purpose the director is hereby authorized to proceed with regulation either under this chapter or under any other applicable provisions of law or under this chapter in connection with other law, either as such law is now existing or is hereinafter enacted, and it is so provided.

[1994 c 92 § 140; 1975 1st ex.s. c 87 § 9.]

RCW 30.46.100 Rules.

The director is empowered to adopt and promulgate such reasonable rules as may be

necessary for the implementation of this chapter and its purposes.

[1994 c 92 § 141; 1975 1st ex.s. c 87 § 10.]

Chapter 30.49 RCW
MERGER, CONSOLIDATION, AND CONVERSION

Sections

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30.49.020 State bank to resulting national bank--Laws applicable--Vote required--Termination of franchise.
30.49.030 State or national bank to resulting state bank--Law applicable to nationals.
30.49.040 Merger to resulting state bank--Exception--Agreement, contents, approval, amendment.
30.49.050 Merger to resulting state bank--Stockholders' vote--Notice of meeting--Waiver of notice.
30.49.060 Merger to resulting state bank--Effective date--Termination of charters--Certificate of merger.
30.49.070 Conversion of national to state bank--Requirements--Procedure.
30.49.080 Resulting bank as same business and corporate entity--Use of name of merging, converting bank.
30.49.090 Rights of dissenting shareholder--Appraisal--Amount due as debt.
30.49.100 Provision for successors to fiduciary positions.
30.49.110 Assets, business--Time for conformance with state law.
30.49.120 Resulting state bank--Valuation of certain assets limited.
30.49.125 Resulting bank has branches inside and outside of state--Application--Definitions--Combination or purchase and assumption requires director's approval--Deposit concentration limits.
30.49.130 Severability--1955 c 33.

Notes:
Reorganization as subsidiary of bank holding company: RCW 30.04.550 through 30.04.570.

RCW 30.49.010 Definitions.

As used in this chapter:

"Merging bank" means a party to a merger;

"Converting bank" means a bank converting from a state to a national bank, or the reverse;

"Merger" includes consolidation;

"Resulting bank" means the bank resulting from a merger or conversion.

Wherever reference is made to a vote of stockholders or a vote of classes of stockholders it shall mean only a vote of those entitled to vote under the terms of such shares.

[1986 c 279 § 43; 1955 c 33 § 30.49.010. Prior: 1953 c 234 § 1.]

RCW 30.49.020 State bank to resulting national bank--Laws applicable--Vote required--Termination of franchise.

This section is applicable where there is to be a resulting national bank.

Nothing in the law of this state shall restrict the right of a state bank to merge with or

convert into a resulting national bank. The action to be taken by such merging or converting state bank and its rights and liabilities and those of its shareholders shall be the same as those prescribed at the time of the action for national banks merging with or converting into a resulting state bank by the law of the United States, and not by the law of this state, except that a vote of the holders of two-thirds of each class of voting stock of a state bank shall be required for the merger or conversion, and that on conversion by a state into a national bank the rights of dissenting stockholders shall be those specified in RCW 30.49.090.

Upon the completion of the merger or conversion, the franchise of any merging or converting state bank shall automatically terminate.

[1955 c 33 § 30.49.020. Prior: 1953 c 234 § 2.]

RCW 30.49.030 State or national bank to resulting state bank--Law applicable to nationals.

This section is applicable where there is to be a resulting state bank.

Upon approval by the director, state or national banks may be merged to result in a state bank, or a national bank may convert into a state bank as hereafter prescribed, except that the action by a national bank shall be taken in the manner prescribed by and shall be subject to limitations and requirements imposed by the law of the United States which shall also govern the rights of its dissenting shareholders.

[1994 c 92 § 142; 1955 c 33 § 30.49.030. Prior: 1953 c 234 § 3.]

RCW 30.49.040 Merger to resulting state bank--Exception--Agreement, contents, approval, amendment.

This section is applicable where there is to be a resulting state bank, except in the case of reorganization and exchange as authorized by this title.

(1) The board of directors of each merging state bank shall, by a majority of the entire board, approve a merger agreement which shall contain:

(a) The name of each merging state or national bank and location of each office;

(b) With respect to the resulting state bank, (i) the name and location of the principal and other offices; (ii) the name and mailing address of each director to serve until the next annual meeting of the stockholders; (iii) the name and mailing address of each officer; (iv) the amount of capital, the number of shares and the par value, if any, of each share; and (v) the amendments to its charters and bylaws;

(c) Provisions governing the exchange of shares of the merging state or national banks for such consideration as has been agreed to in the merger agreement;

(d) A statement that the agreement is subject to approval by the director and the stockholders of each merging state or national bank;

(e) Provisions governing the manner of disposing of the shares of the resulting state bank if such shares are to be issued in the transaction and are not taken by dissenting shareholders of merging state or national banks;

(f) Such other provisions as the director requires to discharge his or her duties with respect to the merger;

(2) After approval by the board of directors of each merging state bank, the merger agreement shall be submitted to the director for approval, together with certified copies of the authorizing resolutions of each board of directors showing approval by a majority of the entire board and evidence of proper action by the board of directors of any merging national bank;

(3) Within sixty days after receipt by the director of the papers specified in subsection (2) of this section, the director shall approve or disapprove of the merger agreement, and if no action is taken, the agreement shall be deemed approved. The director shall approve the agreement if it appears that:

(a) The resulting state bank meets the requirements of state law as to the formation of a new state bank;

(b) The agreement provides an adequate capital structure including surplus in relation to the deposit liabilities of the resulting state bank and its other activities which are to continue or are to be undertaken;

(c) The agreement is fair;

(d) The merger is not contrary to the public interest.

If the director disapproves an agreement, he or she shall state his or her objections and give an opportunity to the merging state or national banks to amend the merger agreement to obviate such objections.

[1994 c 92 § 143; 1986 c 279 § 49; 1982 c 196 § 9; 1955 c 33 § 30.49.040. Prior: 1953 c 234 § 4.]

Notes:

Severability--1982 c 196: See note following RCW 30.04.550.

Reorganization as subsidiary of bank holding company: RCW 30.04.550 through 30.04.570.

RCW 30.49.050 Merger to resulting state bank--Stockholders' vote--Notice of meeting--Waiver of notice.

To be effective, a merger which is to result in a state bank must be approved by the stockholders of each merging state bank by a vote of two-thirds of the outstanding voting stock of each class at a meeting called to consider such action, which vote shall constitute the adoption of the charter and bylaws of the resulting state bank, including the amendments in the merger agreement.

Unless waived in writing, notice of the meeting of stockholders shall be given by publication in a newspaper of general circulation in the place where the principal office of each merging state bank is located, at least once each week for four successive weeks, and by mail, at least fifteen days before the date of the meeting, to each stockholder of record of each merging state bank at his address on the books of his bank; no notice of publication need be given if written waivers are received from the holders of two-thirds of the outstanding shares of each class of stock. The notice shall state that dissenting stockholders will be entitled to payment of the value of only those shares which are voted against approval of the plan.

[1955 c 33 § 30.49.050. Prior: 1953 c 234 § 5.]

RCW 30.49.060 Merger to resulting state bank--Effective date--Termination of charters--Certificate of merger.

A merger which is to result in a state bank shall, unless a later date is specified in the agreement, become effective after the filing with and upon the approval of the director of the executed agreement together with copies of the resolutions of the stockholders of each merging state or national bank approving it, certified by the bank's president or a vice president and a secretary. The charters of the merging banks, other than the resulting bank, shall thereupon automatically terminate.

The director shall thereupon issue to the resulting state bank a certificate of merger specifying the name of each merging state or national bank and the name of the resulting state bank. Such certificate shall be conclusive evidence of the merger and of the correctness of all proceedings therefor in all courts and places, and may be recorded in any office for the recording of deeds to evidence the new name in which the property of the merging state or national bank is held.

[1994 c 92 § 144; 1955 c 33 § 30.49.060. Prior: 1953 c 234 § 6.]

RCW 30.49.070 Conversion of national to state bank--Requirements--Procedure.

Except as provided in RCW 30.49.100, a national bank located in this state which follows the procedure prescribed by the laws of the United States to convert into a state bank shall be granted a state charter by the director if he or she finds that the bank meets the standards as to location of offices, capital structures, and business experience and character of officers and directors for the incorporation of a state bank.

The national bank may apply for such charter by filing with the director a certificate signed by its president and cashier and by a majority of the entire board of directors, setting forth the corporate action taken in compliance with the provisions of the laws of the United States governing the conversion of a national to a state bank, and the articles of incorporation, approved by the stockholders, for the government of the bank as a state bank.

[1994 c 92 § 145; 1955 c 33 § 30.49.070. Prior: 1953 c 234 § 7.]

RCW 30.49.080 Resulting bank as same business and corporate entity--Use of name of merging, converting bank.

A resulting state or national bank shall be the same business and corporate entity as each merging state or national bank or as the converting state or national bank with all property, rights, powers and duties of each merging state or national bank or the converting state or national bank, except as affected by the state law in the case of a resulting state bank or the federal law in the case of a resulting national bank, and by the charter and bylaws of the resulting

state or national bank.

A resulting state or national bank shall have the right to use the name of any merging state or national bank or of the converting bank whenever it can do any act under such name more conveniently.

Any reference to a merging or converting state or national bank in any writing, whether executed or taking effect before or after the merger or conversion, shall be deemed a reference to the resulting state or national bank if not inconsistent with the other provisions of such writing.

[1955 c 33 § 30.49.080. Prior: 1953 c 234 § 8.]

RCW 30.49.090 Rights of dissenting shareholder--Appraisal--Amount due as debt.

The owner of shares of a state bank which were voted against a merger to result in a state bank, or against the conversion of a state bank into a national bank, shall be entitled to receive their value in cash, if and when the merger or conversion becomes effective, upon written demand made to the resulting state or national bank at any time within thirty days after the effective date of the merger or conversion, accompanied by the surrender of the stock certificates. The value of such shares shall be determined, as of the date of the shareholders' meeting approving the merger or conversion, by three appraisers, one to be selected by the owners of two-thirds of the dissenting shares, one by the board of directors of the resulting state or national bank, and the third by the two so chosen. The valuation agreed upon by any two appraisers shall govern. If the appraisal is not completed within ninety days after the merger or conversion becomes effective, the director shall cause an appraisal to be made.

The dissenting shareholders shall bear, on a pro rata basis based on the number of dissenting shares owned, the cost of their appraisal and one-half of the cost of a third appraisal, and the resulting bank shall bear the cost of its appraisal and one-half of the cost of the third appraisal. If the director causes an appraisal to be made, the cost of that appraisal shall be borne equally by the dissenting shareholders and the resulting bank, with the dissenting shareholders sharing their half of the cost on a pro rata basis based on the number of dissenting shares owned.

The resulting state or national bank may fix an amount which it considers to be not more than the fair market value of the shares of a merging or the converting bank at the time of the stockholders' meeting approving the merger or conversion, which it will pay dissenting shareholders of the bank entitled to payment in cash. The amount due under such accepted offer or under the appraisal shall constitute a debt of the resulting state or national bank.

[1994 c 256 § 58; 1994 c 92 § 146; 1955 c 33 § 30.49.090. Prior: 1953 c 234 § 9.]

Notes:

Reviser's note: This section was amended by 1994 c 92 § 146 and by 1994 c 256 § 58, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 30.49.100 Provision for successors to fiduciary positions.

Where a resulting state bank is not to exercise trust powers, the director shall not approve a merger or conversion until satisfied that adequate provision has been made for successors to fiduciary positions held by the merging state or national banks or the converting state or national bank.

[1994 c 92 § 147; 1955 c 33 § 30.49.100. Prior: 1953 c 234 § 10.]

RCW 30.49.110 Assets, business--Time for conformance with state law.

If a merging or converting state or national bank has assets which do not conform to the requirements of state law for the resulting state bank or carries on business activities which are not permitted for the resulting state bank, the director may permit a reasonable time to conform with state law.

[1994 c 92 § 148; 1955 c 33 § 30.49.110. Prior: 1953 c 234 § 11.]

RCW 30.49.120 Resulting state bank--Valuation of certain assets limited.

Without approval by the director no asset shall be carried on the books of the resulting state bank at a valuation higher than that on the books of the merging or converting state or national bank at the time of its last examination by a state examiner or national bank examiner before the effective date of the merger or conversion.

[1994 c 92 § 149; 1955 c 33 § 30.49.120. Prior: 1953 c 234 § 12.]

RCW 30.49.125 Resulting bank has branches inside and outside of state--Application--Definitions--Combination or purchase and assumption requires director's approval--Deposit concentration limits.

(1) This section is applicable where the resulting bank would have branches inside and outside the state of Washington.

(2) As used in this section, unless a different meaning is required by the context, the following words and phrases have the following meanings:

(a) "Combination" means a merger or consolidation, or purchase or sale of all or substantially all of the assets, including all or substantially all of the branches.

(b) "Out-of-state bank" means a bank, as defined in 12 U.S.C. Sec. 1813(a), which is chartered under the laws of any state other than this state, or a national bank, the main office of which is located in any state other than this state.

(c) "State" means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(3) A bank chartered under this title may engage in a combination or purchase and assumption of one or more branches of an out-of-state bank with an out-of-state bank with the prior approval of the director if the combination or purchase and assumption would result in a

bank chartered under this title. Upon notice to the director a bank chartered under this title and an out-of-state bank may engage in a combination if the combination would result in an out-of-state bank. However, that combination shall comply with applicable Washington law as determined by the director, including but not limited to applicable state merger laws, and the conditions and requirements of this section.

(4) Applications for the director's approval under subsection (3) of this section shall be on a form prescribed by the director and conditioned upon payment of the fee prescribed pursuant to RCW 30.08.095. If the director finds that (a) the proposed combination will not be detrimental to the safety and soundness of the applicant or the resulting bank, (b) any new officers and directors of the resulting bank are qualified by character, experience, and financial responsibility to direct and manage the resulting bank, and (c) the proposed merger is consistent with the convenience and needs of the communities to be served by the resulting bank in this state and is otherwise in the public interest, the director shall approve the interstate combination and the operation of branches outside of Washington by the applicant bank. This transaction may be consummated only after the applicant has received evidence of the director's written approval.

(5) Any out-of-state bank that will be the resulting bank pursuant to an interstate combination involving a bank chartered under this title shall notify the director of the proposed combination not later than three days after the date of filing of an application for the combination with the responsible federal bank supervisory agency, and shall submit a copy of that application to the director and pay applicable filing fees, if any, required by the director. In lieu of notice from the proposed resulting bank the director may accept notice from the bank's supervisory agency having primary responsibility for the bank. The director shall have the authority to waive any procedures required by Washington merger laws if the director finds that the procedures are in conflict with applicable federal law or in conflict with the applicable law of the state of the resulting bank.

(6) Subject to RCW 30.38.010(2), the deposit concentration limits stated in 12 U.S.C. Sec. 1831u(b)(2)(B) shall apply to the combination of an out-of-state bank and a nonaffiliated out-of-state bank or bank organized under this title or under the national bank act if the combination is an interstate merger transaction as defined by 12 U.S.C. Sec. 1831u(f)(6).

(7) A combination resulting in the acquisition, by an out-of-state bank that does not have branches in this state, of a bank organized under this title or the national bank act, shall not be permitted under this chapter unless the bank to be acquired, or its predecessors, have been in continuous operation, on the date of the combination, for a period of at least five years.

[1996 c 2 § 9.]

Notes:

Severability--1996 c 2: See RCW 30.38.900.

RCW 30.49.130 Severability--1955 c 33.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which

can be given effect without the invalid provision or application, and to this end the provisions of the chapter are declared to be severable. The invalidity of any provision as to a national bank or as to the stockholders of a national bank shall not affect its validity as to a state bank or as to the stockholders of a state bank.

[1955 c 33 § 30.49.130. Prior: 1953 c 234 § 13.]

Chapter 30.53 RCW
MERGING TRUST COMPANIES

Sections

30.53.010 Definitions.
30.53.020 Approval by director--Required.
30.53.030 Contents of merger agreement--Approval by each board of directors--Requirements for director's approval.
30.53.040 Approval by stockholders--Voting--Notice.
30.53.050 Effective date of merger--Certificate of merger.
30.53.060 Resulting trust company--Property, rights, powers, and duties.
30.53.070 Dissenting shareholders--May receive value in cash--Appraisal.
30.53.080 Valuation of assets--Books of merging trust company.

RCW 30.53.010 Definitions.

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

(1) "Merging trust company" means a party to a merger.

(2) "Merger" includes consolidation.

(3) "Resulting trust company" means the trust company resulting from a merger.

(4) "Vote of stockholders" or "vote of classes of stockholders" means only a vote of those entitled to vote under the terms of such shares.

[1994 c 256 § 59.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 30.53.020 Approval by director--Required.

Upon approval by the director, trust companies may be merged to result in a trust company.

[1994 c 256 § 60.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 30.53.030 Contents of merger agreement--Approval by each board of directors--Requirements for director's approval.

(1) The board of directors of each merging trust company shall, by a majority of the entire board, approve a merger agreement that must contain:

(a) The name of each merging trust company and location of each office;

(b) With respect to the resulting trust company, (i) the name and location of the principal and other offices; (ii) the name and mailing address of each director to serve until the next annual meeting of the stockholders; (iii) the name and mailing address of each officer; (iv) the amount of capital, the number of shares and the par value, if any, of each share; and (v) the amendments to its charters and bylaws;

(c) Provisions governing the exchange of shares of the merging trust companies for such consideration as has been agreed to in the merger agreement;

(d) A statement that the agreement is subject to approval by the director and the stockholders of each merging trust company;

(e) Provisions governing the manner of disposing of the shares of the resulting trust company if the shares are to be issued in the transaction and are not taken by dissenting shareholders of merging trust companies; and

(f) Any other provisions the director requires to discharge his or her duties with respect to the merger;

(2) After approval by the board of directors of each merging trust company, the merger agreement shall be submitted to the director for approval, together with certified copies of the authorizing resolutions of each board of directors showing approval by a majority of the entire board. Within sixty days after receipt by the director of the merger agreement and resolutions, the director shall approve or disapprove of the merger agreement, and if no action is taken, the agreement is deemed approved. The director shall approve the agreement if it appears that the:

(a) Resulting trust company meets the requirements of state law as to the formation of a new trust company;

(b) Agreement provides an adequate capital structure including surplus in relation to the deposit liabilities, if any, of the resulting trust company and its other activities which are to continue or are to be undertaken;

(c) Agreement is fair; and

(d) Merger is not contrary to the public interest.

If the director disapproves an agreement, he or she shall state his or her objections and give an opportunity to the merging trust company to amend the merger agreement to obviate such objections.

[1994 c 256 § 61.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 30.53.040 Approval by stockholders--Voting--Notice.

(1) To be effective, a merger that is to result in a trust company must be approved by the

stockholders of each merging trust company by a vote of two-thirds of the outstanding voting stock of each class at a meeting called to consider such action. This vote shall constitute the adoption of the charter and bylaws of the resulting trust company, including the amendments in the merger agreement.

(2) Unless waived in writing, notice of the meeting of stockholders shall be given by publication in a newspaper of general circulation in the place where the principal office of each merging trust company is located, at least once each week for four successive weeks, and by mail, at least fifteen days before the date of the meeting, to each stockholder of record of each merging trust company at the address on the books of the stockholder's trust company. No notice of publication need be given if written waivers are received from the holders of two-thirds of the outstanding shares of each class of stock. The notice shall state that dissenting stockholders will be entitled to payment of the value of only those shares which are voted against approval of the plan.

[1994 c 256 § 62.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 30.53.050 Effective date of merger--Certificate of merger.

(1) A merger that is to result in a trust company shall, unless a later date is specified in the agreement, become effective after the filing with and upon the approval of the director of the executed agreement together with copies of the resolutions of the stockholders of each merging trust company approving it, certified by the trust company's president or a vice-president and a secretary. The charters of the merging trust companies, other than the resulting trust company, shall immediately after that automatically terminate.

(2) The director shall immediately after that issue to the resulting trust company a certificate of merger specifying the name of each merging trust company and the name of the resulting trust company. The certificate shall be conclusive evidence of the merger and of the correctness of all proceedings regarding the merger in all courts and places, and may be recorded in any office for the recording of deeds to evidence the new name in which the property of the merging trust companies is held.

[1994 c 256 § 63.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 30.53.060 Resulting trust company--Property, rights, powers, and duties.

(1) A resulting trust company shall be the same business and corporate entity as each merging trust company with all property, rights, powers, and duties of each merging trust company, except as affected by state law and by the charter and bylaws of the resulting trust company. A resulting trust company shall have the right to use the name of any merging trust company whenever it can do any act under such name more conveniently.

(2) Any reference to a merging trust company in any writing, whether executed or taking

effect before or after the merger, is a reference to the resulting trust company if not inconsistent with the other provisions of that writing.

[1994 c 256 § 64.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 30.53.070 Dissenting shareholders--May receive value in cash--Appraisal.

(1) The owner of shares of a trust company that were voted against a merger to result in a trust company shall be entitled to receive their value in cash, if and when the merger becomes effective, upon written demand made to the resulting trust company at any time within thirty days after the effective date of the merger, accompanied by the surrender of the stock certificates. The value of the shares shall be determined, as of the date of the stockholders' meeting approving the merger, by three appraisers, one to be selected by the owners of two-thirds of the dissenting shares, one by the board of directors of the resulting trust company, and the third by the two so chosen. The valuation agreed upon by any two appraisers shall govern. If the appraisal is not completed within ninety days after the merger becomes effective, the director shall cause an appraisal to be made.

(2) The dissenting shareholders shall bear, on a pro rata basis based on number of dissenting shares owned, the cost of their appraisal and one-half of the cost of a third appraisal, and the resulting trust company shall bear the cost of its appraisal and one-half of the cost of the third appraisal. If the director causes an appraisal to be made, the cost of that appraisal shall be borne equally by the dissenting shareholders and the resulting trust company, with the dissenting shareholders sharing their half of the cost on a pro rata basis based on number of dissenting shares owned.

(3) The resulting trust company may fix an amount which it considers to be not more than the fair market value of the shares of a merging trust company at the time of the stockholders' meeting approving the merger, that it will pay dissenting shareholders of the trust company entitled to payment in cash. The amount due under an accepted offer or under the appraisal shall constitute a debt of the resulting trust company.

[1998 c 45 § 3; 1994 c 256 § 65.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 30.53.080 Valuation of assets--Books of merging trust company.

Without approval by the director, no asset shall be carried on the books of the resulting trust company at a valuation higher than that on the books of the merging trust company at the time of its last examination by a state trust examiner before the effective date of the merger or conversion.

[1994 c 256 § 66.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

Chapter 30.56 RCW
BANK STABILIZATION ACT

Sections

30.56.010 "Bank" and "directors" defined.
30.56.020 Postponement of payments on deposits--Order--Posting.
30.56.030 Business during postponement.
30.56.040 Deposits received during postponement.
30.56.050 Plan for reorganization--Conditions.
30.56.060 Approval of plan--Unsecured claims.
30.56.070 No dividends until reductions paid.
30.56.080 Failure to pay in excess of plan, effect.
30.56.090 New bank may be authorized.
30.56.100 Chapter designated "bank stabilization act."

RCW 30.56.010 "Bank" and "directors" defined.

In this chapter the word "bank" includes savings banks, mutual savings banks, and trust companies, and "directors" shall include trustees.

[1955 c 33 § 30.56.010. Prior: 1933 c 49 § 2; RRS § 3293-2.]

RCW 30.56.020 Postponement of payments on deposits--Order--Posting.

The director is hereby empowered, upon the written application of the directors of a bank, if in his or her judgment the circumstances warrant it, to authorize a bank to postpone, for a period of ninety days and for such further period or periods as he or she may deem expedient, the payment of such proportions or amounts of the demands of its depositors from time to time as he or she may deem necessary. The period or periods of postponement and the proportions or amounts of the demands to be deferred shall be determined by him or her according to the ability of the bank to pay withdrawals. By the regulations prescribed for deferred payments, the director may classify accounts and limit payments to depositors of the several classes differently. The director's orders, regulations and directions shall be in writing and be filed in his or her office, and copies thereof shall be delivered to the bank and be forthwith posted in a conspicuous place in the banking room.

[1994 c 92 § 150; 1955 c 33 § 30.56.020. Prior: 1933 c 49 § 2; RRS § 3293-2.]

RCW 30.56.030 Business during postponement.

During postponement of payments the bank shall remain open for business and be in charge of its officers, but shall not make any loans, investments or expenditures except such as the director will approve as necessary to conserve its assets and pay the cost of operation. The

bank's failure during a period of postponement to repay deposits existing at the commencement of the period, shall not authorize or require the director to take charge of or liquidate the bank, nor constitute ground for the appointment of a receiver.

[1994 c 92 § 151; 1955 c 33 § 30.56.030. Prior: 1933 c 49 § 3; RRS § 3293-3.]

RCW 30.56.040 Deposits received during postponement.

Deposits received during a period of postponement and for sixty days thereafter shall be kept separate from other assets of the bank, shall not draw interest, shall not be loaned or invested except by depositing with reserve banks or investing in liquid securities approved by the director, and shall be withdrawable upon demand. If during a postponement of payments, or at the expiration thereof, the director shall take charge of the bank for liquidation, deposits made during the period of postponement shall be deemed trust funds and be repaid to the depositors forthwith.

[1994 c 92 § 152; 1955 c 33 § 30.56.040. Prior: 1933 c 49 § 4; RRS § 3293-4.]

RCW 30.56.050 Plan for reorganization--Conditions.

At the request of the directors of a bank, the director may propose a plan for its reorganization, if in his or her judgment it would be for the best interests of the bank's creditors and of the community which the bank serves. The plan may contemplate such temporary ratable reductions of the demands of depositors and other creditors as would leave its reserve adequate and its capital and surplus unimpaired after the charging off of bad and doubtful debts; and also may contemplate a postponement of payments as in a case falling within RCW 30.56.020. The plan shall be fully described in a writing, the original of which shall be filed in the office of the director and several copies of which shall be furnished the bank, where one or more copies shall be kept available for inspection by stockholders, depositors and other creditors.

[1994 c 92 § 153; 1955 c 33 § 30.56.050. Prior: 1933 c 49 § 5; RRS § 3293-5.]

RCW 30.56.060 Approval of plan--Unsecured claims.

If, within ninety days after the filing of the plan, creditors having unsecured demands against the bank aggregating not less than three-fourths of the amount of the unsecured demands of all its creditors, approved the plan, the director shall have power to declare the plan to be in effect. Thereupon the unsecured demands of creditors shall be ratably reduced according to the plan and appropriate debits shall be made in the books. The right of a secured creditor to enforce his or her security shall not be affected by the operation of the plan, but the amount of any deficiency to which he or she may be entitled shall be reduced as unsecured demands were reduced. If the plan contemplates a temporary postponement of payments, RCW 30.56.020, 30.56.030 and 30.56.040 shall be applicable, and the bank shall comply therewith and conduct its affairs accordingly.

[1994 c 92 § 154; 1955 c 33 § 30.56.060. Prior: 1933 c 49 § 6; RRS § 3293-6.]

RCW 30.56.070 No dividends until reductions paid.

A bank for which such a plan has been put into effect shall not declare or pay a dividend or distribute any of its assets among stockholders until there shall have been set aside for and credited ratably to the creditors whose demands were reduced an amount equal to the aggregate of the reductions.

[1955 c 33 § 30.56.070. Prior: 1933 c 49 § 7; RRS 3293-7.]

RCW 30.56.080 Failure to pay in excess of plan, effect.

The failure of a bank operating under such a plan to pay to a creditor at any time a sum greater than the plan then requires, shall not constitute a default nor authorize or require the director to take charge of or liquidate the bank nor entitle the creditor to maintain an action against the bank.

[1994 c 92 § 155; 1955 c 33 § 30.56.080. Prior: 1933 c 49 § 8; RRS 3293-8.]

RCW 30.56.090 New bank may be authorized.

If the net assets of a bank operating under such a plan are sufficient to provide the capital and surplus of a newly organized bank in the same place, the director, under such reasonable conditions as he or she shall prescribe, may approve the incorporation of a new bank and permit it to take over the assets and business and assume the liabilities of the existing bank.

[1994 c 92 § 156; 1955 c 33 § 30.56.090. Prior: 1933 c 49 § 9; RRS § 3293-9.]

RCW 30.56.100 Chapter designated "bank stabilization act."

This chapter shall be known as the bank stabilization act.

[1955 c 33 § 30.56.100. Prior: 1933 c 49 § 1; RRS § 3293-1.]

Chapter 30.60 RCW
COMMUNITY CREDIT NEEDS

Sections

30.60.010 Examinations--Investigation and assessment of performance record in meeting community credit needs.
30.60.020 Approval and disapproval of applications--Consideration of performance record in meeting community credit needs.
30.60.030 Adoption of rules.
30.60.900 Severability--1985 c 329.

30.60.901 Effective date--1985 c 329.

RCW 30.60.010 Examinations--Investigation and assessment of performance record in meeting community credit needs.

(1) In conducting an examination of a bank chartered under Title 30 RCW, the director shall investigate and assess the record of performance of the bank in meeting the credit needs of the bank's entire community, including low and moderate-income neighborhoods. The director shall accept, in lieu of an investigation or part of an investigation required by this section, any report or document that the bank is required to prepare or file with one or more federal agencies by the act of Congress entitled the "Community Reinvestment Act of 1977" and the regulations promulgated in accordance with that act, to the extent such reports or documents assist the director in making an assessment based upon the factors outlined in subsection (2) of this section.

(2) In making an investigation required under subsection (1) of this section, the director shall consider, independent of any federal determination, the following factors in assessing the bank's record of performance:

(a) Activities conducted by the institution to ascertain credit needs of its community, including the extent of the institution's efforts to communicate with members of its community regarding the credit services being provided by the institution;

(b) The extent of the institution's marketing and special credit related programs to make members of the community aware of the credit services offered by the institution;

(c) The extent of participation by the institution's board of directors in formulating the institution's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act of 1977;

(d) Any practices intended to discourage applications for types of credit set forth in the institution's community reinvestment act statement(s);

(e) The geographic distribution of the institution's credit extensions, credit applications, and credit denials;

(f) Evidence of prohibited discriminatory or other illegal credit practices;

(g) The institution's record of opening and closing offices and providing services at offices;

(h) The institution's participation, including investments, in local community development projects;

(i) The institution's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans, and small business or small farm loans within its community, or the purchase of such loans originated in its community;

(j) The institution's participation in governmentally insured, guaranteed, or subsidized loan programs for housing, small businesses, or small farms;

(k) The institution's ability to meet various community credit needs based on its financial condition, size, legal impediments, local economic condition, and other factors;

(l) Other factors that, in the judgment of the director, reasonably bear upon the extent to which an institution is helping to meet the credit needs of its entire community.

(3) The director shall include as part of the examination report, a summary of the results of the assessment required under subsection (1) of this section and shall assign annually to each bank a numerical community reinvestment rating based on a one through five scoring system. Such numerical scores shall represent performance assessments as follows:

(a) Excellent performance:	1
(b) Good performance:	2
(c) Satisfactory performance:	3
(d) Inadequate performance:	4
(e) Poor performance:	5

[1994 c 92 § 157; 1985 c 329 § 2.]

Notes:

Legislative intent--1985 c 329: "The legislature believes that commercial banks and savings banks doing business in Washington state have a responsibility to meet the credit needs of the businesses and communities of Washington state, consistent with safe and sound business practices and the free exercise of management discretion.

This act is intended to provide the supervisor of banking and the supervisor of savings and loan associations with the information necessary to enable the supervisors to better determine whether commercial banks, savings banks, and savings and loan associations are meeting the convenience and needs of the public.

This act is further intended to condition the approval of any application by a commercial bank, savings bank, or savings and loan association for a new branch or satellite facility, for an acquisition, merger, conversion, or purchase of assets of another institution not required for solvency reasons, or for the exercise of any new power upon proof that the applicant is satisfactorily meeting the convenience and needs of its community or communities." [1985 c 329 § 1.] "This act" consists of the enactment of RCW 30.04.212, 30.04.214, 30.60.010, 30.60.020, 30.60.030, 30.60.900, 30.60.901, 32.40.010, 32.40.020, and 32.40.030 and this section and the 1985 c 329 amendment to RCW 30.04.210.

RCW 30.60.020 Approval and disapproval of applications--Consideration of performance record in meeting community credit needs.

Whenever the director must approve or disapprove of an application for a new branch or satellite facility; for a purchase of assets, a merger, an acquisition or a conversion not required for solvency reasons; or for authority to engage in a business activity, the director shall consider, among other factors, the record of performance of the applicant in helping to meet the credit needs of the applicant's entire community, including low and moderate-income neighborhoods. Assessment of an applicant's record of performance may be the basis for denying an application.

[1994 c 92 § 158; 1985 c 329 § 3.]

RCW 30.60.030 Adoption of rules.

The director shall adopt all rules necessary to implement sections 2 through 6, chapter 329, Laws of 1985 by January 1, 1986.

[1994 c 92 § 159; 1985 c 329 § 7.]

RCW 30.60.900 Severability--1985 c 329.

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

[1985 c 329 § 11.]

RCW 30.60.901 Effective date--1985 c 329.

This act shall take effect on January 1, 1986, but the director may immediately take such steps as are necessary to ensure that this act is implemented on its effective date.

[1994 c 92 § 160; 1985 c 329 § 13.]

Chapter 30.98 RCW
CONSTRUCTION

Sections

30.98.010 Continuation of existing law.
30.98.020 Title, chapter, section headings not part of law.
30.98.030 Invalidity of part of title not to affect remainder.
30.98.040 Prior investments or transactions not affected.
30.98.050 Repeals and saving.
30.98.060 Emergency--1955 c 33.

RCW 30.98.010 Continuation of existing law.

The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments.

[1955 c 33 § 30.98.010.]

RCW 30.98.020 Title, chapter, section headings not part of law.

Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law.

[1955 c 33 § 30.98.020.]

RCW 30.98.030 Invalidity of part of title not to affect remainder.

If any provision of this title, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected.

[1955 c 33 § 30.98.030.]

RCW 30.98.040 Prior investments or transactions not affected.

Nothing in this title shall be construed to affect the legality of investments, made prior to March 10, 1917, or of transactions had before March 10, 1917, pursuant to any provisions of law in force when such investment were made or transactions had. (Adopted from 1917 c 80 § 77.)

[1955 c 33 § 30.98.040.]

RCW 30.98.050 Repeals and saving.

See 1955 c 33 § 30.98.050.

RCW 30.98.060 Emergency--1955 c 33.

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

[1955 c 33 § 30.98.060.]

Title 31 RCW
MISCELLANEOUS LOAN AGENCIES

Chapters

31.04 Consumer loan act.
31.12 Washington state credit union act.
31.13 Corporate credit unions.
31.20 Development credit corporations.
31.24 Industrial development corporations.
31.35 Agricultural lenders--Loan guaranty program.
31.40 Federally guaranteed small business loans.
31.45 Check cashers and sellers.

NOTES:
Bills of lading: Article 62A.7 RCW.
Cooperative associations: Chapter 23.86 RCW.
Corporations and associations
nonprofit: Title 24 RCW.

profit: Title 23B RCW.
Credit life insurance and credit accident and health insurance: Chapter 48.34 RCW.
Department of financial institutions: Chapter 43.320 RCW.
False representations concerning credit: RCW 9.38.010.
Federal bonds and notes as investment or collateral: Chapter 39.60 RCW.
Forgery: RCW 9A.60.020.
Interest and usury in general: Chapter 19.52 RCW.
Joint tenancies with right of survivorship: Chapter 64.28 RCW.
Mortgages and trust receipts: Title 61 RCW.
Negotiable instruments: Article 62A.3 RCW.
Nonadmitted foreign corporations, powers relative to secured interests: Chapter 23B.18 RCW.
Pawnbrokers: Chapter 19.60 RCW.
Retail installment sales of goods and services: Chapter 63.14 RCW.
Safe deposit companies: Chapter 22.28 RCW.
Uniform unclaimed property act: Chapter 63.29 RCW.

Chapter 31.04 RCW
CONSUMER LOAN ACT

(Formerly: Industrial loan companies)

Sections

31.04.005 Finding--Purpose.
31.04.015 Definitions.
31.04.025 Application of chapter.
31.04.027 Violations of chapter.
31.04.035 License required.
31.04.045 License--Application--Fee--Surety bond.
31.04.055 License--Director's duties.
31.04.065 License--Information contained--Requirement to post.
31.04.075 Licensee--Place of business.
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31.04.102 Licensee--Disclosure of fees and costs to borrower--Three business days.
31.04.105 Licensee--Powers--Restrictions.
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31.04.125 Loan restrictions--Interest calculations.
31.04.135 Advertisements or promotions.
31.04.145 Investigations and examinations--Director's duties--Production of information--Costs.
31.04.155 Licensee--Recordkeeping--Director's access--Report requirement--Failure to report.
31.04.165 Director--Broad administrative discretion--Rule making--Actions in superior court.
31.04.175 Violations--No penalty prescribed--Gross misdemeanor--Good faith exception.
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31.04.202 Application of administrative procedure act.
31.04.205 Enforcement of chapter--Director's discretion--Hearing--Sanctions.
31.04.208 Application of consumer protection act.
31.04.900 Severability--1991 c 208.
31.04.901 Short title.
31.04.902 Effective dates, implementation--1991 c 208.

NOTES:
Department of financial institutions: Chapter 43.320 RCW.
Master license system exemption: RCW 19.02.800.

RCW 31.04.005 Finding--Purpose.

The legislature finds that borrowers who represent a higher than average credit risk are unable to obtain credit except at interest rates higher than permitted under other statutory provisions governing interest rates for loans. Therefore, it is the purpose of this chapter to authorize higher interest rates for certain types of loans, subject to the conditions and limitations contained in this chapter in order to ensure credit availability.

[1991 c 208 § 1.]

RCW 31.04.015 Definitions.

The definitions set forth in this section apply throughout this chapter unless the context clearly requires a different meaning.

(1) "Person" includes individuals, partnerships, associations, limited liability companies, limited liability partnerships, trusts, corporations, and all other legal entities.

(2) "License" means a single license issued under the authority of this chapter with respect to a single place of business.

(3) "Licensee" means a person to whom one or more licenses have been issued.

(4) "Director" means the director of financial institutions.

(5) "Insurance" means life insurance, disability insurance, property insurance, involuntary unemployment insurance, and such other insurance as may be authorized by the insurance commissioner.

(6) "Add-on method" means the method of precomputing interest payable on a loan whereby the interest to be earned is added to the principal balance and the total plus any charges allowed under this chapter is stated as the loan amount, without further provision for the payment of interest except for failure to pay according to loan terms. The director may adopt by rule a more detailed explanation of the meaning and use of this method.

(7) "Simple interest method" means the method of computing interest payable on a loan by applying the annual percentage interest rate or its periodic equivalent to the unpaid balances of the principal of the loan outstanding for the time outstanding with each payment applied first to any unpaid penalties, fees, or charges, then to accumulated interest, and the remainder of the payment applied to the unpaid balance of the principal until paid in full. In using such method, interest shall not be payable in advance nor compounded, except that on a loan secured by real estate, a licensee may collect at the time of the loan closing up to but not exceeding forty-five days of prepaid interest. The director may adopt by rule a more detailed explanation of the meaning and use of this method.

(8) "Applicant" means a person applying for a license under this chapter.

(9) "Borrower" means any person who consults with or retains a licensee or person subject to this chapter in an effort to obtain or seek information about obtaining a loan,

regardless of whether that person actually obtains such a loan.

(10) "Loan" means a sum of money lent at interest or for a fee or other charge and includes both open-end and closed-end loan transactions.

(11) "Loan originator" means a person employed, either directly or indirectly, or retained as an independent contractor by a licensee, to make or assist a person in applying to obtain a loan.

(12) "Making a loan" means closing a loan in a person's name, or advancing, offering to advance, or making a commitment to advance funds to a borrower for a loan.

(13) "Mortgage broker" means the same as defined in RCW 19.146.010, except that for purposes of this chapter, a licensee or person subject to this chapter cannot receive compensation as both a consumer loan licensee making the loan and as a mortgage broker in the same loan transaction.

(14) "Officer" means an official appointed by the company for the purpose of making business decisions or corporate decisions.

(15) "Principal" means any person who controls, directly or indirectly through one or more intermediaries, alone or in concert with others, a ten percent or greater interest in a partnership; company; association or corporation; or a limited liability company, and the owner of a sole proprietorship.

(16) "Senior officer" means an officer of a licensee at the vice-president level or above.

(17) "Third party service provider" means any person other than the licensee or a mortgage broker who provides goods or services to the licensee or borrower in connection with the preparation of the borrower's loan and includes, but is not limited to, credit reporting agencies, real estate brokers or salespersons, title insurance companies and agents, appraisers, structural and pest inspectors, or escrow companies.

[2001 c 81 § 1; 1994 c 92 § 161; 1991 c 208 § 2.]

RCW 31.04.025 Application of chapter.

Each loan made to a resident of this state by a licensee is subject to the authority and restrictions of this chapter, unless such loan is made under the authority of another license issued pursuant to a law of this state or under other authority of a law of this state. This chapter shall not apply to any person doing business under and as permitted by any law of this state or of the United States relating to banks, savings banks, trust companies, savings and loan or building and loan associations, or credit unions, nor to any pawnbroking business lawfully transacted under and as permitted by any law of this state regulating pawnbrokers, nor to any loan of credit made pursuant to a credit card plan.

[2001 c 81 § 2; 1991 c 208 § 4.]

RCW 31.04.027 Violations of chapter.

It is a violation of this chapter for a licensee, its officers, directors, employees, or independent contractors, or any other person subject to this chapter to:

(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead

any borrower, to defraud or mislead any lender, or to defraud or mislead any person;

(2) Directly or indirectly engage in any unfair or deceptive practice toward any person;

(3) Directly or indirectly obtain property by fraud or misrepresentation;

(4) Solicit or enter into a contract with a borrower that provides in substance that the consumer loan company may earn a fee or commission through the consumer loan company's best efforts to obtain a loan even though no loan is actually obtained for the borrower;

(5) Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting;

(6) Fail to make disclosures to loan applicants as required by RCW 31.04.102 and any other applicable state or federal law;

(7) Make, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan or engage in bait and switch advertising;

(8) Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any reports filed with the department by a licensee or in connection with any investigation conducted by the department;

(9) Make any payment, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property; or

(10) Advertise any rate of interest without conspicuously disclosing the annual percentage rate implied by that rate of interest or otherwise fail to comply with any requirement of the truth in lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Sec. 226, the real estate settlement procedures act, 12 U.S.C. Sec. 2601 and regulation X, 24 C.F.R. Sec. 3500, or the equal credit opportunity act, 15 U.S.C. Sec. 1691 and regulation B, Sec. 202.9, 202.11, and 202.12, or any other applicable federal statute, as now or hereafter amended, in any advertising of residential mortgage loans or any other consumer loan company activity.

[2001 c 81 § 3.]

RCW 31.04.035 License required.

No person may engage in the business of making secured or unsecured loans of money, credit, or things in action at interest rates authorized by this chapter without first obtaining and maintaining a license in accordance with this chapter.

[1991 c 208 § 3.]

RCW 31.04.045 License--Application--Fee--Surety bond.

(1) Application for a license under this chapter must be in writing and in the form prescribed by the director. The application must contain at least the following information:

(a) The name and the business addresses of the applicant;

(b) If the applicant is a partnership or association, the name of every member;

(c) If the applicant is a corporation, the name, residence address, and telephone number of each officer and director;

(d) The street address, county, and municipality from which business is to be conducted; and

(e) Such other information as the director may require by rule.

(2) At the time of filing an application for a license under this chapter, each applicant shall pay to the director an investigation fee and the license fee in an amount determined by rule of the director to be sufficient to cover the director's costs in administering this chapter.

(3) Each applicant shall file and maintain a surety bond, approved by the director, executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety, whose liability as such surety shall not exceed in the aggregate the penal sum of the bond. The penal sum of the bond shall be one hundred thousand dollars for each licensed location up to and including five licensed locations, and an additional ten thousand dollars for each licensed location in excess of five licensed locations, except that a licensee who makes a loan secured by real property shall maintain at a minimum a surety bond with a penal sum of not less than four hundred thousand dollars. The bond shall run to the state of Washington as obligee for the use and benefit of the state and of any person or persons who may have a cause of action against the obligor under this chapter. The bond shall be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all the rules adopted under this chapter. The bond will pay to the state and any person or persons having a cause of action against the obligor all moneys that may become due and owing to the state and those persons under and by virtue of this chapter. In lieu of a surety bond, if the applicant is a Washington business corporation, the applicant may maintain unimpaired capital, surplus, and long-term subordinated debt in an amount that at any time its outstanding promissory notes or other evidences of debt (other than long-term subordinated debt) in an aggregate sum do not exceed three times the aggregate amount of its unimpaired capital, surplus, and long-term subordinated debt. The director may define qualifying "long-term subordinated debt" for purposes of this section.

[2001 c 81 § 4; 1994 c 92 § 162; 1991 c 208 § 5.]

RCW 31.04.055 License--Director's duties.

(1) The director shall issue and deliver a license to the applicant to make loans in accordance with this chapter at the location specified in the application if, after investigation, the director finds that:

(a) The applicant has paid all required fees;

(b) The applicant has submitted a complete application in compliance with RCW 31.04.045;

(c) Neither the applicant nor its officers or principals have had a license issued under this section or any other section, in this state or another state, revoked or suspended within the last five years of the date of filing of the application;

(d) Neither the applicant nor any of its officers or principals have been convicted of a gross misdemeanor involving dishonesty or financial misconduct or a felony or a violation of the

banking laws of this state or of the United States within seven years of the filing of an application; and

(e) The financial responsibility, experience, character, and general fitness of the applicant are such as to command the confidence of the community and to warrant a belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter.

(2) If the director does not find the conditions of subsection (1) of this section have been met, the director shall not issue the license. The director shall notify the applicant of the denial and return to the applicant the bond posted and the sum paid by the applicant as a license fee, retaining the investigation fee to cover the costs of investigating the application. The director shall approve or deny every application for license under this chapter within ninety days from the filing of a complete application with the fees and the approved bond.

[2001 c 81 § 5; 1994 c 92 § 163; 1991 c 208 § 6.]

RCW 31.04.065 License--Information contained--Requirement to post.

The license shall state the address at which the business is to be conducted and shall state fully the name of the licensee, and if the licensee is a copartnership or association, the names of its members, and if a corporation, the date and place of its incorporation. The licensee shall conspicuously post the license in the place of business of the licensee. The license is not transferable or assignable.

[1991 c 208 § 7.]

RCW 31.04.075 Licensee--Place of business.

The licensee may not maintain more than one place of business under the same license, but the director may issue more than one license to the same licensee upon application by the licensee in a form and manner established by the director.

Whenever a licensee wishes to change the place of business to a street address other than that designated in the license, the licensee shall give written notice to the director as required by rule, pay the license fee, and obtain the director's approval.

[2001 c 81 § 6; 1994 c 92 § 164; 1991 c 208 § 8.]

RCW 31.04.085 Licensee--Assessment--Bond--Time of payment.

A licensee shall, for each license held by any person, on or before the first day of each March, pay to the director an annual assessment as determined by rule by the director. The licensee shall be responsible for payment of the annual assessment for the previous calendar year if the licensee had a license for any time during the preceding calendar year, regardless of whether they surrendered their license during the calendar year or whether their license was suspended or revoked. At the same time the licensee shall file with the director the required bond or otherwise demonstrate compliance with RCW 31.04.045.

[2001 c 81 § 7; 1994 c 92 § 165; 1991 c 208 § 9.]

RCW 31.04.093 Licensing--Applications--Regulation of licensees--Director's duties--Fines--Orders.

(1) The director shall enforce all laws and rules relating to the licensing and regulation of licensees and persons subject to this chapter.

(2) The director may deny applications for licenses for:

(a) Failure of the applicant to demonstrate within its application for a license that it meets the requirements for licensing in RCW 31.04.045 and 31.04.055;

(b) Violation of an order issued by the director under this chapter or another chapter administered by the director, including but not limited to cease and desist orders and temporary cease and desist orders;

(c) Revocation or suspension of a license to conduct lending, or to provide settlement services associated with lending, by this state, another state, or by the federal government within five years of the date of submittal of a complete application for a license; or

(d) Filing an incomplete application when that incomplete application has been filed with the department for sixty or more days, provided that the director has given notice to the licensee that the application is incomplete, informed the applicant why the application is incomplete, and allowed at least twenty days for the applicant to complete the application.

(3) The director may suspend or revoke a license issued under this chapter if the director finds that:

(a) The licensee has failed to pay any fee due the state of Washington, has failed to maintain in effect the bond or permitted substitute required under this chapter, or has failed to comply with any specific order or demand of the director lawfully made and directed to the licensee in accordance with this chapter;

(b) The licensee, either knowingly or without the exercise of due care, has violated any provision of this chapter or any rule adopted under this chapter; or

(c) A fact or condition exists that, if it had existed at the time of the original application for the license, clearly would have allowed the director to deny the application for the original license. The director may revoke or suspend only the particular license with respect to which grounds for revocation or suspension may occur or exist unless the director finds that the grounds for revocation or suspension are of general application to all offices or to more than one office operated by the licensee, in which case, the director may revoke or suspend all of the licenses issued to the licensee.

(4) The director may impose fines of up to one hundred dollars per day upon the licensee, its employee or loan originator, or other person subject to this chapter for:

(a) Any violation of this chapter; or

(b) Failure to comply with any order or subpoena issued by the director under this chapter.

(5) The director may issue an order directing the licensee, its employee or loan originator, or other person subject to this chapter to:

(a) Cease and desist from conducting business in a manner that is injurious to the public or violates any provision of this chapter;

(b) Take such affirmative action as is necessary to comply with this chapter; or

(c) Make restitution to a borrower or other person who is damaged as a result of a violation of this chapter.

(6) The director may issue an order removing from office or prohibiting from participation in the affairs of any licensee, or both, any officer, principal, employee or loan originator, or any person subject to this chapter for:

(a) False statements or omission of material information from an application for a license that, if known, would have allowed the director to deny the original application for a license;

(b) Conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony;

(c) Suspension or revocation of a license to engage in lending, or perform a settlement service related to lending, in this state or another state;

(d) Failure to comply with any order or subpoena issued under this chapter; or

(e) A violation of RCW 31.04.027.

(7) Whenever the director determines that the public is likely to be substantially injured by delay in issuing a cease and desist order, the director may immediately issue a temporary cease and desist order. The order may direct the licensee to discontinue any violation of this chapter, to take such affirmative action as is necessary to comply with this chapter, and may include a summary suspension of the licensee's license and may order the licensee to immediately cease the conduct of business under this chapter. The order shall become effective at the time specified in the order. Every temporary cease and desist order shall include a provision that a hearing will be held upon request to determine whether the order will become permanent. Such hearing shall be held within fourteen days of receipt of a request for a hearing unless otherwise specified in chapter 34.05 RCW.

(8) A licensee may surrender a license by delivering to the director written notice of surrender, but the surrender does not affect the licensee's civil or criminal liability, if any, for acts committed before the surrender, including any administrative action initiated by the director to suspend or revoke a license, impose fines, compel the payment of restitution to borrowers or other persons, or exercise any other authority under this chapter.

(9) The revocation, suspension, or surrender of a license does not impair or affect the obligation of a preexisting lawful contract between the licensee and a borrower.

(10) Every license issued under this chapter remains in force and effect until it has been surrendered, revoked, or suspended in accordance with this chapter. However, the director may on his or her own initiative reinstate suspended licenses or issue new licenses to a licensee whose license or licenses have been revoked if the director finds that the licensee meets all the requirements of this chapter.

[2001 c 81 § 8; 1994 c 92 § 166; 1991 c 208 § 10.]

RCW 31.04.102 Licensee--Disclosure of fees and costs to borrower--Three business days.

Within three business days following receipt of a loan application, a licensee shall provide to each borrower a written disclosure containing an itemized estimation and explanation

of all fees and costs that the borrower is required to pay in connection with obtaining a loan from the licensee. A good faith estimate of a fee or cost shall be provided if the exact amount of the fee or cost is not available when the disclosure is provided. Disclosure in a form which complies with the requirements of the truth in lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Sec. 226, the real estate settlement procedures act and regulation X, 24 C.F.R. Sec. 3500, and all other applicable federal laws and regulations, as now or hereafter amended, shall be deemed to constitute compliance with the disclosure requirements of this section when it is provided to the borrower within three days of receipt of a loan application. Each licensee shall comply with all other applicable federal and state laws and regulations.

[2001 c 81 § 9.]

RCW 31.04.105 Licensee--Powers--Restrictions.

Every licensee may:

(1) Lend money at a rate that does not exceed twenty-five percent per annum as determined by the simple interest method of calculating interest owed;

(2) In connection with the making of a loan, charge the borrower a nonrefundable, prepaid, loan origination fee not to exceed four percent of the first twenty thousand dollars and two percent thereafter of the principal amount of the loan advanced to or for the direct benefit of the borrower, which fee may be included in the principal balance of the loan;

(3) Agree with the borrower for the payment of fees to third parties other than the licensee who provide goods or services to the licensee in connection with the preparation of the borrower's loan, including, but not limited to, credit reporting agencies, title companies, appraisers, structural and pest inspectors, and escrow companies, when such fees are actually paid by the licensee to a third party for such services or purposes and may include such fees in the amount of the loan. However, no charge may be collected unless a loan is made, except for reasonable fees properly incurred in connection with the appraisal of property by a qualified, independent, professional, third-party appraiser selected by the borrower and approved by the lender or in the absence of borrower selection, selected by the lender;

(4) In connection with the making of a loan secured by real estate, when the borrower actually obtains a loan, agree with the borrower to pay a fee to a mortgage broker that is not owned by the licensee or under common ownership with the licensee and that performed services in connection with the origination of the loan. A licensee may not receive compensation as a mortgage broker in connection with any loan made by the licensee;

(5) Charge and collect a penalty of ten cents or less on each dollar of any installment payment delinquent ten days or more;

(6) Collect from the debtor reasonable attorneys' fees, actual expenses, and costs incurred in connection with the collection of a delinquent debt, a repossession, or a foreclosure when a debt is referred for collection to an attorney who is not a salaried employee of the licensee;

(7) Make open-end loans as provided in this chapter;

(8) Charge and collect a fee for dishonored checks in an amount approved by the director; and

(9) In accordance with Title 48 RCW, sell insurance covering real and personal property,

covering the life or disability or both of the borrower, and covering the involuntary unemployment of the borrower.

[2001 c 81 § 10; 1998 c 28 § 1; 1994 c 92 § 167; 1993 c 190 § 1; 1991 c 208 § 11.]

RCW 31.04.115 Open-end loan--Requirements--Restrictions--Options.

(1) As used in this section, "open-end loan" means an agreement between a licensee and a borrower that expressly states that the loan is made in accordance with this chapter and that provides that:

(a) A licensee may permit the borrower to obtain advances of money from the licensee from time to time, or the licensee may advance money on behalf of the borrower from time to time as directed by the borrower;

(b) The amount of each advance and permitted charges and costs are debited to the borrower's account, and payments and other credits are credited to the same account;

(c) The charges are computed on the unpaid principal balance, or balances, of the account from time to time; and

(d) The borrower has the privilege of paying the account in full at any time without prepayment penalty or, if the account is not in default, in monthly installments of fixed or determinable amounts as provided in the agreement.

(2) Interest charges on an open-end loan shall not exceed twenty-five percent per annum computed in each billing cycle by any of the following methods:

(a) By converting the annual rate to a daily rate, and multiplying the daily rate by the daily unpaid principal balance of the account, in which case each daily rate is determined by dividing the annual rate by three hundred sixty-five;

(b) By multiplying a monthly rate by the average daily unpaid principal balance of the account in the billing cycle, in which case the monthly rate is one-twelfth of the annual rate, and the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle; or

(c) By converting the annual rate to a daily rate, and multiplying the daily rate by the average daily unpaid principal balance of the account in the billing cycle, in which case the daily rate is determined by dividing the annual rate by three hundred sixty-five, and the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle.

For all of the methods of computation specified in this subsection, the billing cycle shall be monthly, and the unpaid principal balance on any day shall be determined by adding to the balance unpaid, as of the beginning of that day, all advances and other permissible amounts charged to the borrower, and deducting all payments and other credits made or received that day. A billing cycle is considered monthly if the closing date of the cycle is on the same date each month, or does not vary by more than four days from that date.

(3) In addition to the charges permitted under subsection (2) of this section, the licensee may contract for and receive an annual fee, payable each year in advance, for the privilege of opening and maintaining an open-end loan account. Except as prohibited or limited by this section, the licensee may also contract for and receive on an open-end loan any additional charge

permitted by this chapter on other loans, subject to the conditions and restrictions otherwise pertaining to those charges.

(4)(a) If credit life or credit disability insurance is provided, the additional charge for credit life insurance or credit disability insurance shall be calculated in each billing cycle by applying the current monthly premium rate for the insurance, at the rate approved by the insurance commissioner to the entire outstanding balances in the borrower's open-end loan account, or so much thereof as the insurance covers using any of the methods specified in subsection (2) of this section for the calculation of interest charges; and

(b) The licensee shall not cancel credit life or disability insurance written in connection with an open-end loan because of delinquency of the borrower in the making of the required minimum payments on the loan, unless one or more of the payments is past due for a period of ninety days or more; and the licensee shall advance to the insurer the amounts required to keep the insurance in force during that period, which amounts may be debited to the borrower's account.

(5) A security interest in real or personal property may be taken to secure an open-end loan. Any such security interest may be retained until the open-end account is terminated. The security interest shall be promptly released if (a) there has been no outstanding balance in the account for twelve months and the borrower either does not have or surrenders the unilateral right to create a new outstanding balance; or (b) the account is terminated at the borrower's request and paid in full.

(6) The licensee may from time to time increase the rate of interest being charged on the unpaid principal balance of the borrower's open-end loans if the licensee mails or delivers written notice of the change to the borrower at least thirty days before the effective date of the increase unless the increase has been earlier agreed to by the borrower. However, the borrower may choose to terminate the open-end account and the licensee shall allow the borrower to repay the unpaid balance incurred before the effective date of the rate increase upon the existing open-end loan account terms and interest rate unless the borrower incurs additional debt on or after the effective date of the rate increase or otherwise agrees to the new rate.

(7) The licensee shall deliver a copy of the open-end loan agreement to the borrower at the time the open-end account is created. The agreement must contain the name and address of the licensee and of the principal borrower, and must contain such specific disclosures as may be required by rule of the director. In adopting the rules the director shall consider Regulation Z promulgated by the board of governors of the federal reserve system under the federal consumer credit protection act.

(8) Except in the case of an account that the licensee deems to be uncollectible, or with respect to which delinquency collection procedures have been instituted, the licensee shall deliver to the borrower at the end of each billing cycle in which there is an outstanding balance of more than one dollar in the account, or with respect to which interest is imposed, a periodic statement in the form required by the director. In specifying such form the director shall consider Regulation Z promulgated by the board of governors of the federal reserve system under the federal consumer credit protection act.

[1994 c 92 § 168; 1993 c 405 § 1; 1991 c 208 § 12.]

RCW 31.04.125 Loan restrictions--Interest calculations.

(1) No licensee may make a loan with a repayment period greater than six years and fifteen days after the loan origination date except for open-end loans or loans secured by real estate or personal property used as a residence.

(2) No licensee may make a loan using any method of calculating interest other than the simple interest method; except that the add-on method of calculating interest may be used for a loan not secured by real property or personal property used as a residence when the repayment period does not exceed three years and fifteen days after the loan origination date.

(3) No licensee may make a loan using the add-on method to calculate interest that does not provide for a refund to the borrower or a credit to the borrower's account of any unearned interest when the loan is repaid before the original maturity date in full by cash, by a new loan, by refinancing, or otherwise before the final due date. The refund must be calculated using the actuarial method, unless a sum equal to two or more installments has been prepaid and the account is not in arrears and continues to be paid ahead, in which case the interest on the account must be recalculated by the simple interest method with the refund of unearned interest made as if the loan had been made using the simple interest method. When computing an actuarial refund, the lender may round the annual rate used to the nearest quarter of one percent.

In computing a required refund of unearned interest, a prepayment made on or before the fifteenth day after the scheduled payment date is deemed to have been made on the payment date preceding the prepayment. In the case of prepayment before the first installment due date, the company may retain an amount not to exceed one-thirtieth of the first month's interest charge for each day between the origination date of the loan and the actual date of prepayment.

(4) No licensee may provide credit life or disability insurance in an amount greater than that required to pay off the total balance owing on the date of the borrower's death net of refunds in the case of credit life insurance, or all minimum payments that become due on the loan during the covered period of disability in the case of credit disability insurance. The lender may not require any such insurance.

(5) Except in the case of loans by mail, where the borrower has sufficient time to review papers before returning them, no licensee may prepare loan papers in advance of the loan closing without having reviewed with the borrower the terms and conditions of the loan to include the type and amount of insurance, if any, requested by the borrower.

[1995 c 9 § 1; 1991 c 208 § 13.]

RCW 31.04.135 Advertisements or promotions.

No licensee may advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner whatsoever, any statement or representation with regard to the rates, terms, or conditions for the lending of money that is false, misleading, or deceptive.

[1991 c 208 § 14.]

RCW 31.04.145 Investigations and examinations--Director's duties--Production of information--Costs.

(1) For the purpose of discovering violations of this chapter or securing information lawfully required under this chapter, the director may at any time, either personally or by designees, investigate or examine the loans and business and, wherever located, the books, accounts, records, papers, documents, files, and other information used in the business of every licensee and of every person who is engaged in the business making or assisting in the making of loans at interest rates authorized by this chapter, whether the person acts or claims to act as principal or agent, or under or without the authority of this chapter. For these purposes, the director or designated representatives shall have free access to the offices and places of business, books, accounts, papers, documents, other information, records, files, safes, and vaults of all such persons. The director or persons designated by the director may require the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or the subject matter of any investigation, examination, or hearing and may require such person to produce books, accounts, papers, records, files, and any other information the director or designated persons deem relevant to the inquiry. The director may require the production of original books, accounts, papers, records, files, and other information; may require that such original books, accounts, papers, records, files, and other information be copied; or may make copies himself or herself or by designee of such original books, accounts, papers, records, files, or other information. If a licensee or person does not attend and testify, or does not produce the requested books, accounts, papers, records, files, or other information, then the director or designated persons may issue a subpoena or subpoena duces tecum requiring attendance or compelling production of the books, accounts, papers, records, files, or other information.

(2) The director shall make such periodic examinations of the affairs, business, office, and records of each licensee as determined by rule.

(3) Every licensee examined or investigated by the director or the director's designee shall pay to the director the cost of the examination or investigation of each licensed place of business as determined by rule by the director.

[2001 c 81 § 11; 1995 c 9 § 2; 1994 c 92 § 169; 1991 c 208 § 15.]

RCW 31.04.155 Licensee--Recordkeeping--Director's access--Report requirement--Failure to report.

The licensee shall keep and use in the business such books, accounts, records, papers, documents, files, and other information as will enable the director to determine whether the licensee is complying with this chapter and with the rules adopted by the director under this chapter. The director shall have free access to such books, accounts, records, papers, documents, files, and other information wherever located. Every licensee shall preserve the books, accounts, records, papers, documents, files, and other information relevant to a loan for at least twenty-five

months after making the final entry on any loan. No licensee or person subject to examination or investigation under this chapter shall withhold, abstract, remove, mutilate, destroy, or secrete any books, accounts, records, papers, documents, files, or other information.

Each licensee shall, on or before the first day of March of each year, file a report with the director giving such relevant information as the director may reasonably require concerning the business and operations of each licensed place of business conducted during the preceding calendar year. The report must be made under oath and must be in the form prescribed by the director, who shall make and publish annually an analysis and recapitulation of the reports. Every licensee that fails to file a report that is required to be filed by this chapter within the time required under this chapter is subject to a penalty of fifty dollars per day for each day's delay. The attorney general may bring a civil action in the name of the state for recovery of any such penalty.

[2001 c 81 § 12; 1994 c 92 § 170; 1991 c 208 § 16.]

RCW 31.04.165 Director--Broad administrative discretion--Rule making--Actions in superior court.

(1) The director has the power, and broad administrative discretion, to administer and interpret this chapter to facilitate the delivery of financial services to the citizens of this state by loan companies subject to this chapter. The director shall adopt all rules necessary to administer this chapter and to ensure complete and full disclosure by licensees of lending transactions governed by this chapter.

(2) If it appears to the director that a licensee is conducting business in an injurious manner or is violating any provision of this chapter, the director may order or direct the discontinuance of any such injurious or illegal practice.

(3) For purposes of this section, "conducting business in an injurious manner" means conducting business in a manner that violates any provision of this chapter, or that creates the reasonable likelihood of a violation of any provision of this chapter.

(4) The director or designated persons, with or without prior administrative action, may bring an action in superior court to enjoin the acts or practices that constitute violations of this chapter and to enforce compliance with this chapter or any rule or order made under this chapter. Upon proper showing, injunctive relief or a temporary restraining order shall be granted. The director shall not be required to post a bond in any court proceedings.

[2001 c 81 § 13; 1994 c 92 § 171; 1991 c 208 § 17.]

RCW 31.04.175 Violations--No penalty prescribed--Gross misdemeanor--Good faith exception.

(1) A person who violates, or knowingly aids or abets in the violation of any provision of this chapter, for which no penalty has been prescribed, and a person who fails to perform any act that it is his or her duty to perform under this chapter and for which failure no penalty has been prescribed, is guilty of a gross misdemeanor.

(2) No provision imposing civil penalties or criminal liability under this chapter or rule

adopted under this chapter applies to an act taken or omission made in good faith in conformity with a written notice, interpretation, or examination report of the director or his or her agent.

[2001 c 81 § 14; 1994 c 92 § 172; 1991 c 208 § 18.]

RCW 31.04.185 Repealed sections of law--Rules adopted under.

All rules adopted under or to implement the provisions of law repealed by sections 23 and 24, chapter 208, Laws of 1991 remain in effect until amended or repealed by the director.

[1994 c 92 § 173; 1991 c 208 § 19.]

RCW 31.04.202 Application of administrative procedure act.

The proceedings for denying license applications, issuing cease and desist orders, suspending or revoking licenses, and imposing civil penalties or other remedies under this chapter, and any review or appeal of such action, shall be governed by the provisions of the administrative procedure act, chapter 34.05 RCW.

[2001 c 81 § 15.]

RCW 31.04.205 Enforcement of chapter--Director's discretion--Hearing--Sanctions.

The director or designated persons may, at his or her discretion, take such action as provided for in this chapter to enforce this chapter. If the person subject to such action does not appear in person or by counsel at the time and place designated for any administrative hearing that may be held on the action, then the person shall be deemed to consent to the action. If the person subject to the action consents, or if after hearing the director finds by a preponderance of the evidence that any grounds for sanctions under this chapter exist, then the director may impose any sanction authorized by this chapter.

[2001 c 81 § 16.]

RCW 31.04.208 Application of consumer protection act.

The legislature finds that the practices governed by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Any violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair and deceptive act or practice and unfair method of competition in the conduct of trade or commerce in violation of RCW 19.86.020. Remedies provided by chapter 19.86 RCW are cumulative and not exclusive.

[2001 c 81 § 17.]

RCW 31.04.900 Severability--1991 c 208.

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

[1991 c 208 § 20.]

RCW 31.04.901 Short title.

This chapter shall be known as the consumer loan act.

[1991 c 208 § 21.]

RCW 31.04.902 Effective dates, implementation--1991 c 208.

(1) Sections 1 through 23 of this act shall take effect January 1, 1992, but the director shall take such steps and adopt such rules as are necessary to implement this act by that date.

(2) Section 24 of this act shall take effect January 1, 1993.

[1994 c 92 § 174; 1991 c 208 § 25.]

Chapter 31.12 RCW
WASHINGTON STATE CREDIT UNION ACT

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NOTES:
Fairness in lending act: RCW 30.04.500 through 30.04.515.
Master license system exemption: RCW 19.02.800.

RCW 31.12.003 Findings--Intent--1997 c 397.

The legislature finds that credit unions provide many valuable services to the consumers of this state and will be better prepared to continue providing these services if the Washington state credit union act is modernized, clarified, and reorganized.

Furthermore, the legislature finds that credit unions and credit union members will benefit by enacting provisions clearly specifying the director of financial institutions' authority to enforce statutory provisions.

Revisions to this chapter reflect the legislature's intent to modernize, clarify, and reorganize the existing act, and specify the director's enforcement authority. By enacting the revisions to this chapter, it is not the intent of the legislature to affect the scope of credit unions' field of membership or tax status, or impact federal parity provisions.

[1997 c 397 § 1.]

RCW 31.12.005 Definitions.

Unless the context clearly requires otherwise, as used in this chapter:

(1) "Board" means the board of directors of a credit union.

(2) "Board officer" means an officer of the board elected under RCW 31.12.265(1).

(3) "Branch" of a credit union, out-of-state credit union, or foreign credit union means any facility that meets all of the following criteria:

(a) The facility is a staffed physical facility;

(b) The facility is owned or leased in whole or part by the credit union or its credit union service organization; and

(c) Deposits and withdrawals may be made, or shares purchased, through staff at the facility.

(4) "Capital" means a credit union's reserves, undivided earnings, and allowance for loan and lease losses, and other items that may be included under RCW 31.12.413 or by rule of the director.

(5) "Credit union" means a credit union organized and operating under this chapter.

(6) "Credit union service organization" means an organization that a credit union has invested in pursuant to RCW 31.12.436(8), or a credit union service organization invested in by an out-of-state, federal, or foreign credit union.

(7) "Director" means the director of financial institutions.

(8) "Federal credit union" means a credit union organized and operating under the laws of the United States.

(9) "Financial institution" means any commercial bank, trust company, savings bank, or savings and loan association, whether state or federally chartered, and any credit union, out-of-state credit union, or federal credit union.

(10) "Foreign credit union" means a credit union organized and operating under the laws of another country or other foreign jurisdiction.

(11) "Insolvency" means:

(a) If, under generally accepted accounting principles, the recorded value of the credit union's assets are less than its obligations to its share account holders, depositors, creditors, and others; or

(b) If it is likely that the credit union will be unable to pay its obligations or meet its share account holders' and depositors' demands in the normal course of business.

(12) "Loan" means any loan, overdraft line of credit, extension of credit, or lease, in whole or in part.

(13) "Material violation of law" means:

(a) If the credit union or person has violated a material provision of:

(i) Law;

(ii) Any cease and desist order issued by the director;

(iii) Any condition imposed in writing by the director in connection with the approval of any application or other request of the credit union; or

(iv) Any written agreement entered into with the director;

(b) If the credit union or person has concealed any of the credit union's books, papers, records, or assets, or refused to submit the credit union's books, papers, records, or affairs for inspection to any examiner of the state or, as appropriate, to any examiner of the national credit union administration; or

(c) If the person has breached his or her fiduciary duty to the credit union.

(14) "Membership share" means an initial share that a credit union may require a person to purchase in order to establish and maintain membership in a credit union.

(15) "Net worth" means a credit union's capital, less the allowance for loan and lease losses.

(16) "Operating officer" means an employee of a credit union designated as an officer pursuant to RCW 31.12.265(2).

(17) "Organization" means a corporation, partnership, association, limited liability company, trust, or other organization or entity.

(18) "Out-of-state credit union" means a credit union organized and operating under the laws of another state or United States territory or possession.

(19) "Person" means an organization or a natural person including, but not limited to, a sole proprietorship.

(20) "Principally" or "primarily" means more than one-half.

(21) "Senior operating officer" includes:

(a) An operating officer who is a vice-president or above; and

(b) Any employee who has policy-making authority.

(22) "Small credit union" means a credit union with up to ten million dollars in total assets.

(23) "Unsafe or unsound condition" means, but is not limited to:

(a) If the credit union is insolvent;

(b) If the credit union has incurred or is likely to incur losses that will deplete all or substantially all of its net worth; or

(c) If the credit union is in imminent danger of losing its share and deposit insurance or

guarantee.

(24) "Unsafe or unsound practice" means any action, or lack of action, which is contrary to generally accepted standards of prudent operation, the likely consequences of which, if continued, would be abnormal risk of loss or danger to a credit union, its members, or an organization insuring or guaranteeing its shares and deposits.

[2001 c 83 § 1; 1997 c 397 § 2. Prior: 1994 c 256 § 68; 1994 c 92 § 175; 1984 c 31 § 2.]

NOTES:

Findings--Construction--1994 c 256: See RCW 43.320.007.

CREDIT UNION ORGANIZATION

RCW 31.12.015 Declaration of policy.

A credit union is a cooperative society organized under this chapter as a nonprofit corporation for the purposes of promoting thrift among its members and creating a source of credit for them at fair and reasonable rates of interest.

The director is the state's credit union regulatory authority whose purpose is to protect members' financial interests, the integrity of credit unions as cooperative institutions, and the interests of the general public, and to ensure that credit unions remain viable and competitive in this state.

[1997 c 397 § 3. Prior: 1994 c 256 § 69; 1994 c 92 § 176; 1984 c 31 § 3.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 31.12.025 Use of words in name.

(1) A credit union shall include the words "credit union" in its name.

(2) No person may conduct business or engage in any other activity under a name or title containing the words "credit union", or represent itself as a credit union, unless it is:

(a) A credit union, out-of-state credit union, or a foreign credit union;

(b) An organization whose membership or ownership is limited to credit unions, out-of-state credit unions, federal credit unions, or their trade organizations;

(c) A person that is primarily in the business of managing one or more credit unions, out-of-state credit unions, or federal credit unions; or

(d) A credit union service organization.

[1997 c 397 § 4; 1994 c 256 § 70; 1984 c 31 § 4.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 31.12.035 Application for permission to organize--Approval.

Seven or more natural persons who reside in this state may apply to the director for permission to organize a credit union. The application must include copies of the proposed

articles of incorporation and bylaws, and such other information as may be required by the director. The director shall approve or deny a complete application within sixty days of receipt.

[1997 c 397 § 5; 1994 c 92 § 177; 1984 c 31 § 5.]

RCW 31.12.055 Manner of organizing--Articles of incorporation--Submission to director.

(1) Persons applying for the organization of a credit union shall execute articles of incorporation stating:

(a) The initial name and location of the credit union;

(b) That the duration of the credit union is perpetual;

(c) That the purpose of the credit union is to engage in the business of a credit union and any other lawful activities permitted to a credit union by applicable law;

(d) The number of its directors, which must not be less than five or greater than fifteen, and the names of the persons who are to serve as the initial directors;

(e) The names of the incorporators;

(f) The initial par value, if any, of the shares of the credit union;

(g) The extent, if any, to which personal liability of directors is limited;

(h) The extent, if any, to which directors, supervisory committee members, officers, employees, and others will be indemnified by the credit union; and

(i) Any other provision which is not inconsistent with this chapter.

(2) Applicants shall submit the articles of incorporation in triplicate to the director.

[1997 c 397 § 6. Prior: 1994 c 256 § 71; 1994 c 92 § 179; 1984 c 31 § 7.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 31.12.065 Bylaws--Submission to director.

(1) Persons applying for the organization of a credit union shall adopt bylaws that prescribe the manner in which the business of the credit union shall be conducted. The bylaws shall include:

(a) The name of the credit union;

(b) The field of membership of the credit union;

(c) Reasonable qualifications for membership in the credit union, including, but not limited to, the minimum number of shares, and the payment of a membership fee, if any, required for membership, and the procedures for expelling a member;

(d) The number of directors and supervisory committee members, and the length of terms they serve and the permissible term length of any interim director or supervisory committee member;

(e) Any qualification for eligibility to serve on the credit union's board or supervisory committee;

(f) The number of credit union employees that may serve on the board, if any;

(g) The frequency of regular meetings of the board and the supervisory committee, and the manner in which members of the board or supervisory committee will be notified of meetings;

(h) The timing of the annual membership meeting;

(i) The manner in which members may call a special membership meeting;

(j) The manner in which members will be notified of membership meetings;

(k) The number of members constituting a quorum at a membership meeting;

(l) Provisions, if any, for the indemnification of directors, supervisory committee members, officers, employees, and others by the credit union, if not included in the articles of incorporation; and

(m) Any other provision which is not inconsistent with this chapter.

(2) Applicants shall submit the bylaws in duplicate to the director.

[2001 c 83 § 2; 1997 c 397 § 7. Prior: 1994 c 256 § 72; 1994 c 92 § 180; 1984 c 31 § 8.]

NOTES:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 31.12.075 Approval, denial of proposed credit union--Appeal.

(1) When the proposed articles of incorporation and bylaws complying with the requirements of RCW 31.12.055 and 31.12.065 have been filed with the director, the director shall:

(a) Determine whether the articles of incorporation and bylaws are consistent with this chapter; and

(b) Determine the feasibility of the credit union, taking into account surrounding facts and circumstances influencing the successful operation of the credit union.

(2) If the director is satisfied with the determinations made under subsection (1)(a) and (b) of this section, the director shall endorse each of the articles of incorporation "approved", indicate the date the approval was granted, and return two sets of articles and one set of bylaws to the applicants.

(3) If the director is not satisfied with the determinations made under subsection (1)(a) and (b) of this section, the director shall endorse each of the articles of incorporation "denied," indicate the date of, and reasons for, the denial, and return two copies of the articles of incorporation with one copy of the bylaws to the person from whom they were received. The director shall at the time of returning the copies of the articles of incorporation and bylaws, also provide notice to the applicant of the applicant's right to appeal the denial under chapter 34.05 RCW. The denial is conclusive unless the applicant requests a hearing under chapter 34.05 RCW.

[1997 c 397 § 8; 1994 c 92 § 181; 1984 c 31 § 9.]

RCW 31.12.085 Filing upon approval--Fee--Notice to director--Authority to commence business.

(1) Upon approval under RCW 31.12.075(2), the director shall deliver a copy of the articles of incorporation to the secretary of state for filing. Upon receipt of the approved articles of incorporation and a twenty dollar filing fee provided by the applicants, the secretary of state shall file the articles of incorporation.

(2) Upon filing of the approved articles of incorporation by the secretary of state, the persons named in the articles of incorporation and their successors may conduct business as a credit union, having the powers, duties, and obligations set forth in this chapter. A credit union may not conduct business until the articles have been filed by the secretary of state.

(3) A credit union shall organize and begin conducting business within six months of the date that its articles of incorporation are filed by the secretary of state or its charter is void. However, the director may grant extensions of the six-month period.

[2001 c 83 § 3; 1997 c 397 § 9; 1994 c 92 § 182; 1993 c 269 § 12; 1984 c 31 § 10.]

NOTES:

Effective date--1993 c 269: See note following RCW 23.86.070.

CORPORATE GOVERNANCE

RCW 31.12.105 Amendment to articles of incorporation--Approval of director--Procedure.

A credit union's articles of incorporation may be amended by the board with the approval of the director. Complete applications for amendments to the articles must be approved or denied by the director within sixty days of receipt. Amendments to a credit union's articles of incorporation must conform with RCW 31.12.055.

Upon approval, the director shall promptly deliver the articles' amendments, including any necessary filing fees paid by the applicant, to the secretary of state for filing. The articles' amendments are effective upon filing of the amendments by the secretary of state.

[2001 c 83 § 4; 1997 c 397 § 10; 1994 c 92 § 184; 1984 c 31 § 12.]

RCW 31.12.115 Amendment to bylaws--Approval of director required--Procedure.

(1) A credit union's field of membership bylaws may be amended by the board with approval of the director. Complete applications to amend a credit union's field of membership bylaws must be approved or denied by the director within sixty days of receipt.

(2) A credit union's other bylaws may be amended by the board.

(3) Any amendments to a credit union's bylaws must conform with RCW 31.12.065.

[2001 c 83 § 5; 1997 c 397 § 11. Prior: 1994 c 256 § 73; 1994 c 92 § 185; 1984 c 31 § 13.]

NOTES:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 31.12.185 Annual membership meetings.

(1) A credit union's annual membership meeting shall be held at such time and place as

the bylaws prescribe, and shall be conducted according to the rules of procedure approved by the board.

(2) Notice of the annual membership meetings of a credit union shall be given as provided in the bylaws of the credit union.

[1997 c 397 § 12; 1987 c 338 § 2; 1984 c 31 § 20.]

RCW 31.12.195 Special membership meetings.

(1) A special membership meeting of a credit union may be called by a majority of the board, a majority vote of the supervisory committee, or upon written application of at least ten percent or two thousand of the members of a credit union, whichever is less.

(2) A request for a special membership meeting of a credit union shall be in writing and shall state specifically the purpose or purposes for which the meeting is called. At this meeting, only those agenda items detailed in the written request may be considered. If the special membership meeting is being called for the removal of one or more directors, the request shall state the name of the director or directors whose removal is sought.

(3) Upon receipt of a request for a special membership meeting, the secretary of the credit union shall designate the time and place at which the special membership meeting will be held. The designated place of the meeting must be a reasonable location within the county in which the principal place of business of the credit union is located, unless provided otherwise by the bylaws. The designated time of the membership meeting must be no sooner than twenty, and no later than thirty days after the request is received by the secretary.

The secretary shall give notice of the meeting within ten days of receipt of the request or within such other reasonable time period as may be provided by the bylaws. The notice must include the purpose or purposes for which the meeting is called, as provided in the bylaws. If the special membership meeting is being called for the removal of one or more directors, the notice must state the name of the director or directors whose removal is sought.

(4) Except as provided in this subsection, the chairperson of the board shall preside over special membership meetings. If the purpose of the special meeting includes the proposed removal of the chairperson, the next highest ranking board officer whose removal is not sought shall preside over the special meeting. If the removal of all board officers is sought, the chairperson of the supervisory committee shall preside over the special meeting.

(5) Special membership meetings shall be conducted according to the rules of procedure approved by the board.

[1997 c 397 § 13. Prior: 1994 c 256 § 77; 1994 c 92 § 188; 1987 c 338 § 3; 1984 c 31 § 21.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 31.12.225 Board of directors--Election of directors--Terms--Vacancies--Meetings.

(1) The business and affairs of a credit union shall be managed by a board of not less than

five and not greater than fifteen directors.

(2) The directors must be elected at the credit union's annual membership meeting. They shall hold their offices until their successors are qualified and elected or appointed.

(3) Directors shall be elected to terms of between one and three years, as provided in the bylaws. If the terms are longer than one year, the directors must be divided into classes, and an equal number of directors, as nearly as possible, must be elected each year.

(4) Any vacancy on the board must be filled by an interim director appointed by the board, unless the interim director would serve a term of fewer than ninety days. Interim directors appointed to fill vacancies created by expansion of the board will serve until the next annual meeting of members. Other interim directors will serve out the unexpired term of the former director, unless provided otherwise in the credit union's bylaws.

(5) The board will have regular meetings not less frequently than once each month.

[2001 c 83 § 6; 1997 c 397 § 14; 1984 c 31 § 24.]

RCW 31.12.235 Directors--Qualifications--Operating officers and employees may serve.

(1) A director must be a natural person and a member of the credit union. If a director ceases to be a member of the credit union, the director shall no longer serve as a director.

(2)(a) If a director is absent from four of the regular board meetings in any twelve-month period in a term without being reasonably excused by the board, the director shall no longer serve as a director for the period remaining in the term.

(b) The board secretary shall promptly notify the director that he or she shall no longer serve as a director. Failure to provide notice does not affect the termination of the director's service under (a) of this subsection.

(3) A director must meet any qualification requirements set forth in the credit union's bylaws. If a director fails to meet these requirements, the director shall no longer serve as a director.

(4) The operating officers and employees of the credit union may serve as directors of the credit union, but only as permitted by the credit union's bylaws. In no event may the operating officers and employees of the credit union constitute a majority of the board.

[2001 c 83 § 7; 1997 c 397 § 15; 1994 c 256 § 78; 1984 c 31 § 25.]

NOTES:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 31.12.246 Removal of directors--Interim directors.

The members of a credit union may remove a director of the credit union at a special membership meeting held in accordance with RCW 31.12.195 and called for that purpose. If the members remove a director, the members may at the same special membership meeting elect an interim director to complete the remainder of the former director's term of office or authorize the board to appoint an interim director as provided in RCW 31.12.225.

[1997 c 397 § 16; 1984 c 31 § 26.]

RCW 31.12.255 Board of directors--Powers and duties.

The business and affairs of a credit union shall be managed by the board of the credit union. The duties of the board include, but are not limited to, the duties enumerated in this section. The duties listed in subsection (1) of this section may not be delegated by the credit union's board of directors. The duties listed in subsection (2) of this section may be delegated to a committee, officer, or employee, with appropriate reporting to the board.

(1) The board shall:

(a) Set the par value of shares, if any, of the credit union;

(b) Set the minimum number of shares, if any, required for membership;

(c) Establish the loan policies under which loans may be approved;

(d) Establish the conditions under which a member may be expelled for cause;

(e) Fill vacancies on all committees except the supervisory committee;

(f) Approve an annual operating budget for the credit union;

(g) Designate those persons or positions authorized to execute or certify documents or records on behalf of the credit union;

(h) Review the supervisory committee's annual report; and

(i) Perform such other duties as the members may direct.

(2) In addition, unless delegated, the board shall:

(a) Act upon applications for membership in the credit union;

(b) Determine the maximum amount of shares and deposits that a member may hold in the credit union;

(c) Declare dividends on shares and set the rate of interest on deposits;

(d) Set the fees, if any, to be charged by the credit union to its members for the right to be a member of the credit union and for services rendered by the credit union;

(e) Determine the amount which may be loaned to a member together with the terms and conditions of loans;

(f) Establish policies under which the credit union may borrow and invest; and

(g) Approve the charge-off of credit union losses.

[2001 c 83 § 8; 1997 c 397 § 17; 1994 c 256 § 79; 1984 c 31 § 27.]

NOTES:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 31.12.265 Officers.

(1) The board at its first meeting after the annual membership meeting shall elect board officers from among its members, as provided in the credit union's bylaws. The board will elect as many board officers as it deems necessary for transacting the business of the board of the credit union. The board officers shall hold office until their successors are qualified and elected, unless sooner removed as provided in this chapter. All board officers must be elected members of the board. However, the office of board treasurer and board secretary may be held by the same person and need not be elected members of the board.

(2) The board may designate as many operating officers as it deems necessary for conducting the business of the credit union, including, but not limited to, a principal operating officer. Individuals serving as operating officers may also serve as board officers in accordance with subsection (1) of this section and subject to RCW 31.12.235(4).

[1997 c 397 § 18; 1994 c 256 § 80; 1987 c 338 § 4; 1984 c 31 § 28.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 31.12.267 Directors and officers--Fiduciary relationship.

Directors, board officers, and senior operating officers are deemed to stand in a fiduciary relationship to the credit union, and must discharge the duties of their respective positions:

(1) In good faith;

(2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

(3) In a manner the director or officer reasonably believes to be in the best interests of the credit union.

[2001 c 83 § 9; 1997 c 397 § 19.]

RCW 31.12.269 Directors and committee members--Limitations on personal liability--Exceptions.

(1) Directors and committee members at a credit union or federal credit union have no personal liability for harm caused by acts or omissions performed on behalf of the credit union if: The director or committee member was acting within the scope of his or her duties at the time of the act or omission; the harm was not caused by an act in violation of RCW 31.12.267; the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed; and the harm was not caused by the director or committee member's operation of a motor vehicle, vessel, aircraft, or other vehicle for which the state requires the operator or the owner of the vehicle, craft, or vessel to either possess an operator's license or maintain insurance.

(2) This section does not affect a director's or committee member's liability to the credit union or to a governmental entity for harm to the credit union or governmental entity caused by the director or committee member.

(3) This section does not affect the vicarious liability of the credit union with respect to harm caused to any person, including harm caused by the negligence of a director or committee member.

(4) This section does not affect the liability of employees of the credit union for acts or omissions done within the scope of their employment.

[2001 c 120 § 1.]

RCW 31.12.285 Suspension of members of board or supervisory committee by board--For cause.

The board may suspend for cause a member of the board or a member of the supervisory committee until a membership meeting is held. The membership meeting must be held within thirty days after the suspension. The members attending the meeting shall vote whether to remove a suspended party. For purposes of this section, "cause" includes demonstrated financial irresponsibility, a breach of fiduciary duty to the credit union, or activities which, in the judgment of the board, threaten the safety and soundness of the credit union.

[1997 c 397 § 21; 1984 c 31 § 30.]

RCW 31.12.326 Supervisory committee--Membership--Terms--Vacancies--Operating officers and employees may not serve.

(1) A supervisory committee of at least three members must be elected at the annual membership meeting of the credit union. Members of the supervisory committee shall serve a term of three years, unless sooner removed under this chapter or until their successors are qualified and elected or appointed. The members of the supervisory committee shall be divided into classes so that as equal a number as is possible is elected each year.

(2)(a) If a supervisory committee member is absent from more than one-third of the committee meetings in any twelve-month period in a term without being reasonably excused by the committee, the member shall no longer serve as a member of the committee for the period remaining in the term.

(b) The supervisory committee shall promptly notify the member that he or she shall no longer serve as a committee member. Failure to provide notice does not affect the termination of the member's service under (a) of this subsection.

(3) A supervisory committee member must be a natural person and a member of the credit union. If a member of the supervisory committee ceases to be a member of the credit union, the member shall no longer serve as a committee member. The chairperson of the supervisory committee may not serve as a board officer.

(4) Any vacancy on the committee must be filled by an interim member appointed by the committee, unless the interim member would serve a term of fewer than ninety days. Interim members appointed to fill vacancies created by expansion of the committee will serve until the next annual meeting of members. Other interim members may serve out the unexpired term of the former member, unless provided otherwise by the credit union's bylaws. However, if all positions on the committee are vacant at the same time, the board may appoint interim members to serve until the next annual membership meeting.

(5) No operating officer or employee of a credit union may serve on the credit union's supervisory committee. No more than one director may be a member of the supervisory committee at the same time, unless provided otherwise by the credit union's bylaws. No member of the supervisory committee may serve on the credit committee or investment committee of the credit union while serving on the supervisory committee.

[2001 c 83 § 10; 1997 c 397 § 22; 1984 c 31 § 34.]

RCW 31.12.335 Supervisory committee--Duties.

(1) The supervisory committee of a credit union shall:

(a) Meet at least quarterly;

(b) Keep fully informed as to the financial condition of the credit union and the decisions of the credit union's board;

(c) Perform or arrange for a complete annual audit of the credit union and a verification of its members' accounts; and

(d) Report its findings and recommendations to the board and make an annual report to members at each annual membership meeting.

(2) At least one supervisory committee member may attend each regular board meeting.

[2001 c 83 § 11; 1997 c 397 § 23. Prior: 1994 c 256 § 82; 1994 c 92 § 192; 1984 c 31 § 35.]

NOTES:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 31.12.345 Suspension of members of a committee or members of the board by supervisory committee--For cause.

(1) The supervisory committee may, by unanimous vote, for cause, suspend a member of the board, until a membership meeting is held. The membership meeting must be held within thirty days after the suspension. The members attending that meeting shall vote whether to remove the suspended party or parties. The supervisory committee may, by unanimous vote, for cause, suspend members of other committees until a membership meeting is held. The meeting must be held within thirty days after the suspension. The members attending that meeting shall vote whether to remove the suspended party or parties.

(2) For purposes of this section, "cause" includes demonstrated financial irresponsibility, a breach of fiduciary duty to the credit union, or activities which, in the judgment of the supervisory committee, threaten the safety and soundness of the credit union.

[1997 c 397 § 24; 1984 c 31 § 36.]

RCW 31.12.365 Directors and members of committees--Compensation--Reimbursement--Loans.

(1) Directors and members of committees shall not receive compensation for their service as directors and committee members. However, this subsection does not prohibit directors or committee members from receiving:

(a) Gifts of minimal value; and

(b) Insurance coverage or incidental services, available to employees generally.

(2) Directors and members of committees may receive reimbursement for reasonable expenses incurred on behalf of themselves and their spouses in the performance of the directors' and committee members' duties.

(3) Loans to directors and supervisory and credit committee members may not be made under more favorable terms and conditions than those made to members generally.

[2001 c 83 § 12; 1997 c 397 § 25; 1984 c 31 § 38.]

RCW 31.12.367 Risk--Bond coverage--Notice to director.

(1) Each credit union must be adequately insured against risk. In addition, each director, officer, committee member, and employee of a credit union must be adequately bonded.

(2) When a credit union receives notice that its fidelity bond coverage will be suspended or terminated, the credit union shall notify the director in writing not less than thirty-five days prior to the effective date of the notice of suspension or termination.

[2001 c 83 § 13; 1997 c 397 § 26; 1994 c 92 § 191; 1984 c 31 § 32. Formerly RCW 31.12.306.]

MEMBERSHIP

RCW 31.12.382 Limitation on membership.

(1) Membership in a credit union shall be limited to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community, or rural district. The director may adopt rules: (a) Reasonably defining "common bond"; and (b) setting forth standards for the approval of charters.

(2) The director may approve the inclusion within the field of membership of a credit union a group having a separate common bond if the director determines that the group is not of sufficient size or resources to support a viable credit union of its own.

[1994 c 92 § 178; 1984 c 31 § 6. Formerly RCW 31.12.045.]

RCW 31.12.384 Membership.

(1) A credit union may admit to membership those persons qualified for membership as set forth in its bylaws.

(2) An organization whose membership, ownership, or employees are comprised principally of persons who are eligible for membership in the credit union may become a member of the credit union.

[1997 c 397 § 27; 1984 c 31 § 16. Formerly RCW 31.12.145.]

RCW 31.12.386 Voting rights--Methods--Proxy--Under eighteen years of age.

(1) No member may have more than one vote regardless of the number of shares held by the member. An organization having membership in a credit union may cast one vote through its agent duly authorized in writing.

(2) Members may vote, as prescribed in the credit union's bylaws, by mail ballot, absentee ballot, or other method. However, no member may vote by proxy.

(3) A member who is not at least eighteen years of age is not eligible to vote as a member unless otherwise provided in the credit union's bylaws.

[1997 c 397 § 28; 1994 c 256 § 76; 1984 c 31 § 17. Formerly RCW 31.12.155.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 31.12.388 Expulsion of member--Challenge--Share and deposit accounts.

(1) Members expelled from the credit union will be notified of the expulsion and the reasons upon which it is based. The credit union will, upon request of the expelled member, allow the member to challenge the expulsion and seek reinstatement as a member.

(2) The amounts in an expelled member's share and deposit accounts must be promptly paid to the person following expulsion, and after deducting amounts due from the member(s) to the credit union, including, but not limited to, any applicable penalties for early withdrawal. Expulsion will not operate to relieve the person from outstanding liabilities owed to the credit union.

[1997 c 397 § 29; 1984 c 31 § 31. Formerly RCW 31.12.295.]

POWERS OF CREDIT UNIONS

RCW 31.12.402 Powers.

A credit union may:

(1) Issue shares to and receive deposits from its members in accordance with RCW 31.12.416;

(2) Make loans to its members in accordance with RCW 31.12.426 and 31.12.428;

(3) Pay dividends and interest to its members in accordance with RCW 31.12.418;

(4) Impose reasonable charges for the services it provides to its members;

(5) Impose financing charges and reasonable late charges in the event of default on loans, subject to applicable law, and recover reasonable costs and expenses, including, but not limited to, collection costs, and reasonable attorneys' fees incurred both before and after judgment, incurred in the collection of sums due, if provided for in the note or agreement signed by the borrower;

(6) Acquire, lease, hold, assign, pledge, sell, or otherwise dispose of interests in personal property and in real property in accordance with RCW 31.12.438;

(7) Deposit and invest funds in accordance with RCW 31.12.436;

(8) Borrow money, up to a maximum of fifty percent of its total shares, deposits, and net worth;

(9) Discount or sell any of its assets, or purchase any or all of the assets of another credit union, out-of-state credit union, or federal credit union. However, a credit union may not discount or sell all, or substantially all, of its assets without the approval of the director;

(10) Accept deposits of deferred compensation of its members;

(11) Act as fiscal agent for and receive payments on shares and deposits from the federal government or this state, and any agency or political subdivision thereof;

(12) Engage in activities and programs as requested by the federal government, this state,

and any agency or political subdivision thereof, when the activities or programs are not inconsistent with this chapter;

(13) Hold membership in credit unions, out-of-state credit unions, or federal credit unions and in organizations controlled by or fostering the interests of credit unions, including, but not limited to, a central liquidity facility organized under state or federal law;

(14) Pay additional dividends and interest to members, or an interest rate refund to borrowers;

(15) Enter into lease agreements, lease contracts, and lease-purchase agreements with members;

(16) Act as insurance agent or broker for the sale to members of:

(a) Group life, accident, health, and credit life and disability insurance; and

(b) Other insurance that other types of Washington state-chartered financial institutions are permitted to sell, on the same terms and conditions that these institutions are permitted to sell such insurance;

(17) Impose a reasonable service charge for the administration and processing of accounts that remain dormant for a period of time specified by the credit union;

(18) Establish and operate on-premises or off-premises electronic facilities;

(19) Enter into formal or informal agreements with another credit union for the purpose of fostering the development of the other credit union;

(20) Work with community leaders to develop and prioritize efforts to improve the areas where their members reside by making investments in the community through contributions to organizations that primarily serve either a charitable, social, welfare, or educational purpose, or are exempt from taxation pursuant to section 501(c)(3) of the internal revenue code;

(21) Limit the personal liability of its directors in accordance with provisions of its articles of incorporation that conform with RCW 23B.08.320;

(22) Indemnify its directors, supervisory committee members, officers, employees, and others in accordance with provisions of its articles of incorporation or bylaws that conform with RCW 23B.08.500 through 23B.08.600; and

(23) Exercise such incidental powers as are necessary or convenient to enable it to conduct the business of a credit union.

[2001 c 83 § 14; 1997 c 397 § 30. Prior: 1994 c 256 § 74; 1994 c 92 § 186; 1990 c 33 § 564; 1984 c 31 § 14. Formerly RCW 31.12.125.]

NOTES:

Findings--Construction--1994 c 256: See RCW 43.320.007.

Purpose--Statutory references--Severability--1990 c 33: See RCW 28A.900.100 through 28A.900.102.

RCW 31.12.404 Additional powers--Powers conferred on federal credit union--Authority of director.

(1) Notwithstanding any other provision of law, and in addition to all powers and authorities, express or implied, that a credit union has under the laws of this state, a credit union has the powers and authorities that a federal credit union had on December 31, 1993, or a subsequent date not later than July 22, 2001.

(2) Notwithstanding any other provision of law, and in addition to the powers and authorities, express or implied, that a credit union has under subsection (1) of this section, a credit union has the powers and authorities that a federal credit union has, and an out-of-state credit union operating a branch in Washington has, subsequent to July 22, 2001, if the director finds that the exercise of the power and authority serves the convenience and advantage of members of credit unions, and maintains the fairness of competition and parity between credit unions and federal or out-of-state credit unions. However, a credit union:

(a) Must still comply with RCW 31.12.408; and

(b) Is not granted the field of membership powers or authorities of any out-of-state credit union operating a branch in Washington.

(3) The restrictions, limitations, and requirements applicable to specific powers or authorities of federal or out-of-state credit unions apply to credit unions exercising those powers or authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to the specific exercise of the powers or authorities granted credit unions solely under this section.

(4) As used in this section, "powers and authorities" include, but are not limited to, powers and authorities in corporate governance matters.

[2001 c 83 § 15; 1997 c 397 § 31. Prior: 1994 c 256 § 75; 1994 c 92 § 187; 1987 c 338 § 1; 1984 c 31 § 15. Formerly RCW 31.12.136.]

NOTES:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 31.12.408 Insurance required after December 31, 1998--Federal share insurance program or an equivalent share insurance program--Director's findings.

(1) After December 31, 1998, credit unions must be insured under the federal share insurance program or an equivalent share insurance program as defined in this section. For the purposes of this section an equivalent share insurance program is a program that: (a) Holds reserves proportionately equal to the federal share insurance program; (b) maintains adequate reserves and access to additional sources of funds through replenishment features, reinsurance, or other sources of funds; and (c) has share insurance contracts that reflect a national geographic diversity.

(2) Before any credit union may insure its share deposits with a share insurance program other than the federal share insurance program, the director must make a finding that the alternative share insurance program meets the standards set forth in this section, following a public hearing and a report on the basis for such finding to the appropriate standing committees of the legislature. All such findings shall be made before December 1st of any year and shall not take effect until the end of the regular legislative session of the following year.

(3) Any alternative share insurance program approved under this section shall be reviewed annually by the director to determine whether the program currently meets the standards in this section. The director shall prepare a written report of his or her findings including supporting analysis and forward the report to the appropriate standing committees of

the legislature. If the director finds that the alternative share insurance program does not currently meet the standards of this section the director shall notify all credit unions that insure their shares under the alternative share insurance program, and shall include notice of a public hearing for the purpose of receiving comment on the director's finding. Following the hearing the director may either rescind his or her finding or reaffirm the finding that the alternative share insurance program does not meet the standards in this section. If the finding is reaffirmed, the director shall order all credit unions whose shares are insured with the alternative share insurance program to file, immediately, an application with the national credit union administration to convert to the federal share insurance program.

[1996 c 5 § 6; (1998 c 122 § 6 expired July 1, 2001). Formerly RCW 31.12.039.]

NOTES:

Expiration date--1998 c 122 §§ 5 and 6: "Sections 5 and 6 of this act expire July 1, 2001." [1998 c 122 § 9.]

Findings--Intent--1996 c 5: "The legislature finds that since its creation in 1975 the Washington credit union share guaranty association has provided security to member share accounts and other valuable services to members.

The legislature further finds that although during that period thirty member credit unions have been required to liquidate or merge with other members with the assistance of the association, no depositor has experienced any loss.

The legislature further finds that the changing financial services environment, and ever-increasing competitive pressures have caused the association to review its operation and capacity with the result that the membership has recommended an orderly dissolution, and now seeks the adoption of standards and procedures by the legislature that will direct and ensure an orderly transition to federal share insurance.

Therefore, it is the intent of the legislature to effectuate a fair and orderly transition of association members to federal share insurance, and provide the highest available level of safety for share accounts in keeping with depositors' expectations." [1996 c 5 § 1.]

Severability--1996 c 5: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1996 c 5 § 9.]

RCW 31.12.413 Low-income credit unions--Director's approval required--Powers--Rules.

(1) A credit union may apply in writing to the director for designation as a low-income credit union. The criteria for approval of this designation are as follows:

(a) At least fifty percent of a substantial and well-defined segment of the credit union's members or potential primary members earn no more than eighty percent of the state or national median income, whichever is higher;

(b) The credit union must submit an acceptable written plan on marketing to and serving the well-defined segment;

(c) The credit union must agree to submit annual reports to the director on its service to the well-defined segment; and

(d) The credit union must submit other information and satisfy other criteria as may be required by the director.

(2)(a) Among other powers and authorities, a low-income credit union may:

(i) Issue secondary capital accounts approved in advance by the director upon application of the credit union; and

(ii) Accept shares and deposits from nonmembers.

(b) A secondary capital account is:

(i) Over one hundred thousand dollars, or a higher amount as established by the director;

(ii) Nontransactional;

(iii) Owned by a nonnatural person; and

(iv) Subordinate to other creditors.

(3) The director may adopt rules for the organization and operation of low-income credit unions including, but not limited to, rules concerning secondary capital accounts and requiring disclosures to the purchasers of the accounts.

[2001 c 83 § 16.]

MEMBERS' ACCOUNTS

RCW 31.12.416 Shares and deposits governed by chapter 30.22 RCW--Limitation on shares and deposits--Notice of withdrawal--Lien rights.

(1) Shares held and deposits made in a credit union by a natural person are governed by chapter 30.22 RCW.

(2) A credit union may require ninety days notice of a member's intention to withdraw shares or deposits. The notice requirement may be extended with the written consent of the director.

(3) A credit union will have a lien on all shares and deposits, including, but not limited to, dividends, interest, and any other earnings and accumulations thereon, of any share account holder or depositor, to the extent of any obligation owed to the credit union by the share account holder or depositor.

[1997 c 397 § 32. Prior: 1994 c 256 § 83; 1994 c 92 § 194; 1984 c 31 § 40. Formerly RCW 31.12.385.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 31.12.418 Dividends.

Dividends may be declared from the credit union's earnings which remain after the deduction of expenses, interest on deposits, and the amounts required for reserves, or the dividends may be declared in whole or in part from the undivided earnings that remain from preceding periods.

[1997 c 397 § 33; 1984 c 31 § 50. Formerly RCW 31.12.485.]

LOANS TO MEMBERS

RCW 31.12.426 Loans to members--Secured or unsecured loans.

(1) A credit union may make secured and unsecured loans to its members under policies established by the board, subject to the loans to one borrower limits provided for in RCW 31.12.428. Each loan must be evidenced by records adequate to support enforcement or collection of the loan and any review of the loan by the director. Loans must be in compliance with rules adopted by the director.

(2) A credit union may obligate itself to purchase loans in accordance with RCW 31.12.436(1), if the credit union's underwriting policies would have permitted it to originate the loans.

[2001 c 83 § 17; 1997 c 397 § 34. Prior: 1994 c 256 § 84; 1994 c 92 § 195; 1987 c 338 § 6; 1984 c 31 § 42. Formerly RCW 31.12.406.]

NOTES:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 31.12.428 Limit on loan amount.

(1) No loan may be made to any borrower if the loan would cause the borrower to be indebted to the credit union on all types of loans in an aggregated amount exceeding ten thousand dollars or twenty-five percent of the capital of the credit union, whichever is greater, without the approval of the director.

(2) The director by rule may establish separate limits on business loans to one borrower.

[2001 c 83 § 18; 1997 c 397 § 35; 1994 c 256 § 92. Formerly RCW 31.12.317.]

NOTES:

Effective date--1997 c 397 § 35: "Section 35 of this act takes effect July 1, 1998." [1997 c 397 § 90.]

Findings--Construction--1994 c 256: See RCW 43.320.007.

INVESTMENTS

RCW 31.12.436 Investment of funds in excess of loans.

A credit union may invest its funds in any of the following, as long as they are deemed prudent by the board:

(1) Loans held by credit unions, out-of-state credit unions, or federal credit unions; loans to members held by other lenders; and loans to nonmembers held by other lenders, with the approval of the director;

(2) Bonds, securities, or other investments that are fully guaranteed as to principal and interest by the United States government, and general obligations of this state and its political subdivisions;

(3) Obligations issued by corporations designated under 31 U.S.C. Sec. 9101, or obligations, participations or other instruments issued and guaranteed by the federal national mortgage association, federal home loan mortgage corporation, government national mortgage association, or other government-sponsored enterprise;

(4) Participations or obligations which have been subjected by one or more government agencies to a trust or trusts for which an executive department, agency, or instrumentality of the

United States has been named to act as trustee;

(5) Share or deposit accounts of other financial institutions, the accounts of which are federally insured or insured or guaranteed by another insurer or guarantor approved by the director. The shares and deposits made by a credit union under this subsection may exceed the insurance or guarantee limits established by the organization insuring or guaranteeing the institution into which the shares or deposits are made;

(6) Common trust or mutual funds whose investment portfolios consist of securities issued or guaranteed by the federal government or an agency of the government;

(7) Up to five percent of the capital of the credit union, in debt or equity issued by an organization owned by the Washington credit union league;

(8) Shares, stocks, loans, or other obligations of organizations whose primary purpose is to strengthen, advance, or provide services to the credit union industry or credit union members. A credit union may in the aggregate invest an amount not to exceed one percent of its assets in organizations under this subsection. In addition, a credit union may in the aggregate lend an amount not to exceed one percent of its assets to organizations under this subsection. These limits do not apply to investments in, and loans to, an organization:

(a) That is wholly owned by one or more credit unions or federal or out-of-state credit unions; and

(b) Whose activities are limited exclusively to those authorized by this chapter for a credit union;

(9) Loans to credit unions, out-of-state credit unions, or federal credit unions. The aggregate of loans issued under this subsection is limited to twenty-five percent of the total shares and deposits of the lending credit union;

(10) Key person insurance policies, the proceeds of which inure exclusively to the benefit of the credit union; or

(11) Other investments approved by the director upon written application.

[2001 c 83 § 19; 1997 c 397 § 36. Prior: 1994 c 256 § 86; 1994 c 92 § 197; 1987 c 338 § 7; 1984 c 31 § 44. Formerly RCW 31.12.425.]

NOTES:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 31.12.438 Investment in real property or leasehold interests for own use--Future expansion.

(1) A credit union may invest in real property or leasehold interests primarily for its own use in conducting business, including, but not limited to, structures and fixtures attached to real property, subject to the following limitations:

(a) The credit union's net worth equals at least five percent of the total of its share and deposit accounts;

(b) The board approves the investment; and

(c) The aggregate of all such investments does not exceed seven and one-half percent of the total of its share and deposit accounts.

(2) If the real property or leasehold interest is acquired for future expansion, the credit union must satisfy the use requirement in subsection (1) of this section within three years after the credit union makes the investment.

(3) The director may, upon written application, waive any of the limitations listed in subsection (1) or (2) of this section.

[2001 c 83 § 20; 1997 c 397 § 37. Prior: 1994 c 256 § 87; 1994 c 92 § 198; 1984 c 31 § 45. Formerly RCW 31.12.435.]

NOTES:

Findings--Construction--1994 c 256: See RCW 43.320.007.

MERGERS, CONVERSIONS, AND VOLUNTARY LIQUIDATIONS

RCW 31.12.461 Mergers.

(1) For purposes of this section, the merging credit union is the credit union whose charter ceases to exist upon merger with the continuing credit union. The continuing credit union is the credit union whose charter continues upon merger with the merging credit union.

(2) A credit union may be merged with another credit union with the approval of the director and in accordance with requirements the director may prescribe. The merger must be approved by a two-thirds majority vote of the board of each credit union and a two-thirds majority vote of those members of the merging credit union voting on the merger at a membership meeting. The requirement of approval by the members of the merging credit union may be waived by the director if the merging credit union is in imminent danger of insolvency.

(3) The property, rights, and interests of the merging credit union transfer to and vest in the continuing credit union without deed, endorsement, or instrument of transfer, although instruments of transfer may be used if their use is deemed appropriate. The debts and obligations of the merging credit union that are known or reasonably should be known are assumed by the continuing credit union. The continuing credit union shall cause to be published notice of merger once a week for three consecutive weeks in a newspaper of general circulation in the county in which the principal place of business of the merging credit union is located. The notice of merger must also inform creditors of the merging credit union how to make a claim on the continuing credit union, and that if a claim is not made upon the continuing credit union within thirty days of the last date of publication, creditors' claims that are not known by the continuing credit union may be barred. Except for claims filed as requested by the notice, or debts or obligations that are known or reasonably should be known by the continuing credit union, the debts and obligations of the merging credit union are discharged. Upon merger, the charter of the merging credit union ceases to exist.

(4) Mergers are effective after the thirty-day notice period to creditors and all regulatory waiting periods have expired, and upon filing of the credit union's articles of merger by the secretary of state, or a later date stated in the articles, which in no event may be later than ninety days after the articles are filed.

[2001 c 83 § 21; 1997 c 397 § 40. Prior: 1994 c 256 § 91; 1994 c 92 § 220; 1987 c 338 § 8; 1984 c 31 § 71.

Formerly RCW 31.12.695.]

NOTES:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 31.12.464 Merger or conversion of state into federal, out-of-state, or foreign credit union, or other type of financial institution.

(1) A credit union may merge or convert into a federal credit union as authorized by the federal credit union act. The merger or conversion must be approved by a two-thirds majority vote of those credit union members voting at a membership meeting.

(2) If the merger or conversion is approved by the members, a copy of the resolution certified by the secretary must be filed with the director within ten days of approval. The board may effect the merger or conversion upon terms agreed by the board and the federal regulator.

(3) A certified copy of the federal credit union charter or authorization issued by the federal regulator must be filed with the director and thereupon the credit union ceases to exist except for the purpose of winding up its affairs and prosecuting or defending any litigation by or against the credit union. For all other purposes, the credit union is merged or converted into a federal credit union and the credit union may execute, acknowledge, and deliver to the successor federal credit union the instruments of transfer, conveyance, and assignment that are necessary or desirable to complete the merger or conversion, and the property, tangible or intangible, and all rights, titles, and interests that are agreed to by the board and the federal regulator.

(4) Mergers and conversions are effective after all applicable regulatory waiting periods have expired and upon filing of the credit union's articles of merger or articles of conversion, as appropriate, by the secretary of state, or a later date stated in the articles, which in no event may be later than ninety days after the articles are filed.

(5) Procedures, similar to those contained in subsections (1) through (4) of this section, prescribed by the director must be followed when a credit union merges or converts into an out-of-state or foreign credit union, or other type of financial institution.

[2001 c 83 § 22; 1997 c 397 § 41; 1994 c 92 § 221; 1984 c 31 § 72. Formerly RCW 31.12.705.]

RCW 31.12.467 Merger or conversion of federal, out-of-state, or foreign to state credit union.

(1) A federal credit union located and conducting business in this state may merge or convert into a credit union organized and operating under this chapter.

(2) In the case of a conversion, the board of the federal credit union shall file with the director proposed articles of incorporation and bylaws, as provided by this chapter for organizing a new credit union. If the conversion is approved by the director, the federal credit union becomes a credit union under the laws of this state.

(3) The assets and liabilities of the federal credit union will vest in and become the property of the successor credit union subject to all existing liabilities against the federal credit union. Members of the federal credit union may become members of the successor credit union.

(4) Mergers and conversions are effective after all applicable regulatory waiting periods have expired and upon filing of the federal credit union's articles of merger or articles of

conversion, as appropriate, by the secretary of state, or a later date stated in the articles, which in no event may be later than ninety days after the articles are filed.

(5) Procedures, similar to those contained in subsections (1) through (4) of this section, prescribed by the director must be followed when an out-of-state or foreign credit union wishes to merge or convert into a credit union organized and operating under this chapter.

[2001 c 83 § 23; 1997 c 397 § 42; 1994 c 92 § 222; 1984 c 31 § 73. Formerly RCW 31.12.715.]

RCW 31.12.471 Authority of out-of-state or foreign credit union to operate in this state--Conditions.

(1) An out-of-state or foreign credit union may not operate a branch in Washington unless:

(a) The director has approved its application in accordance with this section;

(b) A credit union organized and operating under this chapter is permitted to do business in the state or foreign jurisdiction in which the credit union is organized;

(c) The interest rate charged by the credit union on loans made to members residing in this state does not exceed the maximum interest rate permitted in the state or jurisdiction in which the credit union is organized, or exceed the maximum interest rate that a credit union organized and operating under this chapter is permitted to charge on similar loans, whichever is lower;

(d) The credit union has secured surety bond and fidelity bond coverages satisfactory to the director;

(e) The credit union's share and deposit accounts are insured under the federal share insurance program or an equivalent share insurance program in compliance with RCW 31.12.408;

(f) The credit union submits to the director an annual examination report of its most recently completed fiscal year;

(g) The credit union has not had its authority to do business in another state or foreign jurisdiction suspended or revoked;

(h) The credit union complies with:

(i) The provisions concerning field of membership in this chapter and rules adopted by the director; and

(ii) Such other provisions of this chapter and rules adopted by the director, as determined by the director; and

(i) In addition, if the credit union is a foreign credit union:

(i) A treaty or agreement between the United States and the jurisdiction where the credit union is organized requires the director to permit the credit union to operate a branch in Washington; and

(ii) The director determines that the credit union has substantially the same characteristics as a credit union organized and operating under this chapter.

(2) The director shall deny an application filed under this section or, upon notice and an opportunity for hearing, suspend or revoke the approval of an application, if the director finds that the standards of organization, operation, and regulation of the applicant do not reasonably

conform with the standards under this chapter. In considering the standards of organization, operation, and regulation of the applicant, the director may consider the laws of the state or foreign jurisdiction in which the applicant is organized. A decision under this subsection may be appealed under chapter 34.05 RCW.

(3) In implementing this section, the director may cooperate with credit union regulators in other states or jurisdictions and may share with the regulators the information received in the administration of this chapter.

(4) The director may enter into supervisory agreements with out-of-state and foreign credit unions and their regulators to prescribe the applicable laws governing the powers and authorities of Washington branches of the out-of-state or foreign credit unions. The director may also enter into supervisory agreements with the credit union regulators in other states or foreign jurisdictions to prescribe the applicable laws governing the powers and authorities of out-of-state or foreign branches and other facilities of credit unions.

The agreements may address, but are not limited to, corporate governance and operational matters. The agreements may resolve any conflict of laws, and specify the manner in which the examination, supervision, and application processes must be coordinated with the regulators.

The director may adopt rules for the periodic examination and investigation of the affairs of an out-of-state or foreign credit union operating a branch in this state.

[2001 c 83 § 24; 1997 c 397 § 43. Prior: 1994 c 256 § 88; 1994 c 92 § 205; 1984 c 31 § 54. Formerly RCW 31.12.526.]

NOTES:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 31.12.474 Liquidation--Disposition of unclaimed funds.

(1) At a special meeting called for the purpose of liquidation, and upon the recommendation of at least two-thirds of the total members of the board of a credit union, the members of a credit union may elect to liquidate the credit union by a two-thirds majority vote of those members voting.

(2) Upon a vote to liquidate under subsection (1) of this section, a three-person liquidating committee must be elected to liquidate the assets of the credit union. The committee shall act in accordance with any requirements of the director and may be reasonably compensated by the board of the credit union. Each share account holder and depositor at the credit union is entitled to his, her, or its proportionate part of the assets in liquidation after all shares, deposits, and debts have been paid. The proportionate allocation shall be based on account balances as of a date determined by the board. For the purposes of liquidation, shares and deposits are equivalent. The assets of the liquidating credit union are not subject to contingent liabilities. Upon distribution of the assets, the credit union ceases to exist except for the purpose of discharging existing liabilities and obligations.

(3) Funds representing unclaimed dividends in liquidation and remaining in the hands of the liquidating committee for six months after the date of the final dividend must be deposited,

together with all the books and papers of the credit union, with the director. The director may, one year after receipt, destroy such records, books, and papers as, in the director's judgment, are obsolete or unnecessary for future reference. The funds may be deposited in one or more financial institutions to the credit of the director, in trust for the members of the credit union entitled to the funds. The director may pay a portion of the funds to a person upon receipt of satisfactory evidence that the person is entitled to the funds. In case of doubt or conflicting claims, the director may require an order of the superior court of the county in which the principal place of business of the credit union was located, authorizing and directing the payment of the funds. The director may apply the interest earned by the funds toward defraying the expenses incurred in the holding and paying of the funds. Five years after the receipt of the funds, the funds still remaining with the director must be remitted to the state as unclaimed property.

[2001 c 83 § 25; 1997 c 397 § 44; 1994 c 92 § 223; 1984 c 31 § 74. Formerly RCW 31.12.725.]

NOTES:
Uniform unclaimed property act: Chapter 63.29 RCW.

EXAMINATION AND SUPERVISION

RCW 31.12.516 Powers of director.

(1) The powers of supervision and examination of credit unions and other persons subject to this chapter and chapter 31.13 RCW are vested in the director. The director shall require each credit union to conduct business in compliance with this chapter and may require each credit union to conduct business in compliance with other state and federal laws that apply to credit unions. The director has the power to commence and prosecute actions and proceedings, to enjoin violations, and to collect sums due the state of Washington from a credit union.

(2) The director may adopt such rules as are reasonable or necessary to carry out the purposes of this chapter and chapter 31.13 RCW. Chapter 34.05 RCW will, whenever applicable, govern the rights, remedies, and procedures respecting the administration of this chapter.

(3) The director may by rule provide appropriate relief for small credit unions from requirements under this chapter or rules of the director. However, small credit unions must still comply with RCW 31.12.408.

(4) The director shall have the power and broad administrative discretion to administer and interpret the provisions of this chapter and chapter 31.13 RCW, to facilitate the delivery of financial services to the members of a credit union.

(5) Nonfederally insured credit unions, nonfederally insured out-of-state credit unions, and nonfederally insured foreign credit unions operating in this state as permitted by RCW 31.12.408 and 31.12.471, as applicable, must comply with safety and soundness requirements established by the director.

(6) The director may charge fees to credit unions and other persons subject to examination and investigation under this chapter and chapter 31.13 RCW, and to other parties

where the division contracts out its services, in order to cover the costs of the operation of the division of credit unions, and to establish a reasonable reserve for the division. The director may waive all or a portion of the fees.

[2001 c 83 § 26; 1997 c 397 § 45; 1994 c 92 § 204; 1984 c 31 § 53.]

RCW 31.12.545 Examinations and investigations--Reports--Access to records--Oaths--Subpoenas.

(1) The director shall make an examination and investigation into the affairs of each credit union at least once every eighteen months, unless the director determines with respect to a credit union, that a less frequent examination schedule will satisfactorily protect the financial stability of the credit union and will satisfactorily assure compliance with the provisions of this chapter.

(2) In regard to credit unions, and out-of-state and foreign credit unions permitted to operate a branch in Washington pursuant to RCW 31.12.471, the director:

(a) Shall have full access to the credit union's books and records and files, including but not limited to computer files;

(b) May appraise and revalue the credit union's investments; and

(c) May require the credit union to charge off or set up a special reserve for loans and investments.

(3) The director may make an examination and investigation into the affairs of:

(a) An out-of-state or foreign credit union permitted to operate a branch in Washington pursuant to RCW 31.12.471;

(b) A nonpublicly held organization in which a credit union has a material investment;

(c) A publicly held organization the capital stock or equity of which is controlled by a credit union;

(d) A credit union service organization in which a credit union has an interest;

(e) An organization that is not a credit union, out-of-state credit union, federal credit union, or foreign credit union, and that has a majority interest in a credit union service organization in which a credit union has an interest;

(f) A sole proprietorship or organization primarily in the business of managing one or more credit unions; and

(g) A person providing electronic data processing services to a credit union.

The director shall have full access to the books and records and files, including but not limited to computer files, of persons described in this subsection.

(4) In connection with examinations and investigations, the director may:

(a) Administer oaths and examine under oath any person concerning the affairs of any credit union or of any person described in subsection (3) of this section; and

(b) Issue subpoenas to and require the attendance and testimony of any person at any place within this state, and require witnesses to produce any books and records and files, including but not limited to computer files, that are material to an examination or investigation.

(5) The director may accept in lieu of an examination under this section:

(a) The report of an examiner authorized to examine a credit union or an out-of-state,

federal, or foreign credit union, or other financial institution; or

(b) The report of an accountant, satisfactory to the director, who has made and submitted a report of the condition of the affairs of a credit union or an out-of-state, federal, or foreign credit union, or other financial institution. The director may accept all or part of such a report in lieu of all or part of an examination. The accepted report or accepted part of the report has the same force and effect as an examination under this section.

[2001 c 83 § 27; 1997 c 397 § 46; 1994 c 92 § 207; 1984 c 31 § 56.]

RCW 31.12.565 Examination reports and information confidential--Exceptions--Penalty.

(1) The following are confidential and privileged and not subject to public disclosure under chapter 42.17 RCW:

(a) Examination reports and information obtained by the director in conducting examinations and investigations under this chapter and chapter 31.13 RCW;

(b) Examination reports and related information from other financial institution regulators obtained by the director;

(c) Reports or parts of reports accepted in lieu of an examination under RCW 31.12.545; and

(d) Business plans and other proprietary information obtained by the director in connection with a credit union's application or notice to the director.

(2) Notwithstanding subsection (1) of this section, the director may furnish examination reports prepared by the director to:

(a) Federal agencies empowered to examine credit unions or other financial institutions;

(b) Officials empowered to investigate criminal charges. The director may furnish only that part of the report which is necessary and pertinent to the investigation, and only after notifying the affected credit union and members of the credit union who are named in that part of the examination report, or other person examined, that the report is being furnished to the officials, unless the officials requesting the report obtain a waiver of the notice requirement for good cause from a court of competent jurisdiction;

(c) The examined credit union or other person examined, solely for its confidential use;

(d) The attorney general in his or her role as legal advisor to the director;

(e) Prospective merger partners or conservators, receivers, or liquidating agents of a distressed credit union;

(f) Credit union regulators in other states or foreign jurisdictions regarding an out-of-state or foreign credit union conducting business in this state under this chapter, or regarding a credit union conducting business in the other state or jurisdiction;

(g) A person officially connected with the credit union or other person examined, as officer, director, supervisory committee member, attorney, auditor, accountant, independent attorney, independent auditor, or independent accountant;

(h) Organizations that have bonded the credit union to the extent that information is relevant to the renewal of the bond coverage or to a claim under the bond coverage;

(i) Organizations insuring or guaranteeing the shares of, or deposits in, the credit union;

or

(j) Other persons as the director may determine necessary to protect the public interest and confidence.

(3) Examination reports furnished under subsection (2) of this section remain the property of the director and no person to whom reports are furnished or any officer, director, or employee thereof may disclose or make public the reports or information contained in the reports except in published statistical information that does not disclose the affairs of a person, except that nothing prevents the use in a criminal prosecution of reports furnished under subsection (2)(b) of this section.

(4) In a civil action in which the reports or information are sought to be discovered or used as evidence, a party may, upon notice to the director, petition the court for an in-camera review of the reports or information. The court may permit discovery and introduction of only those portions of the report or information which are relevant and otherwise unobtainable by the requesting party. This subsection does not apply to an action brought or defended by the director.

(5) This section does not apply to investigation reports prepared by the director concerning an application for a new credit union or a notice of intent to establish a branch of a credit union, except that the director may adopt rules making portions of the reports confidential, if in the director's opinion the public disclosure of that portion of the report would impair the ability to obtain information the director considers necessary to fully evaluate the application.

(6) Any person who knowingly violates a provision of this section is guilty of a gross misdemeanor.

[2001 c 83 § 28; 1997 c 397 § 48. Prior: 1994 c 256 § 90; 1994 c 92 § 209; 1984 c 31 § 58.]

NOTES:

Findings--Construction--1994 c 256: See RCW 43.320.007.

Examination reports and information from financial institutions exempt: RCW 42.17.31911.

RCW 31.12.567 Reports--Financial and statistical data--As required by director.

A credit union shall file with the director any financial and statistical report that it is required to file with the national credit union administration. Each report must be certified by the principal operating officer of the credit union. In addition, a credit union shall file reports as may be required by the director.

[2001 c 83 § 29; 1997 c 397 § 49.]

RCW 31.12.569 Generally accepted accounting principles.

Credit unions will comply with the provisions of generally accepted accounting principles as required by federal law or rule of the director. In adopting rules to implement this section, the director shall consider, among other relevant factors, whether to transition small credit unions to generally accepted accounting principles over a period of time.

[2001 c 83 § 30; 1997 c 397 § 50.]

NOTES:

Effective date--1997 c 397 § 50: "Section 50 of this act takes effect January 1, 1999." [1997 c 397 § 91.]

RCW 31.12.571 Notice of intent to establish branch--Another state or foreign jurisdiction.

A credit union desiring to establish a branch in another state or a foreign jurisdiction shall submit to the director a notice of intent to establish the branch at least thirty days before conducting business at the branch.

[2001 c 83 § 31; 1997 c 397 § 51; 1994 c 92 § 190; 1984 c 31 § 23. Formerly RCW 31.12.215.]

RCW 31.12.575 Removal or prohibition orders--Director's authority--Notice.

The director may issue and serve a credit union director, supervisory committee member, officer, or employee with written notice of intent to remove the person from office or employment or to prohibit the person from participating in the conduct of the affairs of the credit union or any credit union whenever, in the opinion of the director:

(1) The person has committed a material violation of law or an unsafe or unsound practice; and

(2)(a) The credit union has suffered or is likely to suffer substantial financial loss or other damage; or

(b) The interests of the credit union's share account holders and depositors could be seriously prejudiced by reason of the violation or practice; and

(3) The violation or practice involves personal dishonesty, recklessness, or incompetence.

[2001 c 83 § 32; 1997 c 397 § 52; 1994 c 92 § 210; 1984 c 31 § 59.]

RCW 31.12.585 Prohibited acts--Notice--Cease and desist order.

The director may issue and serve a credit union with a written notice of charges and intent to issue a cease and desist order if, in the opinion of the director, the credit union has committed or is about to commit:

(1) A material violation of law; or

(2) An unsafe or unsound practice.

Upon taking effect, the order may require the credit union and its directors, supervisory committee members, officers, employees, and agents to cease and desist from the violation or practice and may require them to take affirmative action to correct the conditions resulting from the violation or practice.

[2001 c 83 § 33; 1997 c 397 § 53; 1994 c 92 § 211; 1984 c 31 § 60.]

RCW 31.12.595 Temporary cease and desist order--Notice--Superior court.

(1) If the director determines that the violation or practice specified in RCW 31.12.585 is likely to cause an unsafe or unsound condition at the credit union, the director may issue and serve a temporary cease and desist order. The order may require the credit union and its directors, supervisory committee members, officers, employees, and agents to cease and desist

from the violation or practice and may require them to take affirmative action to correct the conditions resulting from the violation or practice.

(2) With the temporary order, the director shall serve a notice of charges and intent to issue a cease and desist order under RCW 31.12.585 in the matter.

(3) The temporary order becomes effective upon service on the credit union and remains effective until completion of the administrative proceedings under the notice issued under subsection (2) of this section.

(4) Within ten days after a credit union has been served with a temporary order, the credit union may apply to the superior court in the county of its principal place of business for an injunction setting aside, limiting, or suspending the order pending the completion of the administrative proceedings under the notice issued under subsection (2) of this section.

(5) In the case of a violation or threatened violation of a temporary order, the director may apply to the superior court of the county of the principal place of business of the credit union for an injunction to enforce the order, and the court shall issue an injunction if it determines that there has been a violation or threatened violation.

[2001 c 83 § 34; 1997 c 397 § 54; 1994 c 92 § 212; 1984 c 31 § 61.]

RCW 31.12.625 Administrative hearing--Procedures.

An administrative hearing on the notice provided for in RCW 31.12.575 and 31.12.585 must be conducted in accordance with chapter 34.05 RCW; provided that, to the extent the requirements of this chapter are inconsistent with chapter 34.05 RCW, this chapter will govern. The hearing may be held at such place as is designated by the director. The hearing shall be private unless the director determines that a public hearing is necessary to protect the public interest after fully considering the views of the party afforded the hearing.

[2001 c 83 § 35; 1997 c 397 § 56; 1994 c 92 § 214; 1984 c 31 § 64.]

RCW 31.12.630 Authority of director to call special meeting of board.

The director may request a special meeting of the board of a credit union if the director believes that a special meeting is necessary for the welfare of the credit union or the purposes of this chapter. The director's request for a special board meeting must be made in writing to the secretary of the board and the request must be handled in the same manner as a call for a special meeting under RCW 31.12.195. The director may require the attendance of all of the directors at the special board meeting, and an absence unexcused by the director constitutes a violation of this chapter.

[1997 c 397 § 58; 1994 c 92 § 216; 1984 c 31 § 67. Formerly RCW 31.12.655.]

RCW 31.12.633 Authority of director to attend meetings of the board.

The director may attend a meeting of the board of a credit union if the director believes that attendance at the meeting is necessary for the welfare of the credit union, or the purposes of this chapter, or if the board has requested the director's attendance. The director shall provide

reasonable notice to the board before attending a meeting.

[1997 c 397 § 59; 1994 c 92 § 217; 1984 c 31 § 68. Formerly RCW 31.12.665.]

RCW 31.12.637 Intervention by director--Conditions.

The director may place a credit union under supervisory direction in accordance with RCW 31.12.641 through 31.12.647, appoint a conservator for a credit union in accordance with RCW 31.12.651 through 31.12.661, appoint a liquidating agent for a credit union in accordance with RCW 31.12.664 and 31.12.667, or appoint a receiver for a credit union in accordance with RCW 31.12.671 through 31.12.724, if the credit union:

(1) Consents to the action;

(2) Has failed to comply with the requirements of the director while the credit union is under supervisory direction;

(3) Has committed or is about to commit a material violation of law or an unsafe or unsound practice, and such violation or practice has caused or is likely to cause an unsafe or unsound condition at the credit union; or

(4) Is in an unsafe or unsound condition.

[1997 c 397 § 60.]

RCW 31.12.641 Supervision by director--Notice--Compliance--Costs.

(1) As authorized by RCW 31.12.637, the director may determine to place a credit union under supervisory direction. Upon such a determination, the director shall notify the credit union in writing of:

(a) The director's determination; and

(b) Any requirements that must be satisfied before the director shall terminate the supervisory direction.

(2) The credit union must comply with the requirements of the director as provided in the notice. If the credit union fails to comply with the requirements, the director may appoint a conservator, liquidating agent, or receiver for the credit union, in accordance with this chapter. The director may appoint a representative to supervise the credit union during the period of supervisory direction.

(3) All costs incident to supervisory direction will be a charge against the assets of the credit union to be allowed and paid as the director may determine.

[1997 c 397 § 61.]

RCW 31.12.644 Supervision by director--Certain acts prohibited.

During the period of supervisory direction, the director may prohibit the credit union from engaging in any of the following acts without prior approval:

(1) Disposing of, conveying, or encumbering any of its assets;

(2) Withdrawing any of its accounts at other financial institutions;
(3) Lending any of its funds;
(4) Investing any of its funds;
(5) Transferring any of its property; or
(6) Incurring any debt, obligation, or liability.

[1997 c 397 § 62.]

RCW 31.12.647 Supervision by director--Credit union request for review.

During the period of supervisory direction, the credit union may request the director to review an action taken or proposed to be taken by the representative, specifying how the action is not in the best interests of the credit union. The request stays the action, pending the director's review of the request.

[1997 c 397 § 63.]

RCW 31.12.651 Conservator--Authorized actions--Costs.

(1) As authorized by RCW 31.12.637, the director may, upon due notice and hearing, appoint a conservator for a credit union. The director may appoint himself or herself or another qualified party as conservator of the credit union. The conservator shall immediately take charge of the credit union and all of its property, books, records, and effects.

(2) The conservator shall conduct the business of the credit union and take such steps toward the removal of the causes and conditions that have necessitated the appointment of a conservator, as the director may direct. The conservator is authorized to, without limitation:

(a) Take all necessary measures to preserve, protect, and recover any assets or property of the credit union, including any claim or cause of action belonging to or which may be asserted by the credit union, and administer the same in his or her own name as conservator; and

(b) File, prosecute, and defend any suit that has been filed or may be filed by or against the credit union that is deemed by the conservator to be necessary to protect all of the interested parties or a property affected thereby.

The conservator shall make such reports to the director from time to time as may be required by the director.

(3) All costs incident to conservatorship will be a charge against the assets of the credit union to be allowed and paid as the director may determine.

(4) If at any time the director determines that the credit union is not in condition to continue business under the conservator in the interest of its share account holders, depositors, or creditors, and grounds exist under RCW 31.12.637, the director may proceed with appointment of a liquidating agent or receiver in accordance with this chapter.

[1997 c 397 § 64.]

RCW 31.12.654 Actions by conservator--Review.

During the period of conservatorship, the credit union may request the director to review an action taken or proposed to be taken by the conservator, specifying how the action is not in the best interest of the credit union. The request stays the action, pending the director's review of the request.

[1997 c 397 § 65.]

RCW 31.12.657 Lawsuits during period of conservatorship.

Any suit filed against a credit union or its conservator, during the period of conservatorship, must be brought in the superior court of Thurston county. A conservator for a credit union may file suit in any superior court or other court of competent jurisdiction against any person for the purpose of preserving, protecting, or recovering any asset or property of the credit union, including, but not limited to, any claims or causes of action belonging to or asserted by the credit union.

[1997 c 397 § 66.]

RCW 31.12.661 Conservator serves until purposes are accomplished.

The conservator shall serve until the purposes of the conservatorship have been accomplished. If rehabilitated, the credit union must be returned to management or new management under such conditions as the director may determine.

[1997 c 397 § 67.]

RCW 31.12.664 Liquidation--Suspension or revocation of articles--Placement in involuntary liquidation--Appointment of liquidating agent--Notice--Procedure--Effect.

(1) As authorized by RCW 31.12.637, the director may appoint a liquidating agent for a credit union. Before appointing a liquidating agent, the director shall issue and serve notice on the credit union an order directing the credit union to show cause why its articles of incorporation should not be suspended or revoked, in accordance with chapter 34.05 RCW.

(2) If the credit union fails to adequately show cause, the director shall serve the credit union with an order directing the suspension or revocation of the articles of incorporation, placing the credit union in involuntary liquidation, appointing a liquidating agent under this section and RCW 31.12.667, and providing a statement of the findings on which the order is based.

(3) The suspension or revocation must be immediate and complete. Once the articles of incorporation are suspended or revoked, the credit union shall cease conducting business. The credit union may not accept any payment to share or deposit accounts, may not grant or pay out any new or previously approved loans, may not invest any of its assets, and may not declare or pay out any previously declared dividends. The liquidating agent of a credit union whose articles

have been suspended or revoked may accept payments on loans previously paid out and may accept income from investments already made.

[1997 c 397 § 68; 1994 c 92 § 218; 1984 c 31 § 69. Formerly RCW 31.12.675.]

RCW 31.12.667 Order directing involuntary liquidation--Procedure.

(1) On receipt of the order placing the credit union in involuntary liquidation, the officers and directors of the credit union shall deliver to the liquidating agent possession and control of all books, records, assets, and property of the credit union.

(2) The liquidating agent shall proceed to convert the assets to cash, collect all debts due to the credit union and wind up its affairs in accordance with any instructions and procedures issued by the director. If a liquidating agent agrees to absorb and serve the membership of the credit union, the director may approve a pooling of assets and liabilities rather than a distribution of assets.

(3) Each share account holder and depositor at the credit union is entitled to a proportionate allocation of the assets in liquidation after all shares, deposits, and debts have been paid.

The proportionate allocation shall be based on account balances as of a date determined by the board. For the purposes of liquidation, shares and deposits are equivalent.

(4) The liquidating agent shall cause a notice of liquidation to be published once a week for three consecutive weeks in a newspaper of general circulation in the county in which the principal place of business of the credit union is located. The notice of liquidation must inform creditors of the credit union on how to make a claim upon the liquidating agent, and that if a claim is not made upon the liquidating agent within thirty days of the last date of publication, the creditor's claim is barred. The liquidating agent shall provide personal notice of liquidation to the creditors of record, informing them that if they fail to make a claim upon the liquidating agent within thirty days of the service of the notice, the creditor's claim is barred. If a creditor fails to make a claim upon the liquidating agent within the times required to be specified in the notices of liquidation, the creditor's claim is barred. All contingent liabilities of the credit union are discharged upon the director's order to liquidate the credit union. The liquidating agent shall, upon completion, certify to the director that the distribution or pooling of assets of the credit union is complete.

[1997 c 397 § 69; 1994 c 92 § 219; 1984 c 31 § 70. Formerly RCW 31.12.685.]

RCW 31.12.671 Receivership--Appointment of receiver by director--Notice--Act without bond.

As authorized by RCW 31.12.637, the director may without prior notice appoint a receiver to take possession of a credit union. The director may appoint the national credit union administration or other qualified party as receiver. Upon appointment, the receiver is authorized to act without bond. Upon acceptance of the appointment, the receiver shall have and possess all the powers and privileges provided by the laws of this state with respect to the receivership of a

credit union, and be subject to all the duties of and restrictions applicable to such a receiver, except insofar as such powers, privileges, duties, or restrictions are in conflict with any applicable provision of the federal credit union act.

Upon taking possession of the credit union, the receiver shall give written notice to the directors of the credit union and to all persons having possession of any assets of the credit union. No person with knowledge of the taking of possession by the receiver shall have a lien or charge for any payment advanced, clearance made, or liability incurred against any of the assets of the credit union, after the receiver takes possession, unless approved by the receiver.

[1997 c 397 § 70.]

RCW 31.12.674 Receiver may be required to show cause--Superior court.

Within ten days after the receiver takes possession of a credit union's assets, the credit union may serve notice upon the receiver to appear before the superior court of the county in which the principal place of business of the credit union is located and at a time to be fixed by the court, which may not be less than five or more than fifteen days from the date of the service of the notice, to show cause why the credit union should not be restored to the possession of its assets.

The court shall summarily hear and dismiss the complaint if it finds that the receiver was appointed for cause. However, if the court finds that no cause existed for appointment of the receiver, the court shall require the receiver to restore the credit union to possession of its assets and enjoin the director from further appointment of a receiver for the credit union without cause.

[1997 c 397 § 71.]

RCW 31.12.677 Powers and duties of receiver.

Upon taking possession of a credit union, the receiver shall proceed to collect the assets of the credit union and preserve, administer, and liquidate its business and assets.

With the approval of the Thurston county superior court or the superior court of the county in which the principal place of business of the credit union is located, the receiver may sell, compound, or compromise bad or doubtful debts, and upon such terms as the court may direct, borrow, mortgage, pledge, or sell all or any part of the real and personal property of the credit union. The receiver may deliver to each purchaser or lender an appropriate deed, mortgage, agreement of pledge, or other instrument of title or security. The receiver may employ an attorney or other assistants to assist in carrying out the receivership, subject to such surety bond as the director may require. The premium for any such bond must be paid out of the assets of the credit union.

In carrying out the receivership, the receiver may without limitation arrange for the merger or consolidation of the credit union in receivership with another credit union, out-of-state credit union, or federal credit union, or may arrange for the purchase of the credit union's assets and the assumption of its liabilities by such a credit union, in whole or in part, or may arrange for such a transaction with another type of financial institution as may be otherwise permitted by

law. The receiver shall give preference to transactions with a credit union or a federal credit union that has its principal place of business in this state.

[1997 c 397 § 72.]

RCW 31.12.681 Claims against credit union in receivership--Notice.

The receiver shall publish once a week for four consecutive weeks in a newspaper of general circulation in the county where the credit union's principal place of business is located, a notice requiring all persons having claims against the credit union to file proof of claim not later than ninety days from the date of the first publication of the notice. The receiver shall mail similar notices to all persons whose names appear as creditors upon the books of the credit union. The assets of the credit union are not subject to contingent claims.

After the expiration of the time fixed in the notice, the receiver has no power to accept any claim except the claim of a depositor or share account holder, and all other claims are barred. Claims of depositors or share account holders may be presented after the expiration of the time fixed in the notice and may be approved by the receiver. If such a claim is approved, the depositor or share account holder is entitled to its proportion of prior liquidation dividends, if sufficient funds are available for it, and will share in the distribution of the remaining assets.

The receiver may approve or reject any claim, but shall serve notice of rejection upon the claimant by mail or personally. An affidavit of service of the notice of rejection will serve as prima facie evidence that notice was given. No action may be brought on any claim after three months from the date of service of the notice of rejection.

[1997 c 397 § 73.]

RCW 31.12.684 Receiver shall inventory assets--File lists of assets and claims--Objections to approved claims.

Upon taking possession of the credit union, the receiver shall make an inventory of the assets and file the list in the office of the county clerk. Upon the expiration of the time fixed for the presentation of claims, the receiver shall make a list of claims presented, segregating those approved and those rejected, to be filed in the office of the county clerk. The receiver shall also make and file with the office of the county clerk a supplemental list of claims at least fifteen days before the declaration of any liquidation dividend, and in any event at least every six months.

Objection may be made by any interested person to any claim approved by the receiver. Objections to claims approved by the receiver will be resolved by the court after providing notice to both the claimant and objector, as the court may prescribe.

[1997 c 397 § 74.]

RCW 31.12.687 Expenses incurred by receiver.

All expenses incurred by the receiver in relation to the receivership of a credit union, including, but not limited to, reasonable attorneys' fees, become a first charge upon the assets of the credit union. The charges shall be fixed and determined by the receiver, subject to the approval of the court.

[1997 c 397 § 75.]

RCW 31.12.691 Liquidation dividends--Approval of court.

At any time after the expiration of the date fixed for the presentation of claims, the receiver, subject to the approval of the court, may declare one or more liquidation dividends out of the funds remaining after the payment of expenses.

[1997 c 397 § 76.]

RCW 31.12.694 Remaining assets--Distribution.

When all expenses of the receivership have been paid, as well as all proper claims of share account holders, depositors, and other creditors, and proper provision has been made for unclaimed or unpaid debts and liquidation dividends, and assets of the credit union still remain, the receiver shall wind up the affairs of the credit union and distribute its assets to those entitled to them. Each share account holder and depositor at the credit union is entitled to a proportionate share of the assets remaining. The proportionate allocation shall be based on account balances as of a date determined by the board. For the purposes of liquidation, shares and deposits are equivalent.

[1997 c 397 § 77.]

RCW 31.12.697 Unclaimed liquidation dividends.

Any liquidation dividends to share account holders, depositors, or other creditors of the credit union remaining uncalled for and unpaid in the hands of the receiver for six months after the order of final distribution, must be deposited in a financial institution to each share account holder's, depositor's, or creditor's credit. The funds must be held in trust for the benefit of the persons entitled to the funds and, subject to the supervision of the court, must be paid by the receiver to them upon presentation of satisfactory evidence of their right to the funds.

[1997 c 397 § 78.]

RCW 31.12.701 Personal property--Receiver's duties.

(1) The receiver shall inventory, package, and seal uncalled for and unclaimed personal property left with the credit union, including, but not limited to, property held in safe deposit boxes, and arrange for the packages to be held in safekeeping. The credit union, its directors and officers, and the receiver, shall be relieved of responsibility and liability for the property held in

safekeeping. The receiver shall promptly send to each person in whose name the property stood on the books of the credit union, at the person's last known address, a registered letter notifying the person that the property will be held in the person's name for a period of not less than two years.

(2) After the expiration of two years from the date of mailing the notice, the receiver shall promptly send to each person in whose name the property stood on the books of the credit union, at the person's last known address, a registered letter providing notice of sale. The letter must indicate that the receiver will sell the property set out in the notice, at a public auction at a specified time and place, not less than thirty days after the date of mailing the letter. The receiver may sell the property unless the person, prior to the sale, presents satisfactory evidence of the person's right to the property. A notice of the time and place of the sale must be published once within ten days prior to the sale in a newspaper of general circulation in the county where the sale is to be held.

(3) Any property, for which the address of the owner or owners is not known, may be sold at public auction after it has been held by the receiver for two years. A notice of the time and place of the sale must be published once within ten days prior to the sale in a newspaper of general circulation in the county where the sale is to be held.

(4) Whenever the personal property left with the credit union consists either wholly or in part, of documents, letters, or other papers of a private nature, the documents, letters, or papers may not be sold, but must be retained by the receiver and may be destroyed after a period of five years.

[1997 c 397 § 79.]

RCW 31.12.704 Proceeds of sale--Deposit or payment by receiver.

The proceeds of the sale less any amounts for costs and charges incurred in safekeeping and sale must be deposited by the receiver in a financial institution, in trust for the benefit of the person entitled to the property. The sale proceeds must be paid by the receiver to the person upon presentation of satisfactory evidence of the person's right to the funds.

[1997 c 397 § 80.]

RCW 31.12.707 Completion of receivership--Merger, purchase, or liquidation--Secretary of state.

Upon the completion of a receivership through merger, purchase of assets and assumption of liabilities, or liquidation, the director shall terminate the credit union's authority to conduct business and certify that fact to the secretary of state. Upon certification, the credit union shall cease to exist and the secretary of state shall note that fact upon his or her records.

[1997 c 397 § 81.]

RCW 31.12.711 Director may terminate receivership--Expenses.

If at any time after a receiver is appointed, the director determines that all material deficiencies at the credit union have been corrected, and that the credit union is in a safe and sound condition to resume conducting business, the director may terminate the receivership and permit the credit union to reopen upon such terms and conditions as the director may prescribe. Before being permitted to reopen, the credit union must pay all of the expenses of the receiver.

[1997 c 397 § 82.]

RCW 31.12.714 Receivership files.

The receiver or director, as appropriate, may at any time after the expiration of one year from the order of final distribution, or from the date when the receivership has been completed, destroy any of the remaining files, records, documents, books of account, or other papers of the credit union that appear to be obsolete or unnecessary for future reference as part of the receivership files.

[1997 c 397 § 83.]

RCW 31.12.717 Pendency of proceedings for review of appointment of receiver--Liabilities of credit union--Availability of relevant data.

The pendency of any proceedings for judicial review of the appointment of a receiver may not operate to prevent the payment or acquisition of the share and deposit liabilities of the credit union by the national credit union administration or other insurer or guarantor of the share and deposit liabilities of the credit union. During the pendency of the proceedings, the receiver shall make credit union facilities, books, records, and other relevant credit union data available to the insurer or guarantor as may be necessary or appropriate to enable the insurer or guarantor to pay out or to acquire the insured or guaranteed share and deposit liabilities of the credit union. The national credit union administration and any other insurer or guarantor of the credit union's share and deposit liabilities, together with their directors, officers, agents, and employees, and the director and receiver and their agents and employees, will be free from liability to the credit union, its directors, members, and creditors, for or on account of any action taken in connection with the receivership.

[1997 c 397 § 84.]

RCW 31.12.721 Appointment by court of temporary receiver--Notice to director.

No receiver may be appointed by any court for any credit union, except that a court otherwise having jurisdiction may in case of imminent necessity appoint a temporary receiver to take possession of and preserve the assets of the credit union. Immediately upon appointment, the clerk of the court shall notify the director in writing of the appointment and the director shall appoint a receiver to take possession of the credit union and the temporary receiver shall upon

demand surrender possession of the assets of the credit union to the receiver. The receiver may in due course pay the temporary receiver out of the assets of the credit union, subject to the approval of the court.

[1997 c 397 § 85.]

RCW 31.12.724 Actions that are void--Felonious conduct--Penalties.

Every transfer of a credit union's property or assets, and every assignment by a credit union for the benefit of creditors, made in contemplation of insolvency, or after it has become insolvent, to intentionally prefer one creditor over another, or to intentionally prevent the equal distribution of its property and assets among its creditors, is void. Every credit union director, officer, or employee making any such transfer is guilty of a felony.

An officer, director, or employee of a credit union who fraudulently receives any share or deposit on behalf of the credit union, knowing that the credit union is insolvent, is guilty of a felony.

[1997 c 397 § 86.]

MISCELLANEOUS

RCW 31.12.850 Prohibited acts--Penalty.

(1) It is unlawful for a director, supervisory committee member, officer, employee, or agent of a credit union to knowingly violate or consent to a violation of this chapter. Unless otherwise provided by law, a violation of this subsection is a misdemeanor under chapter 9A.20 RCW.

(2) It is unlawful for a person to perform any of the following acts:

(a) To knowingly subscribe to, make, or cause to be made a false statement or entry in the books of a credit union;

(b) To knowingly make a false statement or entry in a report required to be made to the director; or

(c) To knowingly exhibit a false or fictitious paper, instrument, or security to a person authorized to examine a credit union.

A violation of this subsection is a class C felony under chapter 9A.20 RCW.

[1997 c 397 § 87; 1994 c 92 § 215; 1984 c 31 § 65. Formerly RCW 31.12.635.]

RCW 31.12.860 Taxation of credit unions.

Neither a credit union nor its members may be taxed upon its shares and deposits as property. A credit union shall be taxable upon its real property and tangible personal property, and every credit union shall be termed a mutual institution for savings and neither it nor its property may be taxable under any law which exempts savings banks or institutions for savings

from taxation. For all purposes of taxation, the assets represented by the regular reserve and other reserves, other than reserves for expenses and losses of a credit union, shall be deemed its only permanent capital, and in computing any tax, whether it be property, income, or excise, appropriate adjustment shall be made to give effect to the mutual nature of such credit union.

[1984 c 31 § 75. Formerly RCW 31.12.735.]

RCW 31.12.890 Satellite facilities.

See chapter 30.43 RCW.

RCW 31.12.891 Automated teller machines and night depositories security.

Chapter 19.174 RCW applies to automated teller machines and night depositories regulated under this title.

[1993 c 324 § 11. Formerly RCW 31.12.740.]

Notes:

Effective date--1993 c 324: See RCW 19.174.900.

RCW 31.12.902 Short title.

This chapter may be known and cited as the "Washington State Credit Union Act."

[1984 c 31 § 76.]

RCW 31.12.906 Effective date--1997 c 397.

Except for sections 35 and 50 of this act, this act takes effect January 1, 1998.

[1997 c 397 § 92.]

RCW 31.12.907 Severability--1997 c 397.

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

[1997 c 397 § 93.]

RCW 31.12.908 Severability--2001 c 83.

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

[2001 c 83 § 41.]

Chapter 31.13 RCW
CORPORATE CREDIT UNIONS

(Formerly: Central credit unions)

Sections

31.13.010 Definition of corporate credit union or corporate.
31.13.020 Authority to organize and operate--Powers and authorities--Name--Federal or Kansas state corporate credit unions.

NOTES:
Master license system exemption: RCW 19.02.800.

RCW 31.13.010 Definition of corporate credit union or corporate.

As used in this chapter, unless the context in which it is used clearly indicates otherwise, the term "corporate credit union" or "corporate" means a credit union organized under this chapter.

[2001 c 83 § 36; 1984 c 31 § 79; 1977 ex.s. c 207 § 5.]

NOTES:
Severability--2001 c 83: See RCW 31.12.908.

RCW 31.13.020 Authority to organize and operate--Powers and authorities--Name--Federal or Kansas state corporate credit unions.

(1) Corporate credit unions may be organized and operated under this chapter. A corporate credit union has all the powers and authorities granted in, and is subject to, all of the provisions of chapter 31.12 RCW which are not inconsistent with this chapter. A corporate must use the term "corporate" in its official name. The director may adopt rules for the organization and operation of corporate credit unions.

(2) Notwithstanding any other provision of law, and in addition to all powers and authorities, express or implied, that a corporate credit union has under the laws of this state, a corporate has the powers and authorities that a federal or Kansas state corporate credit union had on July 22, 2001. However, a corporate must still comply with RCW 31.12.408.

(3) Notwithstanding any other provision of law, and in addition to the powers and authorities, express or implied, that a corporate has under subsection (2) of this section, a corporate credit union has the powers and authorities that a federal or Kansas state corporate credit union has subsequent to July 22, 2001, if the director finds that the exercise of the power and authority serves the convenience and advantage of members of credit unions, and maintains the fairness of competition and parity between corporate credit unions. However, a corporate must still comply with RCW 31.12.408.

(4) The restrictions, limitations, and requirements applicable to specific powers or authorities of federal or Kansas state corporate credit unions apply to corporate credit unions exercising those powers or authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to the specific exercise of the powers or

authorities granted corporate credit unions solely under this section.

(5) As used in this section, "powers and authorities" include, but are not limited to, powers and authorities in corporate governance matters.

[2001 c 83 § 37; 1977 ex.s. c 207 § 1.]

NOTES:

Severability--2001 c 83: See RCW 31.12.908.

Chapter 31.20 RCW
DEVELOPMENT CREDIT CORPORATIONS

Sections

31.20.010 Creation under general corporation laws authorized.
31.20.020 Purposes specified.
31.20.030 Corporate powers.
31.20.040 Minimum capital stock.
31.20.050 Board of directors.
31.20.060 Members power to loan funds to corporation.
31.20.070 Members of corporation enumerated.
31.20.080 Members duty to loan funds to corporation--Maximum limits--Proration of calls.
31.20.090 Withdrawal from membership.
31.20.100 Surplus reserve required.
31.20.110 Funds to be deposited in designated depository.
31.20.120 Money deposits prohibited.
31.20.130 Publication of annual statement of assets and liabilities.
31.20.140 Participation in federal act authorized.

RCW 31.20.010 Creation under general corporation laws authorized.

Organizations to provide development credit are authorized to be created under the general corporation laws of the state, with all of the powers, privileges and immunities conferred on corporations by such laws.

[1959 c 213 § 1.]

RCW 31.20.020 Purposes specified.

The purposes of development credit corporations as authorized herein shall be: (1) To promote, aid, and, through the united efforts of the institutions and corporations which shall from time to time become members thereof, develop and advance the industrial and business prosperity and welfare of the state of Washington; (2) To encourage new industries; (3) To stimulate and help to expand all kinds of business ventures which tend to promote the growth of the state; (4) To act whenever and wherever deemed by it advisable in conjunction with other organizations, the objects of which are the promotion of industrial, agricultural or recreational developments within the state; and (5) To furnish for approved and deserving applicants ready

and required money for the carrying on and development of every kind of business or industrial undertaking whereby a medium of credit is established not otherwise readily available therefor.

[1959 c 213 § 2.]

RCW 31.20.030 Corporate powers.

In furtherance of the purposes set forth in RCW 31.20.020, and in addition to the powers conferred by the general laws relating to corporations, this corporation shall, subject to the restrictions and limitations set forth in this chapter, have the following powers:

(1) To borrow money on secured or unsecured notes from any bank, trust company, savings bank, mutual savings bank, savings and loan association, building and loan association, credit union, insurance company or union funds which shall be members of this corporation and to pledge bonds, notes and other securities as collateral therefor: PROVIDED, In no case shall the amount so loaned by any member exceed the limit as hereinafter defined;

(2) To lend money upon secured or unsecured applications: PROVIDED, It shall not be the purpose hereof to take from other institutions within the state any such loans or commitments as may be desired by such institutions generally in the ordinary course of their business;

(3) To establish and regulate the terms and conditions of any such loans and charges for interest or service connected therewith;

(4) To purchase, hold, lease and otherwise acquire and to convey such real estate as may, from time to time, be acquired by it in satisfaction of debts or may be acquired by it in the foreclosure of mortgages thereon or upon judgments for debts or in settlements to secure debts.

[1959 c 213 § 3.]

RCW 31.20.040 Minimum capital stock.

No development credit corporation shall be organized with a capital stock of less than twenty-five thousand dollars, which shall be paid into the treasury of the corporation in cash before the corporation shall be authorized to transact any business other than such as relates to its organization.

[1959 c 213 § 4.]

RCW 31.20.050 Board of directors.

All the corporate powers of a development credit corporation shall be exercised by a board of not less than nine directors who shall be residents of this state. The number of directors and their term of office shall be determined by the stockholders at the first meeting held by the incorporators and at each annual meeting thereafter. In the first instance the directors shall be elected by the stockholders to serve until the first annual meeting. At the first annual meeting, and at each annual meeting thereafter, one-third of the directors shall be elected by a vote of the stockholders and the remaining two-thirds thereof shall be elected by members of the

corporation herein provided for, each member having one vote. The removal of any director from this state shall immediately vacate his office. If any vacancy occurs in the board of directors through death, resignation or otherwise, the remaining directors may elect a person to fill the vacancy until the next annual meeting of the corporation. The directors shall be annually sworn to the proper discharge of their duties and they shall hold office until others are elected or appointed and qualified in their stead.

[1959 c 213 § 5.]

RCW 31.20.060 Members power to loan funds to corporation.

Any member, as set forth in RCW 31.20.070, shall have power and authority to loan any of their funds to any development credit corporation of which they are a member, subject to the restrictions as set forth in RCW 31.20.080, notwithstanding any laws to the contrary pertaining to such member.

[1959 c 213 § 6.]

RCW 31.20.070 Members of corporation enumerated.

The members of a development credit corporation shall consist of such banks, trust companies, savings banks, mutual savings banks, savings and loan associations, building and loan associations, credit unions, insurance companies or union funds as may make accepted applications to this corporation to lend funds to it upon call and up to the limit herein provided.

[1959 c 213 § 7.]

RCW 31.20.080 Members duty to loan funds to corporation--Maximum limits--Proration of calls.

Each member of a development credit corporation shall lend funds to the development credit corporation as and when called upon by it to do so to the extent of the member's commitment, but the total amount on loan by any member at any one time shall not exceed the following limit: (1) For banks, trust companies, or insurance companies, three percent of capital and surplus; (2) For mutual savings banks, savings and loan associations, or credit unions, three percent of guaranty and reserve funds; and (3) Comparable limits for other institutions. All loan limits shall be established at the thousand dollars amount nearest to the amount computed on an actual basis. All calls when made by this corporation shall be prorated among the members on the same proportion that the maximum lending commitment of each bears to the aggregate maximum lending commitment of all members.

[1959 c 213 § 8.]

RCW 31.20.090 Withdrawal from membership.

Upon notice given one year in advance a member of the corporation may withdraw from membership in the corporation at the expiration date of such notice and from said expiration date shall be free from obligations hereunder except as to those accrued prior to said expiration date.

[1959 c 213 § 9.]

RCW 31.20.100 Surplus reserve required.

A development credit corporation shall set apart a surplus of not less than ten percent of its net earnings in each and every year until such surplus, with any unimpaired surplus paid in, shall amount to one-half of the capital stock. The said surplus shall be kept to secure against losses and contingencies, and whenever the same becomes impaired it shall be reimbursed in the manner provided for its accumulation.

[1959 c 213 § 10.]

RCW 31.20.110 Funds to be deposited in designated depository.

A development credit corporation shall not deposit any of its funds in any institution unless such institution has been designated as a depository by a vote of a majority of the directors, exclusive of the vote of any director who is an officer or director of the depository so designated.

[1959 c 213 § 11.]

RCW 31.20.120 Money deposits prohibited.

A development credit corporation shall not receive money on deposit.

[1959 c 213 § 12.]

RCW 31.20.130 Publication of annual statement of assets and liabilities.

A development credit corporation, on or before February 15th of each year, shall publish in three consecutive issues of a newspaper of general circulation in the area or areas where the corporation is located a statement of assets and liabilities as of December 31st of the preceding year.

[1959 c 213 § 13.]

RCW 31.20.140 Participation in federal act authorized.

Any development credit corporation desiring to qualify and participate in the federal Small Business Investment Act of 1958 and as hereafter amended may do so and to that end may comply with all the laws of the United States and all the rules, regulations and requirements promulgated pursuant thereto.

[1959 c 213 § 14.]

Chapter 31.24 RCW
INDUSTRIAL DEVELOPMENT CORPORATIONS

Sections

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31.24.900 Severability--1963 c 162.

Notes:
Economic development finance authority: RCW 43.163.080.

RCW 31.24.010 Definitions.

As used in this chapter, the following words and phrases, unless differently defined or described, shall have the meanings and references as follows:

(1) Corporation means a Washington industrial development corporation created under this chapter.

(2) Financial institution means any banking corporation or trust company, national banking association, savings and loan association, insurance company or related corporation, partnership, foundation, or other institution engaged primarily in lending or investing funds.

(3) Member means any financial institution authorized to do business within this state which shall undertake to lend money to a corporation created under this chapter, upon its call, and in accordance with the provisions of this chapter.

(4) Board of directors means the board of directors of the corporation created under this chapter.

(5) Loan limit means for any member, the maximum amount permitted to be outstanding at one time on loans made by such member to the corporation, as determined under the provisions of this chapter.

[1963 c 162 § 1.]

RCW 31.24.020 Articles of incorporation--Contents--Approval.

Fifteen or more persons, a majority of whom shall be residents of this state, who may desire to create an industrial development corporation under the provisions of this chapter, for the purpose of promoting, developing and advancing the prosperity and economic welfare of the state and, to that end, to exercise the powers and privileges hereinafter provided, may be incorporated by filing in the office of the secretary of state, as hereinafter provided, articles of incorporation. The articles of incorporation shall contain:

(1) The name of the corporation, which shall include the words "Development Corporation of Washington."

(2) The location of the principal office of the corporation, but such corporation may have offices in such other places within the state as may be fixed by the board of directors.

(3) The purposes for which the corporation is founded, which shall be to promote, stimulate, develop and advance the business prosperity and economic welfare of Washington and its citizens; to encourage and assist through loans, investments or other business transactions in the location of new business and industry in this state and to rehabilitate and assist existing business and industry; to stimulate and assist in the expansion of all kinds of business activity which will tend to promote the business development and maintain the economic stability of this state, provide maximum opportunities for employment, encourage thrift, and improve the standard of living of citizens of this state; similarly, to cooperate and act in conjunction with other organizations, public or private, in the promotion and advancement of industrial, commercial, agricultural and recreational developments in this state; and to provide financing for the promotion, development, and conduct of all kinds of business activity in this state.

(4) The names and post office addresses of the members of the first board of directors, who, unless otherwise provided by the articles of incorporation or the bylaws, shall hold office for the first year of existence of the corporation or until their successors are elected and have qualified.

(5) Any provision which the incorporators may choose to insert for the regulation of the business and for the conduct of the affairs of the corporation and any provision creating, dividing, limiting and regulating the powers of the corporation, the directors, stockholders or any class of the stockholders, including, but not limited to a list of the officers, and provisions governing the issuance of stock certificates to replace lost or destroyed certificates.

(6) The amount of authorized capital stock and the number of shares into which it is divided, the par value of each share and the amount of capital with which it will commence business and, if there is more than one class of stock, a description of the different classes; the

names and post office addresses of the subscribers of stock and the number of shares subscribed by each. The aggregate of the subscription shall be the minimum amount of capital with which the corporation shall commence business which shall not be less than fifty thousand dollars. The articles of incorporation may also contain any provision consistent with the laws of this state for the regulation of the affairs of the corporation.

(7) The articles of incorporation shall be in writing, subscribed by not less than five natural persons competent to contract and acknowledged by each of the subscribers before an officer authorized to take acknowledgments and filed in the office of the secretary of state for approval. A duplicate copy so subscribed and acknowledged may also be filed.

(8) The articles of incorporation shall recite that the corporation is organized under the provisions of this chapter.

The secretary of state shall not approve articles of incorporation for a corporation organized under this chapter until a total of at least ten national banks, state banks, savings banks, industrial savings banks, federal savings and loan associations, domestic building and loan associations, or insurance companies authorized to do business within this state, or any combination thereof, have agreed in writing to become members of said corporation; and said written agreement shall be filed with the secretary of state with the articles of incorporation and the filing of same shall be a condition precedent to the approval of the articles of incorporation by the secretary of state. Whenever the articles of incorporation shall have been filed in the office of the secretary of state and approved by him and all taxes, fees and charges, have been paid, as required by law, the subscribers, their successors and assigns shall constitute a corporation, and said corporation shall then be authorized to commence business, and stock thereof to the extent herein or hereafter duly authorized may from time to time be issued.

[1974 ex.s. c 16 § 1; 1963 c 162 § 2.]

RCW 31.24.030 Corporate powers.

In furtherance of its purposes and in addition to the powers now or hereafter conferred on business corporations by the provisions of Title 23B RCW, the corporation shall, subject to the restrictions and limitations herein contained, have the following powers:

(1) To elect, appoint and employ officers, agents and employees; to make contracts and incur liabilities for any of the purposes of the corporation: PROVIDED, That the corporation shall not incur any secondary liability by way of guaranty or endorsement of the obligations of any person, firm, corporation, joint stock company, association or trust, or in any other manner.

(2) To borrow money from its members and the small business administration and any other similar federal agency, for any of the purposes of the corporation; to issue therefor its bonds, debentures, notes or other evidence of indebtedness, whether secured or unsecured, and to secure the same by mortgage, pledge, deed of trust or other lien on its property, franchises, rights and privileges of every kind and nature or any part thereof or interest therein, without securing stockholder or member approval: PROVIDED, That no loan to the corporation shall be secured in any manner unless all outstanding loans to the corporation shall be secured equally and ratably in proportion to the unpaid balance of such loans and in the same manner.

(3) To make loans to any person, firm, corporation, joint-stock company, association or trust, and to establish and regulate the terms and conditions with respect to any such loans and the charges for interest and service connected therewith: PROVIDED, That the corporation shall not approve any application for a loan unless and until the person applying for said loan shall show that he has applied for the loan through ordinary banking channels and that the loan has been refused by at least one bank or other financial institution.

(4) To purchase, receive, hold, lease, or otherwise acquire, and to sell, convey, transfer, lease or otherwise dispose of real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and the use thereof, including, but not restricted to, any real or personal property acquired by the corporation from time to time in the satisfaction of debts or enforcement of obligations.

(5) To acquire the good will, business, rights, real and personal property, and other assets, or any part thereof, or interest therein, of any persons, firms, corporations, joint-stock companies, associations or trusts, and to assume, undertake, or pay the obligations, debts and liabilities of any such person, firm, corporation, joint-stock company, association or trust; to acquire improved or unimproved real estate for the purpose of constructing industrial plants or other business establishments thereon or for the purpose of disposing of such real estate to others for the construction of industrial plants or other business establishments; and to acquire, construct or reconstruct, alter, repair, maintain, operate, sell, convey, transfer, lease, or otherwise dispose of industrial plants or business establishments.

(6) To acquire, subscribe for, own, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of the stock, shares, bonds, debentures, notes or other securities and evidences of interest in, or indebtedness of, any person, firm, corporation, joint-stock company, association or trust, and while the owner or holder thereof to exercise all the rights, powers and privileges of ownership, including the right to vote thereon.

(7) To mortgage, pledge, or otherwise encumber any property, right or things of value, acquired pursuant to the powers contained in subsections (4), (5), or (6) of this section, as security for the payment of any part of the purchase price thereof.

(8) To cooperate with and avail itself of the facilities of the United States department of commerce, the department of trade and economic development, and any other similar state or federal governmental agencies; and to cooperate with and assist, and otherwise encourage organizations in the various communities of the state in the promotion, assistance and development of the business prosperity and economic welfare of such communities or of this state or of any part thereof.

(9) To do all acts and things necessary or convenient to carry out the powers expressly granted in this chapter.

[1991 c 72 § 49; 1985 c 466 § 42; 1983 c 3 § 51; 1963 c 162 § 3.]

Notes:

Effective date--Severability--1985 c 466: See notes following RCW 43.31.125.

RCW 31.24.040 Organizations authorized to acquire, hold and dispose of corporate bonds, securities, stock, etc.--Membership--Rights and powers--Limitation on stock ownership.

Notwithstanding any rule at common law or any provision of any general or special law or any provision in their respective charters, agreements of association, articles of organization or trust indentures:

(1) Any person including all domestic corporations organized for the purpose of carrying on business within this state and further including without implied limitation public utility companies and insurance companies, and foreign corporations licensed to do business within this state, and all financial institutions as defined herein, and all trustees, are hereby authorized to acquire, purchase, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of any bonds, securities or other evidences of indebtedness created by, or the shares of the capital stock of, the corporation, and while owners of said stock to exercise all the rights, powers and privileges of ownership, including the right to vote thereon, all without the approval of any regulatory authority of the state except as otherwise provided in this chapter: PROVIDED, That a financial institution which does not become a member of the corporation shall not be permitted to acquire any shares of the capital stock of the corporation;

(2) All financial institutions are hereby authorized to become members of the corporation and to make loans to the corporation as provided herein; and

(3) Each financial institution which becomes a member of the corporation is hereby authorized to acquire, purchase, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of, any bonds, securities or other evidences of indebtedness created by, or the shares of the capital stock of, the corporation, and while owners of said stock, to exercise all the rights, powers and privileges of ownership, including the right to vote thereon, all without the approval of any regulatory authority of the state: PROVIDED, That the amount of the capital stock of the corporation which may be acquired by any member pursuant to the authority granted herein shall not exceed ten percent of the loan limit of such member.

The amount of capital stock of the corporation which any member is authorized to acquire pursuant to the authority granted herein is in addition to the amount of capital stock in corporations which such member may otherwise be authorized to acquire.

[1963 c 162 § 4.]

RCW 31.24.050 Membership by financial institutions--Loans to corporation by members--Limitations--Interest.

Any financial institution may request membership in the corporation by making application to the board of directors on such form and in such manner as said board of directors may require, and membership shall become effective upon acceptance of such application by said board.

Each member of the corporation shall make loans to the corporation as and when called upon by it to do so on such terms and other conditions as shall be approved from time to time by

the board of directors, subject to the following conditions:

(1) All loan limits shall be established at the thousand dollar amount nearest to the amount computed in accordance with the provisions of this section.

(2) No loan to the corporation shall be made if immediately thereafter the total amount of the obligations of the corporation would exceed fifteen times the amount then paid in on the outstanding capital stock of the corporation.

(3) The total amount outstanding on loans to the corporation made by any member at any time, when added to the amount of the investment in the capital stock of the corporation then held by such member, shall not exceed:

(a) Thirty percent of the total amount then outstanding on loans to the corporation by all members, including in said total amount outstanding, amounts validly called for loan but not yet loaned.

(b) The following limit, to be determined as of the time such member becomes a member on the basis of the audited balance sheet of such member at the close of its fiscal year immediately preceding its application for membership, or thereafter on the basis of the preceding fiscal year, or in the case of an insurance company, its last annual statement to the state insurance commissioner; or thereafter on the basis of its last annual statement to the insurance commissioner, two and one-half percent of the capital and surplus of commercial banks and trust companies; one-half of one percent of the total outstanding loans made by savings and loan associations, and building and loan associations; two and one-half percent of the capital and unassigned surplus of stock insurance companies, except fire insurance companies; two and one-half percent of the unassigned surplus of mutual insurance companies, except fire insurance companies; one-tenth of one percent of the assets of fire insurance companies; and such limits as may be approved by the board of directors of the corporation for other financial institutions.

(4) Subject to subsection (3)(a) of this section, each call made by the corporation shall be prorated among the members of the corporation in substantially the same proportion that the adjusted loan limit of each member bears to the aggregate of the adjusted loan limits of all members. The adjusted loan limit of a member shall be the amount of such member's loan limit, reduced by the balance of outstanding loans made by such member to the corporation and the investment in capital stock of the corporation held by such member at the time of such call.

(5) All loans to the corporation by members shall be evidenced by bonds, debentures, notes, or other evidences of indebtedness of the corporation, which shall be freely transferable at all times, and which shall bear interest at a rate of not less than one-quarter of one percent in excess of the rate of interest determined by the board of directors to be the prime rate prevailing at the date of issuance thereof on unsecured commercial loans.

[1974 ex.s. c 16 § 2; 1973 1st ex.s. c 90 § 1; 1963 c 162 § 5.]

RCW 31.24.060 Membership--Duration--Withdrawal.

Membership in the corporation shall be for the duration of the corporation: PROVIDED, That upon written notice given to the corporation five years in advance, a member may withdraw from membership in the corporation at the expiration date of such notice.

A member shall not be obligated to make any loans to the corporation pursuant to calls made subsequent to notice of the intended withdrawal of said member.

[1963 c 162 § 6.]

RCW 31.24.070 Powers of stockholders and members--Voting rights--Proxy voting.

The stockholders and the members of the corporation shall have the following powers of the corporation:

(1) To determine the number of and elect directors as provided in RCW 31.24.090;

(2) To make, amend and repeal bylaws;

(3) To amend this charter as provided in RCW 31.24.080;

(4) To dissolve the corporation as provided in RCW 31.24.150;

(5) To do all things necessary or desirable to secure aid, assistance, loans and other financing from any financial institutions, and from any agency established under the small business investment act of 1958, public law 85-699, 85th congress, or other similar federal laws now or hereafter enacted.

(6) To exercise such other of the powers of the corporation consistent with this chapter as may be conferred on the stockholders and the members by the bylaws.

As to all matters requiring action by the stockholders and the members of the corporation, said stockholders and said members shall vote separately thereon by classes, and, except as otherwise herein provided, such matters shall require the affirmative vote of a majority of the votes to which the stockholders present or represented at the meeting shall be entitled and the affirmative vote of a majority of the votes to which the members present or represented at the meeting shall be entitled.

Each stockholder shall have one vote, in person or by proxy, for each share of capital stock held by him, and each member shall have one vote, in person or by proxy, except that any member having a loan limit of more than one thousand dollars shall have one additional vote, in person or by proxy, for each additional one thousand dollars which such member is authorized to have outstanding on loans to the corporation at any one time as determined under subsection (3)(b) of RCW 31.24.050.

[1963 c 162 § 7.]

RCW 31.24.080 Amendment of articles--Articles of amendment--Contents--Filing.

The articles of incorporation may be amended by the votes of the stockholders and the members of the corporation, voting separately by classes, and such amendments shall require approval by the affirmative vote of two-thirds of the votes to which the stockholders shall be entitled and two-thirds of the votes to which the members shall be entitled: PROVIDED, That no amendment of the articles of incorporation which is inconsistent with the general purposes expressed herein or which authorizes any additional class of capital stock to be issued, or which eliminates or curtails the right of the director to examine the corporation or the obligation of the corporation to make reports as provided in RCW 31.24.120, shall be made: PROVIDED,

FURTHER, That no amendment of the articles of incorporation which increases the obligation of a member to make loans to the corporation, or makes any charge in the principal amount, interest rate, maturity date, or in the security or credit position of an outstanding loan of a member to the corporation, or affects a member's right to withdraw from membership as provided herein, or affects a member's voting rights as provided herein, shall be made without the consent of each membership affected by such amendment.

Within thirty days after any meeting at which an amendment of the articles of incorporation has been adopted, articles of amendment signed and sworn to by the president, treasurer, and a majority of the directors, setting forth such amendment and due adoption thereof, shall be submitted to the secretary of state, who shall examine them and if he finds that they conform to the requirements of this chapter, shall so certify and endorse his or her approval thereon. Thereupon, the articles of amendment shall be filed in the office of the secretary of state and no such amendment shall take effect until such articles of amendment shall have been filed as aforesaid.

[1994 c 92 § 235; 1963 c 162 § 8.]

RCW 31.24.090 Board of directors.

The business and affairs of the corporation shall be managed and conducted by a board of directors, a president, a vice president, a secretary, a treasurer, and such other officers and such agents as the corporation by its bylaws shall authorize. The board of directors shall consist of such number, not less than eleven nor more than twenty-one, as shall be determined in the first instance by the incorporators and thereafter annually by the members and the stockholders of the corporation. The board of directors may exercise all the powers of the corporation except such as are conferred by law or by the bylaws of the corporation upon the stockholders or members and shall choose and appoint all the agents and officers of the corporation and fill all vacancies except vacancies in the office of director which shall be filled as hereinafter provided. The board of directors shall be elected in the first instance by the incorporators and thereafter at the annual meeting, the day and month of which shall be established by the bylaws of the corporations, or, if no annual meeting shall be held in the year of incorporation, then within ninety days after the approval of the articles of incorporation at a special meeting as hereinafter provided. At each annual meeting, or at each special meeting held as provided in this section, the members of the corporation shall elect two-thirds of the board of directors and the stockholders shall elect the remaining directors. The directors shall hold office until the next annual meeting of the corporation or special meeting held in lieu of the annual meeting after the election and until their successors are elected and qualified unless sooner removed in accordance with the provisions of the bylaws. Any vacancy in the office of a director elected by the members shall be filled by the directors elected by the members, and any vacancy in the office of a director elected by the stockholders shall be filled by the directors elected by the stockholders.

Directors and officers shall not be responsible for losses unless the same shall have been occasioned by the wilful misconduct of such directors and officers.

[1974 ex.s. c 16 § 3; 1963 c 162 § 9.]

RCW 31.24.100 Earnings and surplus--Reserves.

Each year the corporation shall set apart as earned surplus not less than ten percent of its net earnings for the preceding fiscal year until such surplus shall be equal in value to one-half of the amount paid in on the capital stock then outstanding. Whenever the amount of surplus established herein shall become impaired, it shall be built up again to the required amount in the manner provided for its original accumulation. Net earnings and surplus shall be determined by the board of directors, after providing for such reserves as said directors deem desirable, and the determination of the directors made in good faith shall be conclusive on all persons.

[1963 c 162 § 10.]

RCW 31.24.110 Funds to be deposited in designated depository--Money deposits prohibited.

The corporation shall not deposit any of its funds in any banking institution unless such institution has been designated as a depository by a vote of a majority of the directors present at an authorized meeting of the board of directors, exclusive of any director who is an officer or director of the depository so designated. The corporation shall not receive money on deposit.

[1963 c 162 § 11.]

RCW 31.24.120 Examinations by director of financial institutions--Reports--Authority of director.

The corporation shall be examined at least once annually by the director and shall make reports of its condition not less than annually to the director and more frequently upon call of the director, who in turn shall make copies of such reports available to the state insurance commissioner and the governor; and the corporation shall also furnish such other information as may from time to time be required by the director and secretary of state. The corporation shall pay the actual cost of the examinations. The director shall exercise the same power and authority over corporations organized under this chapter as is now exercised over banks and trust companies by the provisions of the Title 30 RCW, where the provisions of Title 30 RCW are not in conflict with this chapter.

[1994 c 92 § 236; 1963 c 162 § 12.]

RCW 31.24.130 First meeting.

The first meeting of the corporation shall be called by a notice signed by three or more of the incorporators, stating the time, place and purpose of the meeting, a copy of which notice shall be mailed, or delivered, to each incorporator at least five days before the day appointed for

the meeting. Said first meeting may be held without such notice upon agreement in writing to that effect signed by all the incorporators. There shall be recorded in the minutes of the meeting a copy of said notice or of such unanimous agreement of the incorporators.

At such first meeting, the incorporators shall organize by the choice, by ballot, of a temporary clerk; by the adoption of bylaws, by the election by ballot of directors; and by action upon such other matters within the powers of the corporation as the incorporators may see fit. The temporary clerk shall be sworn and shall make and attest a record of the proceedings. Ten of the incorporators shall be a quorum for the transaction of business.

[1963 c 162 § 13.]

RCW 31.24.140 Duration of corporation.

Unless otherwise provided in the articles of incorporation, the period of duration of the corporation shall be perpetual, subject, however, to the right of the stockholders and the members to dissolve the corporation prior to the expiration of said period as provided in RCW 31.24.150.

[1963 c 162 § 14.]

RCW 31.24.150 Dissolution--Method--Distribution of assets.

The corporation may upon the affirmative vote of two-thirds of the votes to which the stockholders shall be entitled and two-thirds of the votes to which the member shall be entitled dissolve said corporation as provided by Title 23B RCW, insofar as Title 23B RCW is not in conflict with the provisions of this chapter. Upon any dissolution of the corporation, none of the corporation's assets shall be distributed to the stockholders until all sums due the members of the corporation as creditors thereof have been paid in full.

[1991 c 72 § 50; 1983 c 3 § 52; 1963 c 162 § 15.]

RCW 31.24.160 Credit of state not pledged.

Under no circumstances shall the credit of the state of Washington be pledged to any corporation organized under the provisions of this chapter.

[1963 c 162 § 16.]

RCW 31.24.170 Corporations designated state development companies--Scope of operations.

Any corporation organized under the provisions of this chapter shall be a state development company, as defined in the small business investment act of 1958, public law 85-699, 85th congress, or any other similar federal legislation, and shall be authorized to operate on a state-wide basis.

[1963 c 162 § 17.]

RCW 31.24.180 Calendar year adopted as fiscal year.

Corporations organized under this chapter shall adopt the calendar year as their fiscal year.

[1963 c 162 § 18.]

RCW 31.24.190 Formation of industrial development corporation for purpose of preservation of historic buildings or areas.

In addition to the purposes specified in RCW 31.24.020(2) [(3)] an industrial development corporation may be formed to encourage and stimulate the preservation of historic buildings or areas by returning them to economically productive uses which are compatible with or enhance the historic character of such buildings or areas; to stimulate and assist in the development of business or other activities which have an impact upon the preservation of historic buildings or areas; to cooperate and act in conjunction with other organizations, public or private, in the promotion and advancement of historical preservation activities; and to provide financing through loans, investments of other business transactions for the promotion, development, and conduct of all kinds of business activity which encourages or relates to historic preservation. An industrial development corporation created to carry out the purposes of this section shall not engage in the broad economic and business promotion activities permitted by RCW 31.24.020(3) which are not related to the purposes of this section. Any such industrial development corporation shall in all other respects be subject to the provisions of this chapter.

[1973 1st ex.s. c 90 § 2.]

RCW 31.24.900 Severability--1963 c 162.

The provisions of this chapter are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

[1963 c 162 § 19.]

Chapter 31.35 RCW
AGRICULTURAL LENDERS--LOAN GUARANTY PROGRAM

Sections

31.35.010 Findings--Intent.
31.35.020 Definitions.
31.35.030 Administration--Rules--Duties of director.
31.35.040 Participation by agricultural lender--Powers and privileges.

31.35.050 Costs of supervision--Fees.
31.35.060 Responsibility of agricultural lender--Recordkeeping--Loan loss reserve.
31.35.070 Examination of agricultural lender.
31.35.080 Enforcement--Responsibility of director--Penalty.
31.35.090 Enforcement--Court order.
31.35.100 Notice--Investments not insured.
31.35.900 Severability--Administrative review--1990 c 134.

Notes:
Department of financial institutions: Chapter 43.320 RCW.

RCW 31.35.010 Findings--Intent.

The legislature finds and declares that nondepository agricultural lenders can enhance their access to working capital for the purpose of financing agricultural borrowers by using the United States farmers home administration loan guaranty program. The farmers home administration loan guaranty program provides financing to agricultural borrowers needing working capital and longer term financing for the purchase of real estate, agricultural production expenses, debt refinancing, equipment, and the purchase of other fixed assets. Loans can be made to agricultural borrowers by nondepository lenders and guaranteed by the farmers home administration only if the state provides an ongoing opportunity for examination of such entities to confirm good lending practices and solvency.

It is the intent of the legislature to empower the director of financial institutions to examine nondepository agricultural lenders for the purpose of allowing such lenders to qualify for participation in the farmers home administration loan guaranty program.

[1994 c 92 § 251; 1990 c 134 § 1.]

RCW 31.35.020 Definitions.

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

(1) "Agricultural lender" means a Washington corporation incorporated under Title 23B or 24 RCW and qualified as such under this chapter and the jurisdiction of the federal government agency sponsoring the loan guaranty program.

(2) "Director" means the director of financial institutions.

(3) "Loan guaranty program" means the farmers home administration loan guaranty program, or any other government program for which the agricultural lender is eligible and which has as its function the provision, facilitation, or financing of agricultural business operations.

[1994 c 92 § 252; 1990 c 134 § 2.]

RCW 31.35.030 Administration--Rules--Duties of director.

(1) The director shall administer this chapter. The director may issue orders and adopt rules that, in the opinion of the director, are necessary to execute, enforce, and effectuate the purposes of this chapter. Rules to enforce the provisions of this chapter shall be adopted under the administrative procedure act, chapter 34.05 RCW.

(2) An application filed with the director under this chapter shall be in such form and contain such information as required by the director by rule and be consistent with the requirements of the loan guaranty program.

(3) After the director is satisfied that the applicant has satisfied all the conditions necessary for approval, the director shall issue a license to the applicant authorizing it to be an agricultural lender under this chapter.

(4) Any change of control of an agricultural lender shall be subject to the approval of the director. Such approval shall be subject to the same criteria as the criteria for approval of the original license. For purposes of this subsection, "change of control" means directly or indirectly, alone or in concert with others, to own, control, or hold the power to vote ten percent or more of the outstanding voting stock of an agricultural lender or the power to elect or control the election of a majority of the board of directors of an agricultural lender.

(5) The director may deny, suspend, or revoke a license if the agricultural lender violates any provision of this chapter or any rules promulgated pursuant to this chapter.

[1994 c 92 § 253; 1990 c 134 § 3.]

RCW 31.35.040 Participation by agricultural lender--Powers and privileges.

(1) An agricultural lender may participate in a loan guaranty program. If an agricultural lender participates in a loan guaranty program, the agricultural lender shall comply with the requirements of that program.

(2) An agricultural lender may be incorporated under either the Washington business corporation act, Title 23B RCW, or the Washington nonprofit corporation act, Title 24 RCW. In addition to the powers and privileges provided to an agricultural lender by this chapter, an agricultural lender has all the powers and privileges conferred by its incorporating statute that are not inconsistent with or limited by this chapter.

[1990 c 134 § 4.]

RCW 31.35.050 Costs of supervision--Fees.

(1) The director is authorized to charge a fee for the estimated direct and indirect costs for examination and supervision by the director of an agricultural lender or a subsidiary of an agricultural lender. Excess examiner time shall be billed at a reasonable rate established by rule.

(2) All such fees shall be deposited in the financial services regulation fund and administered consistent with the provisions of RCW 43.320.110.

[2001 c 177 § 7; 1994 c 92 § 254; 1990 c 134 § 5.]

NOTES:

Effective date--2001 c 177: See note following RCW 43.320.080.

RCW 31.35.060 Responsibility of agricultural lender--Recordkeeping--Loan loss reserve.

(1) An agricultural lender shall keep books, accounts, and other records in such form and manner as required by the director. These records shall be kept at such place and shall be preserved for such length of time as specified by the director by rule.

(2) Not more than ninety days after the close of each calendar year, or within a period specified by the director, an agricultural lender shall file with the director a report containing the following:

(a) Financial statements, including the balance sheet, the statement of income or loss, the statement of changes in capital accounts, and the statement of changes in financial position; and

(b) Other information that the director may require.

(3) Each agricultural lender shall provide for a loan loss reserve sufficient to cover projected loan losses that are not guaranteed by the United States government or any agency thereof.

[1994 c 92 § 255; 1990 c 134 § 6.]

RCW 31.35.070 Examination of agricultural lender.

(1) The director shall visit each agricultural lender at least every twenty-four months for the purpose of assuring that the agricultural lender remains in compliance with and qualified for the loan guaranty program.

(a) The director may accept timely audited financial statements and other timely reports the director determines to be relevant and accurate as part of a full and complete examination of the agricultural lender. The director shall make an independent review of loans guaranteed by the loan guaranty program.

(b) The agricultural lender shall be exempt from examination under this subsection if it terminates its activities under the loan guaranty program and no loans guaranteed by the loan guaranty program remain on the books. This exemption becomes effective upon notification to the director. The director shall confirm termination of activities under the loan guaranty program with the appropriate federal agency.

(c) All examination reports and all information obtained by the director and the director's staff in conducting examinations of an agricultural lender are confidential to the same extent bank examinations are confidential under RCW 30.04.075.

(d) All examination reports may be shared with other state or federal agencies consistent with chapter 30.04 RCW.

(2) A director, officer, or employee of an agricultural lender or of a subsidiary of an agricultural lender being examined by the director or a person having custody of any of the

books, accounts, or records of the agricultural lender or of the subsidiary shall facilitate the examination so far as it is in his or her power to do so.

(3) If in the opinion of the director it is necessary in the examination of an agricultural lender or of a subsidiary of an agricultural lender, the director may retain any certified public accountant, attorney, appraiser, or other person to assist the director. The agricultural lender being examined shall pay the fees of a person retained by the director under this subsection.

[1994 c 92 § 256; 1990 c 134 § 7.]

RCW 31.35.080 Enforcement--Responsibility of director--Penalty.

(1) The director shall adopt rules to enforce the intent and purposes of this chapter. Such rules shall include, but not be limited to, the following:

(a) Disclosure of conflicts of interest;

(b) Prohibition of false statements made to the director on any form required by the director or during any examination; or

(c) Prevention of fraud and undue influence within an agricultural lender.

(2) A violation of any provision of this chapter or any rule of the director adopted under this chapter by an agent, employee, officer, or director of the agricultural lender shall be punishable by a fine, established by the director, not to exceed one hundred dollars for each offense. Each day's continuance of the violation shall be a separate and distinct offense. All fines shall be credited to the financial services regulation fund.

(3) The director may issue and serve upon an agricultural lender a notice of charges if, in the opinion of the director, the agricultural lender is violating or has violated the law, rule, or any condition imposed in writing by the director or any written agreement made by the director.

(a) The notice shall contain a statement of the facts constituting the alleged violation or practice and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the agricultural lender. The hearing shall be set not earlier than ten days nor later than thirty days after service of the notice unless a later date is set by the director at the request of the agricultural lender.

Unless the agricultural lender appears at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the cease and desist order. In the event of consent or if, upon the record made at the hearing, the director finds that any violation or practice specified in the notice of charges has been established, the director may issue and serve upon the agricultural lender an order to cease and desist from the violation or practice. The order may require the agricultural lender and its directors, officers, employees, and agents to cease and desist from the violation or practice and may require the agricultural lender to take affirmative action to correct the conditions resulting from the violation or practice.

(b) A cease and desist order shall become effective at the expiration of ten days after the service of the order upon the agricultural lender concerned, except that a cease and desist order issued upon consent shall become effective at the time specified in the order and shall remain effective as provided in the order unless it is stayed, modified, terminated, or set aside by action of the director or a reviewing court.

[2001 c 177 § 8; 1994 c 92 § 257; 1990 c 134 § 8.]

NOTES:

Effective date--2001 c 177: See note following RCW 43.320.080.

RCW 31.35.090 Enforcement--Court order.

If, in the opinion of the director, an agricultural lender violates or there is reasonable cause to believe that an agricultural lender is about to violate any provision of this chapter or any rule adopted under this chapter, the director may bring an action in the appropriate court to enjoin the violation or to enforce compliance. Upon a proper showing, a restraining order, or preliminary or permanent injunction, shall be granted, and a receiver or a conservator may be appointed for the agricultural lender or the agricultural lender's assets.

[1994 c 92 § 258; 1990 c 134 § 9.]

RCW 31.35.100 Notice--Investments not insured.

All agricultural lenders shall notify their members at the time of membership and annually thereafter that their investment in the agricultural lender, although regulated by the director, is not insured, guaranteed, or protected by any federal or state agency.

[1994 c 92 § 259; 1990 c 134 § 10.]

RCW 31.35.900 Severability--Administrative review--1990 c 134.

If any provision of this act or its application to any person or circumstance is held invalid or, if in the written opinion of the farmers home administration, is contrary to the intent and purposes of the loan guaranty program, the director shall not enforce such provision, but the remainder of the act or the application of the provision to other persons or circumstances shall not be affected.

[1994 c 92 § 260; 1990 c 134 § 11.]

Chapter 31.40 RCW
FEDERALLY GUARANTEED SMALL BUSINESS LOANS

Sections

31.40.010 Intent.
31.40.020 Definitions.
31.40.030 Director--Powers and duties.
31.40.040 Licensee--Powers and duties.
31.40.050 License approval.
31.40.060 Prohibited loans--Exception.
31.40.070 Fees.
31.40.080 Records--Reports--Loan loss reserve.

31.40.090 Examination of licensees.
31.40.100 Application denial.
31.40.110 Rules--Penalties.
31.40.120 Injunction.
31.40.130 Penalty--License impairment.
31.40.900 Severability--1989 c 212.

RCW 31.40.010 Intent.

The legislature finds and declares that small and moderate-size companies can enhance their access to working capital and to capital for acquiring and equipping commercial and industrial facilities by using the United States small business administration national small business loan program known as the 7(a) loan guaranty program. The 7(a) loan guaranty program provides financing to small firms needing working capital and longer term financing for equipment and other fixed assets. Such loans can be made to small businesses by nondepository lenders and guaranteed by the small business administration only if the state provides for the on-going regulation and examination of such entities.

It is the intent of the legislature that the director of financial institutions [license], regulate, and subject to on-going examination, nondepository lenders for the purpose of allowing such lenders to participate in the small business administration's 7(a) loan guaranty program.

[1994 c 92 § 261; 1989 c 212 § 1.]

RCW 31.40.020 Definitions.

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

(1) "Licensee" means a Washington corporation licensed under the terms of this chapter.

(2) "Director" means the director of financial institutions.

[1994 c 92 § 262; 1989 c 212 § 2.]

RCW 31.40.030 Director--Powers and duties.

(1) The director shall administer this chapter. The director may issue orders and adopt rules that, in the opinion of the director, are necessary to execute, enforce, and effectuate the purposes of this chapter. Rules to enforce the provisions of this chapter shall be adopted under the administrative procedure act, chapter 34.05 RCW.

(2) Whenever the director issues an order or a license under this chapter, the director may impose conditions that are necessary, in the opinion of the director, to carry out the purposes of this chapter.

(3) An application filed with the director under this chapter shall be in such a form and contain such information as the director may require.

(4) Any change of control of a licensee shall be subject to the approval of the director.

Such approval shall be subject to the same criteria as the criteria for approval of the original license. For purposes of this subsection, "change of control" means directly or indirectly, alone or in concert with others, to own, control, or hold the power to vote ten percent or more of the outstanding voting stock of a licensee or the power to elect or control the election of a majority of the board of directors of the licensee.

[1994 c 92 § 263; 1989 c 212 § 3.]

RCW 31.40.040 Licensee--Powers and duties.

(1) A licensee may participate in the 7(a) loan guaranty program of the small business administration pursuant to section 7(a) of the federal small business investment act of 1958, 15 U.S.C. Sec. 636(a), or any other government program for which the licensee is eligible and which has as its function the provision or facilitation of financing or management assistance to business firms. If a licensee participates in a program referred to in this section, the licensee shall comply with the requirements of that program.

(2) A licensee may be incorporated under either the Washington business corporation act or the Washington nonprofit corporation act. In addition to the powers and privileges provided to a licensee by this chapter, a licensee has all the powers and privileges conferred by its incorporating statute which are not inconsistent with or limited by this chapter.

[1989 c 212 § 4.]

RCW 31.40.050 License approval.

After a review of information regarding the directors, officers, and controlling persons of the applicant for a license, a review of the applicant's business plan, including at least three years of detailed financial projections and other relevant information, and a review of such additional information as is considered relevant by the director, the director shall approve an application for a license if, and only if, the director determines that:

(1) The applicant is capitalized in an amount that is not less than five hundred thousand dollars and that such sum is adequate for the applicant to transact business as a nondepository 7(a) lender and that in evaluating the capital position of the applicant the director may consider and include the net worth of any corporate shareholder of the applicant corporation if the shareholder guarantees the liabilities of the applicant: PROVIDED, That such corporate shareholder be subject to the reporting requirements of RCW 31.40.080;

(2) Each director, officer, and controlling person of the applicant is of good character and sound financial standing; that the directors and officers of the applicant are competent to perform their functions with respect to the applicant; and that the directors and officers of the applicant are collectively adequate to manage the business of the applicant as a nondepository 7(a) lender;

(3) The business plan of the applicant will be honestly and efficiently conducted in accordance with the intent and purposes of this chapter; and

(4) The proposed activity possesses a reasonable prospect for success.

[1994 c 92 § 264; 1989 c 212 § 5.]

RCW 31.40.060 Prohibited loans--Exception.

(1) Either by itself or in concert with a director, officer, principal shareholder, or affiliate, or with another licensee, a licensee shall not hold control of a business firm to which it has made a loan under section 7(a) of the federal small business investment act of 1958, 15 U.S.C. Sec. 636(a), except that, to the extent necessary to protect the licensee's interest as creditor of the business firm, a licensee that provides financing assistance to a business firm may acquire and hold control of that business firm. Unless the director approves a longer period, a licensee holding control of a business firm under this section shall divest itself of the interest which constitutes holding control as soon as practicable or within five years after acquiring that interest, whichever is sooner.

(2) For the purposes of subsection (1) of this section, "hold control" means alone or in concert with others:

(a) Ownership, directly or indirectly, of record or beneficially, of voting securities greater than:

(i) For a business firm with outstanding voting securities held by fewer than fifty shareholders, forty percent of the outstanding voting securities;

(ii) For a business firm with outstanding voting securities held by fifty or more shareholders, twenty-five percent of the outstanding voting securities;

(b) Being able to elect or control the election of a majority of the board of directors.

[1994 c 92 § 265; 1989 c 212 § 6.]

RCW 31.40.070 Fees.

(1) The director is authorized to charge a fee for the estimated direct and indirect costs of the following:

(a) An application for a license and the investigation thereof;

(b) An application for approval to acquire control of a licensee and the investigation thereof;

(c) An application for approval for a licensee to merge with another corporation, an application for approval for a licensee to purchase all or substantially all of the business of another person, or an application for approval for a licensee to sell all or substantially all of its business or of the business of any of its offices to another licensee and the investigation thereof;

(d) An annual license;

(e) An examination by the director of a licensee or a subsidiary of a licensee. Excess examiner time shall be billed at a reasonable rate established by rule.

(2) A fee for filing an application with the director shall be paid at the time the application is filed with the director.

(3) All such fees shall be deposited in the financial services regulation fund and administered consistent with the provisions of RCW 43.320.110.

[2001 c 177 § 9; 1994 c 92 § 266; 1989 c 212 § 7.]

NOTES:

Effective date--2001 c 177: See note following RCW 43.320.080.

Construction--1989 c 212 § 7: "Nothing in section 7 of this act shall be construed to prevent repayment to the general fund of the twenty-five thousand dollar start-up appropriation set forth in section 15 of this act." [1989 c 212 § 14.]

RCW 31.40.080 Records--Reports--Loan loss reserve.

(1) A licensee shall keep books, accounts, and other records in such a form and manner as the director may require. These records shall be kept at such a place and shall be preserved for such a length of time as the director may specify.

(2) Not more than ninety days after the close of each calendar year or within a period specified by the director, a licensee shall file with the director a report containing the following:

(a) Financial statements, including the balance sheet, the statement of income or loss, the statement of changes in capital accounts and the statement of changes in financial position; and

(b) Other information that the director may require.

(3) Each licensee shall provide for a loan loss reserve sufficient to cover projected loan losses which are not guaranteed by the United States government or any agency thereof.

[1994 c 92 § 267; 1989 c 212 § 8.]

RCW 31.40.090 Examination of licensees.

(1) The director shall examine each licensee not less than once each year.

(2) The director may with or without notice and at any time during regular business hours examine a licensee or a subsidiary of a licensee.

(3) A director, officer, or employee of a licensee or of a subsidiary of a licensee being examined by the director or a person having custody of any of the books, accounts, or records of the licensee or of the subsidiary shall otherwise facilitate the examination so far as it is in his or her power to do so.

(4) If in the director's opinion it is necessary in the examination of a licensee, or of a subsidiary of a licensee, the director may retain any certified public accountant, attorney, appraiser, or other person to assist the director. The licensee being examined shall pay the fees of a person retained by the director under this subsection.

[1994 c 92 § 268; 1989 c 212 § 9.]

RCW 31.40.100 Application denial.

If the director denies an application, the director shall provide the applicant with a written statement explaining the basis for the denial.

[1994 c 92 § 269; 1989 c 212 § 10.]

RCW 31.40.110 Rules--Penalties.

(1) The director shall adopt rules to enforce the intent and purposes of this chapter. Such rules shall include, but need not be limited to, the following:

(a) Disclosure of conflicts of interest;

(b) Prohibition of false statements made to the director on any form required by the director or during any examination requested by the director; or

(c) Prevention of fraud and undue influence by a licensee.

(2) A violation of any provision of this chapter or any rule of the director adopted under this chapter by an agent, employee, officer, or director of the licensee shall be punishable by a fine, established by the director, not to exceed one hundred dollars for each offense. Each day's continuance of the violation shall be a separate and distinct offense. Each such fine shall be credited to the financial services regulation fund.

[2001 c 177 § 10; 1994 c 92 § 270; 1989 c 212 § 11.]

NOTES:

Effective date--2001 c 177: See note following RCW 43.320.080.

RCW 31.40.120 Injunction.

If, in the opinion of the director, a person violates or there is reasonable cause to believe that a person is about to violate any provision of this chapter or any rule adopted under this chapter, the director may bring an action in the appropriate court to enjoin the violation or to enforce compliance. Upon a proper showing, a restraining order, preliminary or permanent injunction, shall be granted, and a receiver or a conservator may be appointed for the defendant or the defendant's assets.

[1994 c 92 § 271; 1989 c 212 § 12.]

RCW 31.40.130 Penalty--License impairment.

The director may deny, suspend, or revoke a license if the applicant or holder violates any provision of this chapter or any rules promulgated pursuant to this chapter.

[1994 c 92 § 272; 1989 c 212 § 13.]

RCW 31.40.900 Severability--1989 c 212.

If any provision of this act or its application to any person or circumstance is held invalid or, if in the written opinion of the small business administration, is contrary to the intent and purposes of the 7(a) loan guaranty program, the director shall not enforce such provision but the remainder of the act or the application of the provision to other persons or circumstances shall not be affected.

[1994 c 92 § 273; 1989 c 212 § 16.]

Chapter 31.45 RCW
CHECK CASHERS AND SELLERS

Sections

31.45.010 Definitions.
31.45.020 Application of chapter.
31.45.030 License required--Small loan endorsement--Application--Fee--Bond--Deposit in lieu of bond--Director's duties.
31.45.040 Application for license or small loan endorsement--Financial responsibility--Director's investigation.
31.45.050 Investigation fee and annual assessment fee required--Amounts determined by rule--Notice requirements of licensee.
31.45.060 Licensee--Schedule of fee and charges--Recordkeeping.
31.45.070 Licensee--Permissible transactions--Restrictions.
31.45.073 Making small loans--Endorsement required--Interest--Fees--Postdated check or draft as security.
31.45.077 Small loan endorsement--Application--Form--Information--Exemption from disclosure--Fees.
31.45.080 Trust funds--Deposit requirements--Rules.
31.45.090 Report requirements--Rules.
31.45.100 Examination--Director's duty.
31.45.110 Violation or unsound practice--Notice of charges--Hearing--Cease and desist order--Director's duty.
31.45.120 Violation or unsound practice--Temporary cease and desist order--Director's duty.
31.45.130 Temporary cease and desist order--Licensee's application for injunction.
31.45.140 Violation of temporary cease and desist order--Director's application for injunction.
31.45.150 Licensee's failure to perform obligations--Director's duty.
31.45.160 Director's possession of property and business--Appointment of receiver.
31.45.170 Violation--Penalty.
31.45.180 Violation--Misdemeanor.
31.45.190 Violation--Consumer protection act--Remedies.
31.45.200 Director--Broad administrative discretion.
31.45.900 Effective date, implementation--1991 c 355.

RCW 31.45.010 Definitions.

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

(1) "Check casher" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of cashing checks, drafts, money orders, or other commercial paper serving the same purpose.

(2) "Check seller" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of or selling checks, drafts, money orders, or other commercial paper serving the same purpose.

(3) "Licensee" means a check casher or seller licensed by the director to engage in business in accordance with this chapter. For purposes of the enforcement powers of this chapter,

including the power to issue cease and desist orders under RCW 31.45.110, "licensee" also means a check casher or seller who fails to obtain the license required by this chapter.

(4) "Small loan" means a loan of up to five hundred dollars for a period of thirty-one days or less.

(5) "Director" means the director of financial institutions.

[1995 c 18 § 1; 1994 c 92 § 274; 1993 c 143 § 1; 1991 c 355 § 1.]

RCW 31.45.020 Application of chapter.

(1) This chapter does not apply to:

(a) Any bank, trust company, savings bank, savings and loan association, or credit union;

(b) The cashing of checks, drafts, or money orders by any corporation, partnership, association, or person who cashes checks, drafts, or money orders as a convenience, as a minor part of its customary business, and not for profit;

(c) The issuance or sale of checks, drafts, or money orders by any corporation, partnership, or association that has a net worth of not less than three million dollars as shown by audited financial statements; and

(d) The issuance or sale of checks, drafts, money orders, or other commercial paper serving the same purpose by any agent of a corporation, partnership, or association described in (c) of this subsection.

(2) Upon application to the director, the director may exempt a corporation, partnership, association, or other person from any or all provisions of this chapter upon a finding by the director that although not otherwise exempt under this section, the applicant is not primarily engaged in the business of cashing or selling checks and a total or partial exemption would not be detrimental to the public.

[1994 c 92 § 275; 1991 c 355 § 2.]

RCW 31.45.030 License required--Small loan endorsement--Application--Fee--Bond--Deposit in lieu of bond--Director's duties.

(1) Except as provided in RCW 31.45.020, no check casher or seller may engage in business without first obtaining a license from the director in accordance with this chapter. A license is required for each location where a licensee engages in the business of cashing or selling checks or drafts.

(2) Each application for a license shall be in writing in a form prescribed by the director and shall contain the following information:

(a) The legal name, residence, and business address of the applicant and, if the applicant is a partnership, association, or corporation, of every member, officer, and director thereof;

(b) The location where the initial registered office of the applicant will be located in this state;

(c) The complete address of any other locations at which the applicant proposes to engage in business as a check casher or seller;

(d) Such other data, financial statements, and pertinent information as the director may require with respect to the applicant, its directors, trustees, officers, members, or agents.

(3) Any information in the application regarding the personal residential address or telephone number of the applicant is exempt from the public records disclosure requirements of chapter 42.17 RCW.

(4) The application shall be filed together with an investigation and supervision fee established by rule by the director. Such fees collected shall be deposited to the credit of the financial services regulation fund in accordance with RCW 43.320.110.

(5)(a) Before granting a license to sell checks, drafts, or money orders under this chapter, the director shall require that the licensee file with the director a surety bond running to the state of Washington, which bond shall be issued by a surety insurer which meets the requirements of chapter 48.28 RCW, and be in a format acceptable to the director. The director shall adopt rules to determine the penal sum of the bond that shall be filed by each licensee. The bond shall be conditioned upon the licensee paying all persons who purchase checks, drafts, or money orders from the licensee the face value of any check, draft, or money order which is dishonored by the drawee bank, savings bank, or savings and loan association due to insufficient funds or by reason of the account having been closed. The bond shall only be liable for the face value of the dishonored check, draft, or money order, and shall not be liable for any interest or consequential damages.

(b) Before granting a small loan endorsement under this chapter, the director shall require that the licensee file with the director a surety bond, in a format acceptable to the director, issued by a surety insurer that meets the requirements of chapter 48.28 RCW. The director shall adopt rules to determine the penal sum of the bond that shall be filed by each licensee. A licensee who wishes to engage in both check selling and making small loans may combine the penal sums of the bonding requirements and file one bond in a form acceptable to the director. The bond shall run to the state of Washington as obligee, and shall run to the benefit of the state and any person or persons who suffer loss by reason of the licensee's violation of this chapter or any rules adopted under this chapter. The bond shall only be liable for damages suffered by borrowers as a result of the licensee's violation of this chapter or rules adopted under this chapter, and shall not be liable for any interest or consequential damages.

(c) The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the director and licensee of its intent to cancel the bond. The cancellation is effective thirty days after the notice is received by the director. Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it shall be considered one continuous obligation, and the surety upon the bond shall not be liable in an aggregate or cumulative amount exceeding the penal sum set forth on the face of the bond. In no event shall the penal sum, or any portion thereof, at two or more points in time be added together in determining the surety's liability. The bond shall not be liable for any liability of the licensee for tortious acts, whether or not such liability is imposed by statute or common law, or is imposed by contract. The bond shall not be a substitute or supplement to any liability or other insurance required by law or by the contract. If the surety desires to make payment without awaiting court

action against it, the penal sum of the bond shall be reduced to the extent of any payment made by the surety in good faith under the bond.

(d) Any person who is a purchaser of a check, draft, or money order from the licensee having a claim against the licensee for the dishonor of any check, draft, or money order by the drawee bank, savings bank, or savings and loan association due to insufficient funds or by reason of the account having been closed, or who obtained a small loan from the licensee and was damaged by the licensee's violation of this chapter or rules adopted under this chapter, may bring suit upon such bond or deposit in the superior court of the county in which the check, draft, or money order was purchased, or in the superior court of a county in which the licensee maintains a place of business. Jurisdiction shall be exclusively in the superior court. Any such action must be brought not later than one year after the dishonor of the check, draft, or money order on which the claim is based. In the event valid claims against a bond or deposit exceed the amount of the bond or deposit, each claimant shall only be entitled to a pro rata amount, based on the amount of the claim as it is valid against the bond, or deposit, without regard to the date of filing of any claim or action.

(e) In lieu of the surety bond required by this section, the applicant for a check seller license may file with the director a deposit consisting of cash or other security acceptable to the director in an amount equal to the penal sum of the required bond. In lieu of the surety bond required by this section, the applicant for a small loan endorsement may file with the director a deposit consisting of cash or other security acceptable to the director in an amount equal to the penal sum of the required bond, or may demonstrate to the director net worth in excess of three times the amount of the penal sum of the required bond.

The director may adopt rules necessary for the proper administration of the security or to establish reporting requirements to ensure that the net worth requirements continue to be met. A deposit given instead of the bond required by this section is not an asset of the licensee for the purpose of complying with the liquid asset provisions of this chapter. A deposit given instead of the bond required by this section is a fund held in trust for the benefit of eligible claimants under this section and is not an asset of the estate of any licensee that seeks protection voluntarily or involuntarily under the bankruptcy laws of the United States.

(f) Such security may be sold by the director at public auction if it becomes necessary to satisfy the requirements of this chapter. Notice of the sale shall be served upon the licensee who placed the security personally or by mail. If notice is served by mail, service shall be addressed to the licensee at its address as it appears in the records of the director. Bearer bonds of the United States or the state of Washington without a prevailing market price must be sold at public auction. Such bonds having a prevailing market price may be sold at private sale not lower than the prevailing market price. Upon any sale, any surplus above amounts due shall be returned to the licensee, and the licensee shall deposit with the director additional security sufficient to meet the amount required by the director. A deposit given instead of the bond required by this section shall not be deemed an asset of the licensee for the purpose of complying with the liquid asset provisions of this chapter.

[2001 c 177 § 11; 1995 c 18 § 4; 1994 c 92 § 276; 1993 c 176 § 1; 1991 c 355 § 3.]

NOTES:

Effective date--2001 c 177: See note following RCW 43.320.080.

Effective date--1993 c 176: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 30, 1993]." [1993 c 176 § 2.]

Examination reports and information from financial institutions exempt: RCW 42.17.31911.

RCW 31.45.040 Application for license or small loan endorsement--Financial responsibility--Director's investigation.

(1) The director shall conduct an investigation of every applicant to determine the financial responsibility, experience, character, and general fitness of the applicant. The director shall issue the applicant a license to engage in the business of cashing or selling checks, or both, or a small loan endorsement, if the director determines to his or her satisfaction that:

(a) The applicant is financially responsible and appears to be able to conduct the business of cashing or selling checks or making small loans in an honest, fair, and efficient manner with the confidence and trust of the community; and

(b) The applicant has the required bonds, or has provided an acceptable alternative form of financial security.

(2) The director may refuse to issue a license or small loan endorsement if he or she finds that the applicant, or any person who is a director, officer, partner, agent, or substantial stockholder of the applicant, has been convicted of a felony in any jurisdiction or is associating or consorting with any person who has been convicted of a felony in any jurisdiction. The term "substantial stockholder" as used in this subsection, means a person owning or controlling ten percent or more of the total outstanding shares of the applicant corporation.

(3) No license or small loan endorsement may be issued to an applicant whose license to conduct business under this chapter had been revoked by the director within the twelve-month period preceding the application.

(4) A license or small loan endorsement issued under this chapter shall be conspicuously posted in the place of business of the licensee. The license is not transferable or assignable.

(5) A license or small loan endorsement issued in accordance with this chapter remains in force and effect until surrendered, suspended, or revoked.

[1996 c 13 § 1; 1995 c 18 § 5; 1994 c 92 § 277; 1991 c 355 § 4.]

RCW 31.45.050 Investigation fee and annual assessment fee required--Amounts determined by rule--Notice requirements of licensee.

(1) Each applicant and licensee shall pay to the director an investigation fee and an annual assessment fee in an amount determined by rule of the director as necessary to cover the operation of the program. In establishing the fees, the director shall differentiate between check cashing and check selling and making small loans, and consider at least the volume of business, level of risk, and potential harm to the public related to each activity. The fees collected shall be deposited to the credit of the financial services regulation fund in accordance with RCW

43.320.110.

(2) If a licensee intends to do business at a new location, to close an existing place of business, or to relocate an existing place of business, the licensee shall provide written notification of that intention to the director no less than thirty days before the proposed establishing, closing, or moving of a place of business.

[2001 c 177 § 12; 1996 c 13 § 2; 1995 c 18 § 6; 1994 c 92 § 278; 1991 c 355 § 5.]

NOTES:

Effective date--2001 c 177: See note following RCW 43.320.080.

RCW 31.45.060 Licensee--Schedule of fee and charges--Recordkeeping.

(1) A schedule of the fees and the charges for the cashing and selling of checks, drafts, money orders, or other commercial paper serving the same purpose shall be conspicuously and continuously posted in every location licensed under this chapter. The licensee shall provide to its customer a receipt for each transaction. The receipt must include the name of the licensee, the type and amount of the transaction, and the fee or fees charged for the transaction.

(2) Each licensee shall keep and maintain such business books, accounts, and records as the director may require to fulfill the purposes of this chapter. Every licensee shall preserve such books, accounts, and records for at least two years.

(3) A check, draft, or money order sold by a licensee shall be drawn on an account of a licensee maintained at a bank, savings bank, or savings and loan association authorized to do business in the state of Washington.

[1994 c 92 § 279; 1991 c 355 § 6.]

RCW 31.45.070 Licensee--Permissible transactions--Restrictions.

(1) No licensee may engage in a loan business or the negotiation of loans or the discounting of notes, bills of exchange, checks, or other evidences of debt on the same premises where a check cashing or selling business is conducted, unless the licensee:

(a) Is conducting the activities of pawnbroker as defined in RCW 19.60.010;

(b) Is a properly licensed consumer loan company;

(c) Is conducting other lending activity permitted in the state of Washington; or

(d) Has a small loan endorsement.

(2) Except as otherwise permitted in this chapter, no licensee may at any time cash or advance any moneys on a postdated check or draft. However, a licensee may cash a check payable on the first banking day following the date of cashing if:

(a) The check is drawn by the United States, the state of Washington, or any political subdivision of the state, or by any department or agency of the state or its subdivisions; or

(b) The check is a payroll check drawn by an employer to the order of its employee in payment for services performed by the employee.

(3) Except as otherwise permitted in this chapter, no licensee may agree to hold a check or draft for later deposit. A licensee shall deposit all checks and drafts cashed by the licensee as

soon as practicable.

(4) No licensee may issue or cause to be issued any check, draft, or money order, or other commercial paper serving the same purpose, that is drawn upon the trust account of a licensee without concurrently receiving the full principal amount, in cash, or by check, draft, or money order from a third party believed to be valid.

(5) No licensee may advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, any statement or representation that is false, misleading, or deceptive, or that omits material information, or that refers to the supervision of the licensee by the state of Washington or any department or official of the state.

(6) Each licensee shall comply with all applicable federal statutes governing currency transaction reporting.

[1995 c 18 § 7; 1994 c 92 § 280; 1991 c 355 § 7.]

RCW 31.45.073 Making small loans--Endorsement required--Interest--Fees--Postdated check or draft as security.

(1) No licensee may engage in the business of making small loans without first obtaining a small loan endorsement to its license from the director in accordance with this chapter. An endorsement will be required for each location where a licensee engages in the business of making small loans, but a small loan endorsement may authorize a licensee to make small loans at a location different than the licensed locations where it cashes or sells checks or drafts. A licensee may have more than one endorsement.

(2) A licensee that has obtained the required small loan endorsement may charge interest or fees for small loans not to exceed in the aggregate fifteen percent of the principal amount borrowed. The director may determine by rule which fees, if any, are not subject to the fifteen percent limitation.

(3) In connection with making a small loan, a licensee may advance moneys on the security of a postdated check or draft provided the time period between the date the loan is granted and the date of the postdated check does not exceed thirty-one days. A licensee shall deposit all postdated checks or drafts as soon as practicable after the date of the check or draft has passed.

(4) No person may at any time cash or advance any moneys on a postdated check or draft in excess of the amount of goods or services purchased without first obtaining a small loan endorsement to a check casher or check seller license.

[1995 c 18 § 2.]

RCW 31.45.077 Small loan endorsement--Application--Form--Information--Exemption from disclosure--Fees.

(1) Each application for a small loan endorsement to a check casher or check seller license must be in writing and in a form prescribed by the director and shall contain the

following information:

(a) The legal name, residence, and business address of the applicant, and if the applicant is a partnership, corporation, or association, the name and address of every member, partner, officer, and director thereof;

(b) The street and mailing address of each location where the licensee will engage in the business of making small loans;

(c) A surety bond, or other security allowed under RCW 31.45.030, in the amount required; and

(d) Any other pertinent information, including financial statements, as the director may require with respect to the licensee and its directors, officers, trustees, members, or employees.

(2) Any information in the application regarding the licensee's personal residential address or telephone number is exempt from the public records disclosure requirements of chapter 42.17 RCW.

(3) The application shall be filed together with an investigation and supervision fee established by rule by the director. Fees collected shall be deposited to the credit of the financial services regulation fund in accordance with RCW 43.320.110.

[2001 c 177 § 13; 1995 c 18 § 3.]

NOTES:

Effective date--2001 c 177: See note following RCW 43.320.080.

RCW 31.45.080 Trust funds--Deposit requirements--Rules.

(1) All funds received by a licensee or its agents from the sale of checks, drafts, money orders, or other commercial paper serving the same purpose constitute trust funds owned by and belonging to the person from whom they were received or to the person who has paid the checks, drafts, money orders, or other commercial paper serving the same purpose.

(2) All such trust funds shall be deposited in a bank, savings bank, or savings and loan association located in Washington state in an account or accounts in the name of the licensee designated "trust account," or by some other appropriate name indicating that the funds are not the funds of the licensee or of its officers, employees, or agents. Such funds are not subject to attachment, levy of execution, or sequestration by order of a court except by a payee, assignee, or holder in due course of a check, draft, or money order sold by a licensee or its agent. Funds in the trust account, together with funds and checks on hand and in the hands of agents held for the account of the licensee at all times shall be at least equal to the aggregate liability of the licensee on account of checks, drafts, money orders, or other commercial paper serving the same purpose that are sold.

(3) The director shall adopt rules requiring the licensee to periodically withdraw from the trust account the portion of trust funds earned by the licensee from the sale of checks, drafts, money orders, or other commercial paper serving the same purpose. If a licensee has accepted, in payment for a check, draft, money order, or commercial paper serving the same purpose issued by the licensee, a check or draft that is subsequently dishonored, the director shall prohibit the withdrawal of earned funds in an amount necessary to cover the dishonored check or draft.

(4) If a licensee or its agent commingles trust funds with its own funds, all assets belonging to the licensee or its agent are impressed with a trust in favor of the persons specified in subsection (1) of this section in an amount equal to the aggregate funds that should have been segregated. Such trust continues until an amount equal to the necessary aggregate funds have been deposited in accordance with subsection (2) of this section.

(5) Upon request of the director, a licensee shall furnish to the director an authorization for examination of financial records of any trust fund account established for compliance with this section.

(6) The director may adopt any rules necessary for the maintenance of trust accounts, including rules establishing procedures for distribution of trust account funds if a license is suspended, terminated, or not renewed.

[1994 c 92 § 281; 1991 c 355 § 8.]

RCW 31.45.090 Report requirements--Rules.

(1) Each licensee shall submit to the director, in a form approved by the director, a report containing financial statements covering the calendar year or, if the licensee has an established fiscal year, then for such fiscal year, within one hundred five days after the close of each calendar or fiscal year. The licensee shall also file such additional relevant information as the director may require.

(2) A licensee whose license has been suspended or revoked shall submit to the director, at the licensee's expense, within one hundred five days after the effective date of such surrender or revocation, a closing audit report containing audited financial statements as of such effective date for the twelve months ending with such effective date.

(3) The director shall adopt rules specifying the form and content of such audit reports and may require additional reporting as is necessary for the director to ensure compliance with this chapter.

[1994 c 92 § 282; 1991 c 355 § 9.]

RCW 31.45.100 Examination--Director's duty.

The director may at any time investigate the business and examine the books, accounts, records, and files of any licensee or person who the director has reason to believe is engaging in the business governed by this chapter. The director shall collect from the licensee, the actual cost of the examination.

[1994 c 92 § 283; 1991 c 355 § 10.]

RCW 31.45.110 Violation or unsound practice--Notice of charges--Hearing--Cease and desist order--Director's duty.

(1) The director may issue and serve upon a licensee a notice of charges if, in the opinion

of the director, any licensee:

(a) Is engaging or has engaged in an unsafe or unsound practice in conducting the business governed by this chapter;

(b) Is violating or has violated the law, rule, or any condition imposed in writing by the director in connection with the granting of any application or other request by the licensee or any written agreement made with the director; or

(c) Is about to do the acts prohibited in (a) or (b) of this subsection when the opinion that the threat exists is based upon reasonable cause.

(2) The notice shall contain a statement of the facts constituting the alleged violation or violations or the practice or practices and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should be issued against the licensee. The hearing shall be set not earlier than ten days nor later than thirty days after service of the notice unless a later date is set by the director at the request of the licensee.

Unless the licensee personally appears at the hearing or by a duly authorized representative, the licensee is deemed to have consented to the issuance of the cease and desist order. In the event of this consent or if upon the record made at the hearing the director finds that any violation or practice specified in the notice of charges has been established, the director may issue and serve upon the licensee an order to cease and desist from the violation or practice. The order may require the licensee and its directors, officers, employees, and agents to cease and desist from the violation or practice and may require the licensee to take affirmative action to correct the conditions resulting from the violation or practice.

(3) A cease and desist order becomes effective upon the expiration of ten days after the service of the order upon the licensee concerned, except that a cease and desist order issued upon consent becomes effective at the time specified in the order and remains effective as provided in the order unless it is stayed, modified, terminated, or set aside by action of the director or a reviewing court.

[1994 c 92 § 284; 1991 c 355 § 11.]

RCW 31.45.120 Violation or unsound practice--Temporary cease and desist order--Director's duty.

Whenever the director determines that the acts specified in RCW 31.45.110 or their continuation is likely to cause insolvency or substantial injury to the public, the director may also issue a temporary order requiring the licensee to cease and desist from the violation or practice. The order becomes effective upon service upon the licensee and remains effective unless set aside, limited, or suspended by a court under RCW 31.45.130 pending the completion of the administrative proceedings under the notice and until such time as the director dismisses the charges specified in the notice or until the effective date of the cease and desist order issued against the licensee under RCW 31.45.110.

[1994 c 92 § 285; 1991 c 355 § 12.]

RCW 31.45.130 Temporary cease and desist order--Licensee's application for injunction.

Within ten days after a licensee has been served with a temporary cease and desist order, the licensee may apply to the superior court in the county of its principal place of business for an injunction setting aside, limiting, or suspending the order pending the completion of the administrative proceedings pursuant to the notice served under RCW 31.45.120. The superior court has jurisdiction to issue the injunction.

[1991 c 355 § 13.]

RCW 31.45.140 Violation of temporary cease and desist order--Director's application for injunction.

In the case of a violation or threatened violation of a temporary cease and desist order issued under RCW 31.45.120, the director may apply to the superior court of the county of the principal place of business of the licensee for an injunction.

[1994 c 92 § 286; 1991 c 355 § 14.]

RCW 31.45.150 Licensee's failure to perform obligations--Director's duty.

Whenever as a result of an examination or report it appears to the director that:

(1) The capital of any licensee is impaired;

(2) Any licensee is conducting its business in such an unsafe or unsound manner as to render its further operations hazardous to the public;

(3) Any licensee has suspended payment of its trust obligations;

(4) Any licensee has refused to submit its books, papers, and affairs to the inspection of the director or the director's examiner;

(5) Any officer of any licensee refuses to be examined under oath regarding the business of the licensee;

(6) Any licensee neglects or refuses to comply with any order of the director made pursuant to this chapter unless the enforcement of such order is restrained in a proceeding brought by such licensee;

the director may immediately take possession of the property and business of the licensee and retain possession until the licensee resumes business or its affairs are finally liquidated as provided in RCW 31.45.160. The licensee may resume business upon such terms as the director may prescribe.

[1994 c 92 § 287; 1991 c 355 § 15.]

RCW 31.45.160 Director's possession of property and business--Appointment of receiver.

Whenever the director has taken possession of the property and business of a licensee,

the director may petition the superior court for the appointment of a receiver to liquidate the affairs of the licensee. During the time that the director retains possession of the property and business of a licensee, the director has the same powers and authority with reference to the licensee as is vested in the director under chapter 31.04 RCW, and the licensee has the same rights to hearings and judicial review as are granted under chapter 31.04 RCW.

[1997 c 101 § 4; 1994 c 92 § 288; 1991 c 355 § 16.]

RCW 31.45.170 Violation--Penalty.

Every licensee violating or failing to comply with any provision of this chapter or any lawful direction or requirement of the director is subject, in addition to any penalty otherwise provided, to a penalty of not more than one hundred dollars for each offense, to be recovered by the attorney general in a civil action in the name of the state. Each day's continuance of the violation is a separate and distinct offense.

[1994 c 92 § 289; 1991 c 355 § 17.]

RCW 31.45.180 Violation--Misdemeanor.

Any person who violates or participates in the violation of any provision of the rules or orders of the director or of this chapter is guilty of a misdemeanor.

[1994 c 92 § 290; 1991 c 355 § 18.]

RCW 31.45.190 Violation--Consumer protection act--Remedies.

The legislature finds and declares that any violation of this chapter substantially affects the public interest and is an unfair and deceptive act or practice and an unfair method of competition in the conduct of trade or commerce as set forth in RCW 19.86.020. Remedies available under chapter 19.86 RCW shall not affect any other remedy the injured party may have.

[1991 c 355 § 19.]

RCW 31.45.200 Director--Broad administrative discretion.

The director has the power, and broad administrative discretion, to administer and interpret the provisions of this chapter to ensure the protection of the public.

[1994 c 92 § 291; 1991 c 355 § 20.]

RCW 31.45.900 Effective date, implementation--1991 c 355.

This act shall take effect January 1, 1992. The director shall take such steps as are necessary to ensure that this act is implemented on its effective date.

[1994 c 92 § 292; 1991 c 355 § 24.]

Title 32 RCW
MUTUAL SAVINGS BANKS

Chapters

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32.98 Construction.

Notes:
Credit life insurance and credit accident and health insurance: Chapter 48.34 RCW.
Fairness in lending act: RCW 30.04.500 through 30.04.515.
Indemnification of directors, officers, employees, etc., by corporations authorized, insurance: RCW 23B.08.320, 23B.08.500 through 23B.08.580, 23B.08.600, and 23B.17.030.
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Chapter 32.04 RCW
GENERAL PROVISIONS

Sections

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32.04.300 Jurisdiction of courts as to cease and desist orders, orders to remove trustee, officer, or employee, etc.
32.04.310 Automated teller machines and night depositories security.

Notes:
Corporate seals, effect of absence from instrument: RCW 64.04.105.
Depositaries of state funds: Chapter 43.85 RCW.
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Indemnification of directors, officers, employees, etc., by corporation authorized, insurance: RCW 23B.08.320, 23B.08.500 through 23B.08.580, 23B.08.600, and 23B.17.030.
Negotiable instruments: Title 62A RCW.
Powers of appointment: Chapter 11.95 RCW.
Safe deposit companies: Chapter 22.28 RCW.

RCW 32.04.010 Scope of title.

This title shall not be construed as amending or repealing any other law of the state authorizing the incorporation of banks or regulating the same, but shall be deemed to be additional legislation for the sole purpose of authorizing the incorporation and operation of mutual savings banks and mutual savings banks converted under chapter 32.32 RCW to stock form, as herein prescribed. Savings banks incorporated on the stock plan, other than converted mutual savings banks, and other stock banks having savings departments as authorized by RCW 30.20.060, or by any other law of the state heretofore or hereafter enacted, shall not be in any manner affected by the provisions of this title, or any amendment thereto.

[1981 c 85 § 105; 1955 c 13 § 32.04.010. Prior: 1915 c 175 § 52; RRS § 3381.]

RCW 32.04.020 Definitions.

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

(1) The use of the term "savings bank" or "mutual savings bank" refers to savings banks organized under chapter 32.08 or 32.35 RCW or converted under chapter 32.32 or 33.44 RCW.

(2) The use of the words "mutual savings" as part of a name under which business of any kind is or may be transacted by any person, firm, or corporation, except such as were organized and in actual operation on June 9, 1915, or as may be thereafter operated under the requirements of this title is hereby prohibited.

(3) The use of the term "director" refers to the director of financial institutions.

(4) The use of the word "branch" refers to an established office or facility other than the principal office, at which employees of the savings bank take deposits. The term "branch" does not refer to a machine permitting customers to leave funds in storage or communicate with savings bank employees who are not located at the site of that machine, unless employees of the savings bank at the site of that machine take deposits on a regular basis. An office of an entity other than the savings bank is not established by the savings bank, regardless of any affiliation, accommodation arrangement, or other relationship between the other entity and the savings bank.

[1999 c 14 § 13; 1997 c 101 § 5; 1996 c 2 § 20; 1994 c 92 § 293; 1985 c 56 § 1; 1981 c 85 § 106; 1955 c 13 § 32.04.020. Prior: 1915 c 175 § 49; RRS § 3378.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.

Severability--1996 c 2: See RCW 30.38.900.

RCW 32.04.022 "Mortgage" includes deed of trust.

The word "mortgage" as used in this title includes deed of trust.

[1969 c 55 § 13.]

RCW 32.04.025 Powers as to horizontal property regimes or condominiums.

The words "real estate" and "real property" as used in this title shall include apartments or other portions, however designated, of horizontal property regimes, or a condominium interest in property, as may be created under any laws now in existence or hereafter enacted. A mutual savings bank may do any act necessary or appropriate in connection with its interest in or ownership of any portion of a horizontal property regime or condominium.

[1963 c 176 § 10.]

Notes:

Horizontal property regimes: Chapter 64.32 RCW.

RCW 32.04.030 Branches--Director's approval.

A savings bank may not, without the written approval of the director, establish and operate branches in any place.

A savings bank headquartered in this state desiring to establish a branch shall file a written application with the director, who shall approve or disapprove the application.

The director's approval shall be conditioned on a finding that the savings bank has a satisfactory record of compliance with applicable laws and has a satisfactory financial condition. In making such findings, the director may rely on an application in the form filed with the federal deposit insurance corporation pursuant to 12 U.S.C. Sec. 1828(d). If the application for a branch is not approved, the savings bank shall have the right to appeal in the same manner and within the same time as provided by RCW 32.08.050 and 32.08.060. The savings bank when delivering the application to the director shall transmit to the director a check in an amount established by rule to cover the expense of the investigation. A savings bank headquartered in this state shall not move its headquarters or any branch more than two miles from its existing location without prior approval of the director. On or before the date on which it opens any office at which it will transact business in any state, territory, province, or other jurisdiction, a savings bank shall give written notice to the director of the location of this office. No such notice shall become effective until it has been delivered to the director.

The board of trustees of a savings bank, after notice to the director, may discontinue the operation of a branch. The savings bank shall keep the director informed in the matter and shall notify the director of the date operation of the branch is discontinued.

(1) A savings bank that is headquartered in this state and is operating branches in another state, territory, province, or other jurisdiction may provide copies of state examination reports and reports of condition of the savings bank to the regulator having oversight responsibility with regard to its operations in that other jurisdiction, including the regulator of savings associations in the event such a savings bank is transacting savings and loan business pursuant to RCW 32.08.142 in that other jurisdiction.

(2) No savings bank headquartered in another state may establish, or acquire pursuant to RCW 32.32.500, and operate branches as a savings bank in any place within the state unless:

(a) The savings bank has filed with the director an agreement to comply with the requirements of RCW 30.38.040 for periodic reports by the savings bank or by the appropriate state superintendent or equivalent regulator of the savings bank under the laws of the state in which the savings bank is incorporated, unless the laws expressly require the provision of all the reports to the director;

(b) The savings bank has filed with the director (i) a duly executed instrument in writing, by its terms of indefinite duration and irrevocable, appointing the director and his or her successors its true and lawful attorney, upon whom all process in any action or proceeding against it in a cause of action arising out of business transacted by such savings bank in this state, may be served with the same force and effect as if it were a domestic corporation and had

been lawfully served with process within the state, and (ii) a written certificate of designation, which may be changed from time to time by the filing of a new certificate of designation, specifying the name and address of the officer, agent, or other person to whom such process shall be forwarded by the director; and

(c) The savings bank has supplied the director with such information as he or she shall require by rule, not to exceed the information on which the director may rely in approving a branch application pursuant to this section by a savings bank headquartered in this state.

A savings bank headquartered in another state may not establish and operate branches as a foreign savings association in any place within the state except upon compliance with chapter 33.32 RCW.

[1996 c 2 § 21. Prior: 1994 c 256 § 93; 1994 c 92 § 294; 1985 c 56 § 2; 1955 c 80 § 1; 1955 c 13 § 32.04.030; prior: 1933 c 143 § 1; 1925 ex.s. c 86 § 10; 1915 c 175 § 15; RRS § 3344.]

Notes:

Severability--1996 c 2: See RCW 30.38.900.

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 32.04.035 Agency agreements--Written notice to director.

On or before the date on which a mutual savings bank enters into any agency agreement authorizing another entity, as agent of the mutual savings bank, to receive deposits or renew time deposits, the mutual savings bank shall give written notice to the director of the existence of the agency agreement. The notice is not effective until it has been delivered to the office of the director.

[1996 c 2 § 22.]

Notes:

Severability--1996 c 2: See RCW 30.38.900.

RCW 32.04.050 Reports.

A savings bank shall render to the director, in such form as he or she shall prescribe, at least three regular reports each year exhibiting its resources and liabilities as of such dates as the director shall designate, which shall be the dates designated by the comptroller of the currency of the United States for reports of national banking associations. Every such report, in a condensed form to be prescribed by the director, shall be published once in a newspaper of general circulation, published in the place where the bank is located. A savings bank shall also make such special reports as the director shall call for. A regular report shall be filed with the director within thirty days and proof of the publication thereof within forty days from the date of the issuance of the call for the report. A special report shall be filed within such time as the director shall indicate in the call therefor. A savings bank that fails to file within the prescribed time any report required by this section or proof of the publication of any report required to be published shall be subject to a penalty to the state of fifty dollars for each day's delay, recoverable by a

civil action brought by the attorney general in the name of the state.

[1994 c 92 § 296; 1977 ex.s. c 241 § 1; 1955 c 13 § 32.04.050. Prior: 1925 ex.s. c 86 § 13; 1915 c 175 § 39; RRS § 3368a.]

RCW 32.04.070 Certified copies of records as evidence.

Copies from the records, books, and accounts of a savings bank shall be competent evidence in all cases, equal with originals thereof, if there is annexed to such copies an affidavit taken before a notary public or clerk of a court under seal, stating that the affiant is the officer of the bank having charge of the original records, and that the copy is true and correct and is full so far as the same relates to the subject matter therein mentioned.

[1955 c 13 § 32.04.070. Prior: 1915 c 175 § 47; RRS § 3376.]

RCW 32.04.080 Employees' pension, retirement, or health insurance benefits--Payment.

A mutual savings bank may provide for pensions or retirement benefits for its disabled or superannuated employees or health insurance benefits for its employees and may pay a part or all of the cost of providing such pensions or benefits in accordance with a plan adopted by its board of trustees or a board committee, none of whose members is an officer of the bank. The board of trustees of a savings bank or such a committee of the board may set aside from current earnings reserves in such amounts as the board or the committee shall deem wise to provide for the payment of future pensions or benefits.

[1999 c 14 § 14. Prior: 1994 c 256 § 95; 1994 c 92 § 297; 1955 c 80 § 2; 1955 c 13 § 32.04.080; prior: 1949 c 119 § 1; 1937 c 64 § 2; 1935 c 87 § 1; Rem. Supp. 1949 § 3366-1.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 32.04.082 Pension, retirement, or health insurance benefits--Waiver by bank of offsets attributable to social security.

With respect to pension payments or retirement or health insurance benefits payable by a mutual savings bank to any employee heretofore or hereafter retired, such bank may waive all or any part of any offsets thereto attributable to social security benefits receivable by such employee.

[1999 c 14 § 15; 1957 c 80 § 7.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.

RCW 32.04.085 Pension, retirement, or health insurance benefits--Supplementation.

Any pension payment or retirement or health insurance benefits payable by a mutual savings bank to a former officer or employee, or to a person or persons entitled thereto by virtue of service performed by such officer or employee, in the discretion of a majority of all the trustees of such bank, may be supplemented from time to time. The board of trustees of a savings bank or a board committee, none of whose members is an officer of the bank, may set aside from current earnings, reserves in such amounts as the board or the committee shall deem appropriate to provide for the payments of future supplemental payments.

[1999 c 14 § 16. Prior: 1994 c 256 § 96; 1994 c 92 § 298; 1971 ex.s. c 222 § 1.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.

Findings--Construction--1994 c 256: See RCW 43.320.007.

Severability--1971 ex.s. c 222: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 222 § 9.]

RCW 32.04.100 Penalty for falsification.

Every person who knowingly subscribes to or makes or causes to be made any false statement or false entry in the books of any savings bank, or knowingly subscribes to or exhibits any false or fictitious security, document or paper, with the intent to deceive any person authorized to examine into the affairs of any savings bank, or makes or publishes any false statement of the amount of the assets or liabilities of any such savings bank shall be guilty of a felony.

[1955 c 13 § 32.04.100. Prior: 1931 c 132 § 11; RRS § 3379b.]

RCW 32.04.110 Penalty for concealing or destroying evidence.

Every trustee, officer, employee, or agent of any savings bank who for the purpose of concealing any fact suppresses any evidence against himself or herself, or against any other person, or who abstracts, removes, mutilates, destroys, or secretes any paper, book, or record of any savings bank, or of the director, or anyone connected with his or her office shall be guilty of a felony.

[1994 c 92 § 299; 1955 c 13 § 32.04.110. Prior: 1931 c 132 § 12; RRS § 3379c.]

RCW 32.04.120 Specific penalties invoked.

The provisions of RCW 9.24.050, 9.24.040 and 9.24.030 shall apply to the corporations authorized under this title.

[1955 c 13 § 32.04.120. Prior: 1915 c 175 § 50; RRS § 3379.]

RCW 32.04.130 General penalty.

Any person who does anything forbidden by chapter 32.04, 32.08, 32.12, 32.16 or 32.24 RCW of this title for which a penalty is not provided in this title, or in some other law of the state, shall be guilty of a gross misdemeanor and be punished accordingly.

[1955 c 13 § 32.04.130. Prior: 1915 c 175 § 51; RRS § 3380.]

RCW 32.04.150 Cost of examination.

See RCW 30.04.070.

RCW 32.04.170 Conversion to mutual savings bank of savings and loan association.

See chapter 33.44 RCW.

RCW 32.04.190 Bank stabilization act.

See chapter 30.56 RCW.

RCW 32.04.200 Capital notes or debentures.

See chapter 30.36 RCW.

RCW 32.04.210 Saturday closing authorized.

See RCW 30.04.330.

RCW 32.04.211 Examinations directed--Cooperative agreements and actions.

(1) The director, assistant director, or an examiner shall visit each savings bank at least once every eighteen months, and oftener if necessary, for the purpose of making a full investigation into the condition of such corporation, and for that purpose they are hereby empowered to administer oaths and to examine under oath any director, officer, employee, or agent of such corporation. The director may make such other full or partial examinations as deemed necessary and may examine any holding company that owns any portion of a savings bank chartered by the state of Washington and obtain reports of condition for any holding company that owns any portion of a savings bank chartered by the state of Washington. The director may visit and examine into the affairs of any nonpublicly held corporation in which the savings bank or holding company has an investment or any publicly held corporation the capital stock of which is controlled by the savings bank or holding company; may appraise and revalue such corporations' investments and securities; and shall have full access to all the books, records, papers, securities, correspondence, bank accounts, and other papers of such corporations for such purposes. The director may, in his or her discretion, accept in lieu of the examinations required in this section the examinations conducted at the direction of the federal reserve board or the Federal Deposit Insurance Corporation. Any willful false swearing in any examination is perjury in the second degree.

(2) The director may enter into cooperative and reciprocal agreements with the bank regulatory authorities of the United States, any state, the District of Columbia, or any trust territory of the United States for the periodic examination of domestic savings banks or holding companies owning banking institutions in other states, the District of Columbia, or trust territories, and subsidiaries of such domestic savings banks and holding companies, or of out-of-state holding companies owning a savings bank the principal operations of which are conducted in this state. The director may accept reports of examination and other records from such authorities in lieu of conducting his or her own examinations. The director may enter into joint actions with other regulatory bodies having concurrent jurisdiction or may enter into such actions independently to carry out his or her responsibilities under this title and assure compliance with the laws of this state.

[1994 c 92 § 300; 1989 c 180 § 4.]

RCW 32.04.220 Examination reports and information--Confidential--Privileged--Penalty.

(1) All examination reports and all information obtained by the director and the director's staff in conducting examinations of mutual savings banks, and information obtained by the director and the director's staff from other state or federal bank regulatory authorities with whom the director has entered into agreements pursuant to RCW 32.04.211, and information obtained by the director and the director's staff relating to examination and supervision of holding companies owning a savings bank in this state or subsidiaries of such holding companies, is confidential and privileged information and shall not be made public or otherwise disclosed to any person, firm, corporation, agency, association, governmental body, or other entity.

(2) Subsection (1) of this section notwithstanding, the director may furnish all or any part of examination reports prepared by the director's office to:

(a) Federal agencies empowered to examine mutual savings banks;

(b) Bank regulatory authorities with whom the director has entered into agreements pursuant to RCW 32.04.211, and other bank regulatory authorities who are the primary regulatory authority or insurer of accounts for a holding company owning a savings bank the principal operations of which are conducted in this state or a subsidiary of such holding company; provided that the director shall first find that the reports of examination to be furnished shall receive protection from disclosure comparable to that accorded by this section;

(c) Officials empowered to investigate criminal charges subject to legal process, valid search warrant, or subpoena. If the director furnishes any examination report to officials empowered to investigate criminal charges, the director may only furnish that part of the report which is necessary and pertinent to the investigation, and the director may do this only after notifying the affected mutual savings bank and any customer of the mutual savings bank who is named in that part of the report of the order to furnish the part of the examination report unless the officials requesting the report first obtain a waiver of the notice requirement from a court of competent jurisdiction for good cause;

(d) The examined savings bank or holding company thereof;

(e) The attorney general in his or her role as legal advisor to the director;

(f) Liquidating agents of a distressed savings bank;

(g) A person or organization officially connected with the savings bank as officer, director, attorney, auditor, or independent attorney or independent auditor;

(h) The Washington public deposit protection commission as provided by RCW 39.58.105.

(3) All examination reports furnished under subsections (2) and (4) of this section shall remain the property of the department of financial institutions, and be confidential, and no person, agency, or authority to whom reports are furnished or any officer, director, or employee thereof shall disclose or make public any of the reports or any information contained therein except in published statistical material that does not disclose the affairs of any individual or corporation: PROVIDED, That nothing herein shall prevent the use in a criminal prosecution of reports furnished under subsection (2) of this section.

(4) The examination report made by the department of financial institutions is designed for use in the supervision of the mutual savings bank, and the director may furnish a copy of the report to the mutual savings bank examined. The report shall remain the property of the director and will be furnished to the mutual savings bank solely for its confidential use. Under no circumstances shall the mutual savings bank or any of its trustees, officers, or employees disclose or make public in any manner the report or any portion thereof, to any person or organization not connected with the savings bank as officer, director, employee, attorney, auditor, or candidate for executive office with the bank. The savings bank may also, after execution of an agreement not to disclose information in the report, disclose the report or relevant portions thereof to a party proposing to acquire or merge with the savings bank.

(5) Examination reports and information obtained by the director and the director's staff in conducting examinations, or from other state and federal bank regulatory authorities with whom the director has entered into agreements pursuant to RCW 32.04.211, or relating to examination and supervision of holding companies owning a savings bank the principal operations of which are conducted in this state or a subsidiary of such holding company, shall not be subject to public disclosure under chapter 42.17 RCW.

(6) In any civil action in which the reports are sought to be discovered or used as evidence, any party may, upon notice to the director, petition the court for an in camera review of the report. The court may permit discovery and introduction of only those portions of the report which are relevant and otherwise unobtainable by the requesting party. This subsection shall not apply to an action brought or defended by the director.

(7) This section shall not apply to investigation reports prepared by the director and the director's staff concerning an application for a new mutual savings bank or an application for a branch of a mutual savings bank: PROVIDED, That the director may adopt rules making confidential portions of the reports if in the director's opinion the public disclosure of the portions of the report would impair the ability to obtain the information which the director considers necessary to fully evaluate the application.

(8) Every person who violates any provision of this section shall forfeit the person's office or employment and be guilty of a gross misdemeanor.

[1994 c 92 § 301; 1989 c 180 § 5; 1977 ex.s. c 245 § 2.]

Notes:

Severability--1977 ex.s. c 245: See note following RCW 30.04.075.

Examination reports and information from financial institutions exempt: RCW 42.17.31911.

RCW 32.04.250 Violations or unsafe practices--Notice of charges--Grounds--Contents of notice--Hearing--Cease and desist orders.

(1) The director may issue and serve upon a mutual savings bank a notice of charges if in the opinion of the director any mutual savings bank:

(a) Is engaging or has engaged in an unsafe or unsound practice in conducting the business of the mutual savings bank;

(b) Is violating or has violated the law, rule, or any condition imposed in writing by the director in connection with the granting of any application or other request by the mutual savings bank or any written agreement made with the director; or

(c) Is about to do the acts prohibited in (a) or (b) of this subsection when the opinion that the threat exists is based upon reasonable cause.

(2) The notice shall contain a statement of the facts constituting the alleged violation or violations or the practice or practices and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the mutual savings bank. The hearing shall be set not earlier than ten days nor later than thirty days after service of the notice, unless a later date is set by the director at the request of the mutual savings bank.

Unless the mutual savings bank shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the cease and desist order. In the event of this consent or if upon the record made at the hearing the director finds that any violation or practice specified in the notice of charges has been established, the director may issue and serve upon the mutual savings bank an order to cease and desist from the violation or practice. The order may require the mutual savings bank and its trustees, officers, employees, and agents to cease and desist from the violation or practice and may require the mutual savings bank to take affirmative action to correct the conditions resulting from the violation or practice.

(3) A cease and desist order shall become effective at the expiration of ten days after the service of the order upon the mutual savings bank concerned, except that a cease and desist order issued upon consent shall become effective at the time specified in the order and shall remain effective as provided therein, unless it is stayed, modified, terminated, or set aside by action of the director or a reviewing court.

[1994 c 92 § 302; 1979 c 46 § 1.]

Notes:

Severability--1979 c 46: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 c 46 § 11.]

RCW 32.04.260 Violations or unsafe practices--Temporary cease and desist orders.

Whenever the director determines that the acts specified in RCW 32.04.250 or their continuation is likely to cause insolvency or substantial dissipation of assets or earnings of the mutual savings bank or to otherwise seriously prejudice the interest of its depositors, the director may also issue a temporary order requiring the mutual savings bank to cease and desist from the violation or practice. The order shall become effective upon service on the mutual savings bank and, unless set aside, limited, or suspended by a court in proceedings under RCW 32.04.270, shall remain effective pending the completion of the administrative proceedings under the notice and until such time as the director shall dismiss the charges specified in the notice or until the effective date of a cease and desist order issued against the mutual savings bank under RCW 32.04.250.

[1994 c 92 § 303; 1979 c 46 § 2.]

Notes:

Severability--1979 c 46: See note following RCW 32.04.250.

RCW 32.04.270 Violations or unsafe practices--Injunction to set aside temporary cease and desist order.

Within ten days after a mutual savings bank has been served with a temporary cease and desist order, the mutual savings bank may apply to the superior court in the county of its principal place of business for an injunction setting aside, limiting, or suspending the order pending the completion of the administrative proceedings pursuant to the notice served under RCW 32.04.250.

The superior court shall have jurisdiction to issue the injunction.

[1979 c 46 § 3.]

Notes:

Severability--1979 c 46: See note following RCW 32.04.250.

RCW 32.04.280 Violation of temporary cease and desist order--Injunction to enforce order.

In the case of a violation or threatened violation of a temporary cease and desist order issued under RCW 32.04.260, the director may apply to the superior court of the county of the principal place of business of the mutual savings bank for an injunction to enforce the order. The court shall issue an injunction if it determines there has been a violation or threatened violation.

[1994 c 92 § 304; 1979 c 46 § 4.]

Notes:

Severability--1979 c 46: See note following RCW 32.04.250.

RCW 32.04.290 Administrative hearing provided for in RCW 32.04.250 or 32.16.093--Procedure--Order--Judicial review.

(1) Any administrative hearing provided in RCW 32.04.250 or 32.16.093 may be held at such place as is designated by the director and shall be conducted in accordance with chapter 34.05 RCW. The hearing shall be private unless the director determines that a public hearing is necessary to protect the public interest after fully considering the views of the party afforded the hearing.

Within sixty days after the hearing, the director shall render a decision which shall include findings of fact upon which the decision is based and shall issue and serve upon each party to the proceeding an order or orders consistent with RCW 32.04.250 or 32.16.093, as the case may be.

Unless a petition for review is timely filed in the superior court of the county of the principal place of business of the affected mutual savings bank under subsection (2) of this section, and until the record in the proceeding has been filed as provided therein, the director may at any time modify, terminate, or set aside any order upon such notice and in such manner as he or she shall deem proper. Upon filing the record, the director may modify, terminate, or set aside any order only with permission of the court.

The judicial review provided in this section shall be exclusive for orders issued under RCW 32.04.250 and 32.16.093.

(2) Any party to the proceeding or any person required by an order, temporary order, or injunction issued under RCW 32.04.250, 32.04.260, 32.04.280, or 32.16.093 to refrain from any of the violations or practices stated therein may obtain a review of any order served under subsection (1) of this section other than one issued upon consent by filing in the superior court of the county of the principal place of business of the affected mutual savings bank within ten days after the date of service of the order a written petition praying that the order of the director be modified, terminated, or set aside. A copy of the petition shall be immediately served upon the director and the director shall then file in the court the record of the proceeding. The court shall have jurisdiction upon the filing of the petition, which jurisdiction shall become exclusive upon the filing of the record, to affirm, modify, terminate, or set aside in whole or in part the order of the director except that the director may modify, terminate, or set aside an order with the permission of the court. The judgment and decree of the court shall be final, except that it shall be subject to appellate review under the rules of court.

(3) The commencement of proceedings for judicial review under subsection (2) of this section shall not operate as a stay of any order issued by the director unless specifically ordered by the court.

(4) Service of any notice or order required to be served under RCW 32.04.250, 32.04.260, or 32.16.093, or under RCW 32.16.090, as now or hereafter amended, shall be accomplished in the same manner as required for the service of process in civil actions in superior courts of this state.

[1994 c 92 § 305; 1979 c 46 § 5.]

Notes:

Severability--1979 c 46: See note following RCW 32.04.250.

RCW 32.04.300 Jurisdiction of courts as to cease and desist orders, orders to remove trustee, officer, or employee, etc.

The director may apply to the superior court of the county of the principal place of business of the mutual savings bank affected for the enforcement of any effective and outstanding order issued under RCW 32.04.250 or 32.16.093, and the court shall have jurisdiction to order compliance therewith.

No court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any such order, or to review, modify, suspend, terminate, or set aside any such order, except as provided in RCW 32.04.270, 32.04.280, and 32.04.290.

[1994 c 92 § 306; 1979 c 46 § 6.]

Notes:

Severability--1979 c 46: See note following RCW 32.04.250.

RCW 32.04.310 Automated teller machines and night depositories security.

Chapter 19.174 RCW applies to automated teller machines and night depositories regulated under this title.

[1993 c 324 § 12.]

Notes:

Effective date--1993 c 324: See RCW 19.174.900.

Chapter 32.08 RCW
ORGANIZATION AND POWERS

Sections

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32.08.225 Sale, purchase, etc., of interest rate exchange agreements, loans, or interests therein.
32.08.230 Restrictions and requirements by director.

Notes:
Federal bonds and notes as investment of collateral: Chapter 39.60 RCW.

RCW 32.08.010 Authority to organize--Incorporators--Certificate.

When authorized by the director, as hereinafter provided, not less than nine nor more than thirty persons may form a corporation to be known as a "mutual savings bank." Such persons must be citizens of the United States; at least four-fifths of them must be residents of this state, and at least two-thirds of them must be residents of the county where the bank is to be located and its business transacted. They shall subscribe an incorporation certificate in triplicate which shall specifically state:

(1) The name by which the savings bank is to be known, which name shall include the words "mutual savings bank";

(2) The place where the bank is to be located, and its business transacted, naming the city or town and county;

(3) The name, occupation, residence, and post office address of each incorporator;

(4) The sums which each incorporator will contribute in cash to the initial guaranty fund, and to the expense fund respectively, as provided in RCW 32.08.090 and 32.08.100;

(5) Any provision the incorporators elect to so set forth which is permitted by RCW 23B.17.030;

(6) Any other provision the incorporators elect to so set forth which is not inconsistent with this chapter;

(7) A declaration that each incorporator will accept the responsibilities and faithfully discharge the duties of a trustee of the savings bank, and is free from all the disqualifications specified in RCW 32.16.010.

[1994 c 256 § 97; 1994 c 92 § 307; 1955 c 13 § 32.08.010. Prior: 1915 c 175 § 1; 1905 c 129 § 2; RRS § 3313.]

Notes:

Reviser's note: This section was amended by 1994 c 92 § 307 and by 1994 c 256 § 97, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 32.08.020 Notice of intention.

At the time of executing the incorporation certificate, the proposed incorporators shall sign a notice of intention to organize the mutual savings bank, which shall specify their names, the name of the proposed corporation, and its location as set forth in the incorporation certificate. The original of such notice shall be filed in the office of the director within sixty days after the date of its execution, and a copy thereof shall be published at least once a week for four successive weeks in a newspaper designated by the director, the publication to be commenced within thirty days after such designation. At least fifteen days before the incorporation certificate is submitted to the director for examination, as provided in RCW 32.08.030, a copy of such notice shall be served upon each savings bank doing business in the city or town named in the incorporation certificate, by mailing such copy (postage prepaid) to such bank.

[1994 c 92 § 308; 1955 c 13 § 32.08.020. Prior: 1915 c 175 § 2; RRS § 3314.]

RCW 32.08.030 Submission of certificate--Proof of service of notice.

After the lapse of at least twenty-eight days from the date of the first due publication of the notice of intention to incorporate, and within ten days after the date of the last publication thereof, the incorporation certificate executed in triplicate shall be submitted for examination to the director at his or her office in Olympia, with affidavits showing due publication and service of the notice of intention to organize prescribed in RCW 32.08.020.

[1994 c 92 § 309; 1955 c 13 § 32.08.030. Prior: 1915 c 175 § 3; RRS § 3315.]

RCW 32.08.040 Examination and action by director.

When any such certificate has been filed for examination the director shall thereupon ascertain from the best source of information at his or her command, and by such investigation as he or she may deem necessary, whether the character, responsibility, and general fitness of the person or persons named in such certificate are such as to command confidence and warrant belief that the business of the proposed bank will be honestly and efficiently conducted in accordance with the intent and purpose of this title, and whether the public convenience and advantage will be promoted by allowing such proposed bank to be incorporated and engage in business, and whether greater convenience and access to a savings bank would be afforded to any considerable number of depositors by opening a mutual savings bank in the place designated, whether the population in the neighborhood of such place, and in the surrounding country, affords a reasonable promise of adequate support for the proposed bank, and whether

the contributions to the initial guaranty fund and expense fund have been paid in cash. After the director has satisfied himself or herself by such investigation whether it is expedient and desirable to permit such proposed bank to be incorporated and engage in business, he or she shall within sixty days after the date of the filing of the certificate for examination indorse upon each of the triplicates thereof over his or her official signature the word "approved" or the word "refused," with the date of such indorsement. In case of refusal he or she shall forthwith return one of the triplicates so indorsed to the proposed incorporators from whom the certificate was received.

[1994 c 92 § 310; 1955 c 13 § 32.08.040. Prior: 1915 c 175 § 4, part; RRS § 3316, part.]

RCW 32.08.050 Appeal from adverse decision.

From the director's refusal to issue a certificate of authorization, the applicants or a majority of them, may within thirty days from the date of the filing of the certificate of refusal with the secretary of state, appeal to a board of appeal composed of the governor or the governor's designee, the attorney general and the director by filing in the office of the director a notice that they appeal to such board from his or her refusal. The procedure upon the appeal shall be such as the board may prescribe, and its determination shall be certified, filed, and recorded in the same manner as the director's, and shall be final.

[1994 c 92 § 311; 1979 ex.s. c 57 § 6; 1955 c 13 § 32.08.050. Prior: 1915 c 175 § 4, part; RRS § 3316, part.]

RCW 32.08.060 Procedure upon approval.

In case of approval, the director shall forthwith give notice thereof to the proposed incorporators, and file one of the duplicate certificates in his or her own office, and shall transmit the other to the secretary of state. Upon receipt from the proposed incorporators of the same fees as are required for filing and recording other incorporation certificates, the secretary of state shall file the certificate and record the same. Upon the filing of said incorporation certificate in duplicate approved as aforesaid in the offices of the director and the secretary of state, the persons named therein and their successors shall thereupon become and be a corporation, which corporation shall have the powers and be subject to the duties and obligations prescribed in this title and its corporate existence shall be perpetual, unless sooner terminated pursuant to law, but such corporation shall not receive deposits or engage in business until authorized so to do by the director as provided in RCW 32.08.070.

[1994 c 92 § 312; 1981 c 302 § 26; 1957 c 80 § 1; 1955 c 13 § 32.08.060. Prior: 1915 c 175 § 4, part; RRS § 3316, part.]

Notes:

Severability--1981 c 302: See note following RCW 19.76.100.

RCW 32.08.061 Extension of period of existence--Procedure.

A mutual savings bank may amend its incorporation certificate to extend the period of its corporate existence for a further definite time or perpetually by a resolution adopted by a majority vote of its board of trustees. Duplicate copies of the resolution, subscribed and acknowledged by the president and secretary of such bank, shall be filed in the office of the director within thirty days after its adoption. If the director finds that the resolution conforms to law he or she shall, within sixty days after the date of the filing thereof, endorse upon each of the duplicates thereof, over his or her official signature, his or her approval and forthwith give notice thereof to the bank and shall file one of the certificates in his or her own office and shall transmit the other to the secretary of state. Upon receipt from the mutual savings bank of the same fees as are required of general corporations for filing corresponding instruments, the secretary of state shall file the resolution and record the same. Upon the filing of said resolution in duplicate, approved as aforesaid in the offices of the director and the secretary of state, the corporate existence of said bank shall continue for the period set forth in said resolution unless sooner terminated pursuant to law.

[1994 c 92 § 313; 1981 c 302 § 27; 1963 c 176 § 1; 1957 c 80 § 8.]

Notes:

Severability--1981 c 302: See note following RCW 19.76.100.

RCW 32.08.070 Authorization certificate.

Before a mutual savings bank shall be authorized to do any business the director shall be satisfied that the corporation has in good faith complied with all the requirements of law and fulfilled all the conditions precedent to commencing business imposed by this title. If satisfied that the corporation has in good faith complied with all the requirements of law, and fulfilled all the conditions precedent to commencing business imposed by this title, the director shall within six months after the date upon which the proposed organization certificate was filed with him or her for examination, but in no case after the expiration of that period, issue under his or her hand and official seal in triplicate an authorization certificate to such corporation. Such authorization certificate shall state that the corporation therein named has complied with all the requirements of law, that it is authorized to transact at the place designated in its certificate of incorporation, the business of a mutual savings bank. One of the triplicate authorization certificates shall be transmitted by the director to the corporation therein named, and the other two authorization certificates shall be filed by the director in the same public offices where the certificate of incorporation is filed, and shall be attached to said incorporation certificate.

[1994 c 92 § 314; 1981 c 302 § 28; 1955 c 13 § 32.08.070. Prior: 1915 c 175 § 5; RRS § 3317.]

Notes:

Severability--1981 c 302: See note following RCW 19.76.100.

RCW 32.08.080 Conditions precedent to reception of deposits.

Before such corporation shall be authorized to receive deposits or transact business other

than the completion of its organization, the director shall be satisfied that:

(1) The incorporators have made the deposit of the initial guaranty fund required by this title;

(2) The incorporators have made the deposit of the expense fund required by RCW 32.08.090 and if the director shall so require, have entered into the agreement or undertaking with him or her and have filed the same and the security therefor as prescribed in said section;

(3) The corporation has transmitted to the director the name, residence, and post office address of each officer of the corporation;

(4) Its certificate of incorporation in triplicate has been filed in the respective public offices designated in this title.

[1994 c 92 § 315; 1955 c 13 § 32.08.080. Prior: 1915 c 175 § 6; RRS § 3318.]

RCW 32.08.090 Expense fund--Agreement to contribute further--Security.

Before any mutual savings bank shall be authorized to do business, its incorporators shall create an expense fund from which the expense of organizing such bank and its operating expenses may be paid, until such time as its earnings are sufficient to pay its operating expenses in addition to such dividends as may be declared and credited to its depositors from its earnings. The incorporators shall deposit to the credit of such savings bank in cash as an expense fund the sum of five thousand dollars. They shall also enter into such an agreement or undertaking with the director as trustee for the depositors with the savings bank as he or she may require to make such further contributions in cash to the expense fund as may be necessary to pay its operating expenses until such time as it can pay them from its earnings, in addition to such dividends as may be declared and credited to its depositors. Such agreement or undertaking shall fix the maximum liability assumed thereby which shall be a reasonable amount approved by the director and the same shall be secured to his or her satisfaction, which security in his or her discretion may be by a surety bond executed by a domestic or foreign corporation authorized to transact within this state the business of surety. The agreement or undertaking and security shall be filed in the office of the director. Such agreement or undertaking and such security need not be made or furnished unless the director shall require the same. The amounts contributed to the expense fund of said savings bank by the incorporators or trustees shall not constitute a liability of the savings bank except as hereinafter provided.

[1994 c 92 § 316; 1955 c 13 § 32.08.090. Prior: 1915 c 175 § 8; RRS § 3320.]

RCW 32.08.100 Guaranty fund.

Before any mutual savings bank shall be authorized to do business, its incorporators shall create a guaranty fund for the protection of its depositors against loss on its investments, whether arising from depreciation in the market value of its securities or otherwise:

(1) Such guaranty fund shall consist of payments in cash made by the original incorporators and of all sums credited thereto from the earnings of the savings bank as hereinafter required.

(2) The incorporators shall deposit to the credit of such savings bank in cash as an initial guaranty fund at least five thousand dollars.

(3) Prior to the liquidation of any such savings bank such guaranty fund shall not be in any manner encroached upon, except for losses and the repayment of contributions made by incorporators or trustees as hereinafter provided, until such fund together with undivided profits exceeds twenty-five percent of the amount due depositors.

(4) The amounts contributed to such guaranty fund by the incorporators or trustees shall not constitute a liability of the savings bank, except as hereinafter provided, and any loss sustained by the savings bank in excess of that portion of the guaranty fund created from earnings may be charged against such contributions pro rata.

[1955 c 13 § 32.08.100. Prior: 1915 c 175 § 7; RRS § 3319.]

RCW 32.08.110 Guaranty fund--Purpose.

The contributions of the incorporators, or trustees of any such savings bank under the provisions of RCW 32.08.100, and the sums credited thereto from its net earnings under the provisions of RCW 32.08.120, shall constitute a guaranty fund for the security of its depositors, and shall be held to meet any contingency or loss in its business from depreciation of its securities or otherwise, and for no other purpose except as provided in RCW 32.08.130, and RCW 32.12.090(5).

[1955 c 13 § 32.08.110. Prior: 1915 c 175 § 21; RRS § 3350.]

RCW 32.08.115 Guaranty fund--Payment of interest and dividends--Legislative declaration.

It is hereby recognized that the savings banks of the state of Washington are affected adversely by the uncertainties and ambiguities in the law relating to guaranty funds. It is the express purpose of the legislature in enacting RCW 32.08.116 to clarify that the law permits payment of interest and dividends from the guaranty funds of savings banks and RCW 32.08.116 shall be liberally construed to that end.

[1982 c 5 § 1.]

RCW 32.08.116 Guaranty fund--Payment of interest and dividends--When authorized.

A savings bank not having net earnings or undivided profits or other surplus may pay interest and dividends from its guaranty fund upon prior written approval of the director, which approval shall not be withheld unless the director has determined that such payments would place the savings bank in an unsafe and unsound condition.

[1994 c 92 § 317; 1982 c 5 § 2.]

RCW 32.08.120 Guaranty fund--Replenishment--Dividends.

(1) If at the close of any dividend period the guaranty fund of a savings bank is less than ten percent of the amount due to depositors, there shall be deducted from its net earnings and credited to its guaranty fund not less than five percent of its net earnings for such period.

(2) The balance of its net earnings for such dividend period, plus any earnings from prior accounting periods not previously disbursed and not reserved for losses or other contingencies or required to be maintained in the guaranty fund, shall be available for dividends.

While the trustees of such savings bank are paying its expenses or any portion thereof, the amounts to be credited to its guaranty fund shall be computed at the same percentage upon the total dividends credited to its depositors instead of upon its net earnings. If the guaranty fund accumulated from earnings equals or exceeds ten percent of the amount due to depositors, the minimum dividend shall be four percent, if the net earnings for such period are sufficient therefor.

[1955 c 13 § 32.08.120. Prior: 1941 c 15 § 4; 1929 c 123 § 3; 1927 c 184 § 6; 1915 c 175 § 24; Rem. Supp. 1941 § 3353.]

RCW 32.08.130 Reimbursement fund.

When the portion of the guaranty fund created from earnings amounts to not less than five thousand dollars (including in the case of a savings bank converted from a building and loan or savings and loan association or society the amount of the initial guaranty fund), the board of trustees, with the written consent of the director, may establish a reimbursement fund from which to repay contributors to the expense fund and the initial guaranty fund (excepting the initial guaranty fund in the case of a bank converted from a building and loan or savings and loan association or society), and may transfer to the reimbursement fund any unexpended balance of contributions to the expense fund. At the close of each dividend period the trustees may place to the credit of the reimbursement fund not more than one percent of the net earnings of the bank during that period. Payments from the reimbursement fund may be made from time to time in such amounts as the board of trustees shall determine, and shall be made first to the contributors to the expense fund in proportion to their contributions thereto until they shall have been repaid in full, and then shall be made to the contributors to the guaranty fund in proportion to their contributions thereto until they shall have been repaid in full. In case of the liquidation of the savings bank before the contributions to the expense fund and the initial guaranty fund have been fully repaid as above contemplated, any portion of the contributions not needed for the payment of the expenses of liquidation and the payment of depositors in full shall be paid to the contributors to the expense fund in proportion to their contributions thereto until they have been repaid in full, and then shall be paid to the contributors to the guaranty fund in proportion to their contributions thereto until they have been repaid in full.

[1994 c 92 § 318; 1955 c 13 § 32.08.130. Prior: 1945 c 135 § 1; 1927 c 178 § 1; 1915 c 175 § 9; Rem. Supp. 1945 § 3321.]

RCW 32.08.140 Powers of bank.

Every mutual savings bank incorporated under this title shall have, subject to the restrictions and limitations contained in this title, the following powers:

(1) To receive deposits of money, to invest the same in the property and securities prescribed in this title, to declare dividends in the manner prescribed in this title, and to exercise by its board of trustees or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of a savings bank.

(2) To issue transferable certificates showing the amounts contributed by any incorporator or trustee to the guaranty fund of such bank, or for the purpose of paying its expenses. Every such certificate shall show that it does not constitute a liability of the savings bank, except as otherwise provided in this title.

(3) To purchase, hold and convey real property as prescribed in RCW 32.20.280.

(4) To pay depositors as hereinafter provided, and when requested, pay them by drafts upon deposits to the credit of the savings bank in any city in the United States, and to charge current rates of exchange for such drafts.

(5) To borrow money in pursuance of a resolution adopted by a vote of a majority of its board of trustees duly entered upon its minutes whereon shall be recorded by ayes and noes the vote of each trustee, for the purpose of repaying depositors, and to pledge or hypothecate securities as collateral for loans so obtained. Immediate written notice shall be given to the director of all amounts so borrowed, and of all assets so pledged or hypothecated.

(6) Subject to such regulations and restrictions as the director finds to be necessary and proper, to borrow money in pursuance of a resolution, policy, or other governing document adopted by its board of trustees, for purposes other than that of repaying depositors and to pledge or hypothecate its assets as collateral for any such loans, provided that no amount shall at any time be borrowed by a savings bank pursuant to this subsection (6), if such amount, together with the amount then remaining unpaid upon prior borrowings by such savings bank pursuant to this subsection (6), exceeds thirty percent of the assets of the savings bank.

The sale of securities or loans by a bank subject to an agreement to repurchase the securities or loans shall not be considered a borrowing. Borrowings from federal, state, or municipal governments or agencies or instrumentalities thereof shall not be subject to the limits of this subsection.

(7) To collect or protest promissory notes or bills of exchange owned by such bank or held by it as collateral, and remit the proceeds of the collections by drafts upon deposits to the credit of the savings bank in any city in the United States, and to charge the usual rates or fees for such collection and remittance for such protest.

(8) To sell gold or silver received in payment of interest or principal of obligations owned by the savings bank or from depositors in the ordinary course of business.

(9) To act as insurance agent for the purpose of writing fire insurance on property in which the bank has an insurable interest, the property to be located in the city in which the bank is situated and in the immediate contiguous suburbs, notwithstanding anything in any other statute to the contrary.

(10) To let vaults, safes, boxes or other receptacles for the safekeeping or storage of personal property, subject to laws and regulations applicable to, and with the powers possessed by, safe deposit companies.

(11) To elect or appoint in such manner as it may determine all necessary or proper officers, agents, boards, and committees, to fix their compensation, subject to the provisions of this title, and to define their powers and duties, and to remove them at will.

(12) To make and amend bylaws consistent with law for the management of its property and the conduct of its business.

(13) To wind up and liquidate its business in accordance with this title.

(14) To adopt and use a common seal and to alter the same at pleasure.

(15) To exercise any other power or authority permissible under applicable state or federal law exercised by other savings banks or by savings and loan associations with branches in Washington to the same extent as those savings institutions if, in the opinion of the director, the exercise of these powers and authorities by the other savings institutions affects the operations of savings banks in Washington or affects the delivery of financial services in Washington.

(16) To exercise the powers and authorities conferred by RCW 30.04.215.

(17) To exercise the powers and authorities that may be carried on by a subsidiary of the mutual savings bank that has been determined to be a prudent investment pursuant to RCW 32.20.380.

(18) To do all other acts authorized by this title.

(19) To exercise the powers and authorities that may be exercised by an insured state bank in compliance with 12 U.S.C. Sec. 1831a.

[1999 c 14 § 17; 1996 c 2 § 23; 1994 c 92 § 319; 1981 c 86 § 2; 1977 ex.s. c 104 § 1; 1963 c 176 § 2; 1957 c 80 § 2; 1955 c 13 § 32.08.140. Prior: 1927 c 184 § 1; 1925 ex.s. c 86 § 1; 1915 c 175 § 10; RRS § 3322.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.

Severability--1996 c 2: See RCW 30.38.900.

Severability--1981 c 86: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 86 § 17.]

RCW 32.08.142 Additional powers--Powers of federal mutual savings bank.

Notwithstanding any restrictions, limitations, and requirements of law, in addition to all powers, express or implied, that a mutual savings bank has under the laws of this state, a mutual savings bank shall have the powers and authorities that a federal mutual savings bank had on July 28, 1985, or a subsequent date not later than July 25, 1999. As used in this section, "powers and authorities" include without limitation powers and authorities in corporate governance matters.

The restrictions, limitations, and requirements applicable to specific powers or authorities of federal mutual savings banks shall apply to mutual savings banks exercising those powers or

authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to exercising the powers or authorities granted mutual savings banks solely under this section.

[1999 c 14 § 18; 1996 c 2 § 24; 1994 c 256 § 98; 1985 c 56 § 3; 1981 c 86 § 10.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.
Severability--1996 c 2: See RCW 30.38.900.
Findings--Construction--1994 c 256: See RCW 43.320.007.
Severability--1981 c 86: See note following RCW 32.08.140.

RCW 32.08.145 Safe deposit companies.

See chapter 22.28 RCW.

RCW 32.08.146 Powers and authorities granted to federal mutual savings banks.

A mutual savings bank may exercise the powers and authorities granted, after July 25, 1999, to federal mutual savings banks or their successors under federal law, only if the director finds that the exercise of such powers and authorities:

(1) Serves the convenience and advantage of depositors and borrowers; and

(2) Maintains the fairness of competition and parity between state-chartered savings banks and federal savings banks or their successors under federal law.

As used in this section, "powers and authorities" include without limitation powers and authorities in corporate governance matters.

The restrictions, limitations, and requirements applicable to specific powers or authorities of federal mutual savings banks or their successors under federal law shall apply to mutual savings banks exercising those powers or authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to exercising the powers or authorities granted mutual savings banks solely under this section.

[1999 c 14 § 19; 1996 c 2 § 25; 1994 c 256 § 99.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.
Severability--1996 c 2: See RCW 30.38.900.
Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 32.08.148 Operation of branch outside Washington--Powers and authorities.

In addition to all powers and authorities, express or implied, that a mutual savings bank has under the laws of this state, a mutual savings bank chartered under this title may exercise any powers and authorities at any branch outside Washington that are permissible for a savings bank operating in the jurisdiction where that branch is located, or for a bank, savings association, or similar financial institution operating in the jurisdiction if the laws of the jurisdiction do not

provide for the operation of savings banks in the jurisdiction, except to the extent that the exercise of these powers and authorities is expressly prohibited or limited by the laws of this state or by any rule or order of the director applicable to the mutual savings bank. However, the director may waive any limitation in writing with respect to powers and authorities that the director determines do not threaten the safety or soundness of the mutual savings bank.

[1996 c 2 § 26.]

Notes:

Severability--1996 c 2: See RCW 30.38.900.

RCW 32.08.150 Certificates of deposit.

A mutual savings bank may issue savings certificates of deposit in such form and upon such terms as the bank may determine.

[1981 c 86 § 3; 1979 c 51 § 1; 1975 c 15 § 1; 1969 c 55 § 1; 1959 c 41 § 1; 1959 c 14 § 1; 1957 c 80 § 3; 1955 c 13 § 32.08.150. Prior: 1915 c 175 § 13; RRS § 3342.]

Notes:

Severability--1981 c 86: See note following RCW 32.08.140.

RCW 32.08.160 Writing of fire insurance restricted.

When a savings bank is itself acting as an insurance agent, a trustee, officer, or employee of the bank shall not act as an insurance agent to write fire insurance on property in which the bank has an insurable interest, and no part of a room used by a savings bank in the transaction of its business shall be occupied or used by any person other than the bank in the writing of fire insurance.

[1955 c 13 § 32.08.160. Prior: 1925 ex.s. c 86 § 7; RRS § 3342a.]

RCW 32.08.170 Effect of failure to organize or commence business.

See RCW 30.08.070.

RCW 32.08.180 Extension of existence.

See RCW 30.08.080.

RCW 32.08.190 May borrow from home loan bank.

See RCW 30.32.030.

RCW 32.08.210 Power to act as trustee--Authorized trusts--Limitations--Application to act as trustee, fee--Approval or refusal of application--Right of appeal--Use of word

"trust".

A mutual savings bank shall have the power to act as trustee under:

(1) A trust established by an inter vivos trust agreement or under the will of a deceased person.

(2) A trust established in connection with any collective bargaining agreement or labor negotiation wherein the beneficiaries of the trust include the employees concerned under the agreement or negotiation, or a trust established in connection with any pension, profit sharing, or retirement benefit plan of any corporation, partnership, association, or individual, including but not limited to retirement plans established pursuant to the provisions of the act of congress entitled "Self-Employed Individuals Tax Retirement Act of 1962", as now constituted or hereafter amended, or plans established pursuant to the provisions of the act of congress entitled "Employee Retirement Income Security Act of 1974", as now constituted or hereafter amended.

A mutual savings bank may be appointed to and accept the appointment of personal representative of the last will and testament, or administrator with will annexed, of the estate of any deceased person and to be appointed and to act as guardian of the estate of minors and incompetent and disabled persons.

The restrictions, limitations and requirements in Title 30 RCW shall apply to a mutual savings bank exercising the powers granted under this section insofar as the restrictions, limitations, and requirements relate to exercising the powers granted under this section. The incidental trust powers to act as agent in the management of trust property and the transaction of trust business in Title 30 RCW shall apply to a mutual savings bank exercising the powers granted under this section insofar as the incidental powers relate to exercising the powers granted under this section.

Before engaging in trust business, a mutual savings bank shall apply to the director on such form as he or she shall determine and pay the same fee as required for a state bank to engage in trust business. In considering such application the director shall ascertain from the best source of information at his or her command and by such investigation as he or she may deem necessary whether the management and personnel of the mutual savings bank are such as to command confidence and warrant belief that the trust business will be adequately and efficiently conducted in accordance with law, whether the resources in the neighborhood of such place and in the surrounding country afford a reasonable promise of adequate support for the proposed trust business and whether the resources of the mutual savings bank are sufficient to support the conduct of such trust business, and that the mutual savings bank has and maintains, in addition to its guaranty fund, undivided profits against which the depositors have no prior claim in an amount not less than would be required of a state bank or trust company, which undivided profits shall be eligible for investment in the same manner as the guaranty fund of a mutual savings bank. Within sixty days after receipt of such application, the director shall either approve or refuse the same and forthwith return to the mutual savings bank a copy of the application upon which his or her decision has been endorsed. The director shall not be required to approve or refuse an application until thirty days after any appropriate approval has been obtained from a federal regulatory agency. The applicant shall have the right to appeal from an unfavorable determination in accordance with the procedures of the administrative procedure act, chapter

34.05 RCW, as now or hereafter amended. A mutual savings bank shall not use the word "trust" in its name, but may use the word "trust" in its business or advertising.

[1994 c 92 § 320; 1975 1st ex.s. c 265 § 1; 1969 c 55 § 12.]

RCW 32.08.215 Power to act as trustee for common trust funds under multiple trust agreements--Conditions.

No mutual savings bank or wholly owned subsidiary thereof shall act as trustee for common trust funds established for the benefit of more than one beneficiary under more than one trust agreement, unless the savings bank or subsidiary trust company shall first give written notice to the director, at least sixty days prior to the creation of any such fund.

[1994 c 92 § 321; 1985 c 56 § 4.]

RCW 32.08.220 Findings--Purpose.

The legislature finds that [the] state of Washington needs investment of funds from out of state and from investors in the state of Washington to keep money for real estate and other forms of financing reasonably available for the needs of Washington citizens. Many innovations have taken place in the last several years to aid in the sale of loans or portions thereof to others including the sale of mortgage passthrough certificates, mortgage backed bonds, participation sales with varying rates, terms or priorities to various participants and the like. As the marketing of such investments continues, further innovations can be expected. It will benefit the state if mutual savings banks subject to the laws of this state have the broadest powers possible commensurate with their safety and soundness to take part in such activities. It is the purpose of RCW 32.08.225 and 32.08.230 to grant a broad power.

[1981 c 86 § 11.]

Notes:

Severability--1981 c 86: See note following RCW 32.08.140.

RCW 32.08.225 Sale, purchase, etc., of interest rate exchange agreements, loans, or interests therein.

Any mutual savings bank may through any device sell, purchase, exchange, issue evidence of a sale or exchange of, or in any manner deal in any form of sale or exchange of interest rate exchange agreements, loans, or any interest therein including but not being limited to mortgage passthrough issues, mortgage backed bond issues, and loan participations and may purchase a subordinated portion thereof, issue letters of credit to insure against losses on a portion thereof, agree to repurchase all or a portion thereof, guarantee all or a portion of the payments thereof, and without any implied limitation by the foregoing or otherwise, do any and all things necessary or convenient to take part in or effectuate any such sales or exchanges by a mutual savings bank itself or by a subsidiary thereof.

[1985 c 56 § 5; 1981 c 86 § 12.]

Notes:

Severability--1981 c 86: See note following RCW 32.08.140.

RCW 32.08.230 Restrictions and requirements by director.

Any mutual savings bank engaging in any activity contemplated in RCW 32.08.225, whereby it holds or purchases subordinated securities, issues letters of credit to secure a portion of any sale or issue of loans sold or exchanged, or in any manner acts as a partial guarantor or insurer or repurchaser of any loans sold or exchanged, shall do so only in accordance with such reasonable restrictions and requirements as the director shall require and shall report and carry such transactions on its books and records in such manner as the director shall require. In establishing any requirements and restrictions hereunder, the director shall consider the effect the transaction and the reporting thereof will have on the safety and soundness of the mutual savings bank engaging in it.

[1994 c 92 § 322; 1981 c 86 § 13.]

Notes:

Severability--1981 c 86: See note following RCW 32.08.140.

Chapter 32.12 RCW
DEPOSITS--EARNINGS--DIVIDENDS--INTEREST

Sections

32.12.010 Deposits by individuals governed by chapter 30.22 RCW--Other deposits which a savings bank may establish--Limitations.
32.12.020 Repayment of deposits and dividends.
32.12.025 Withdrawals by savings bank's drafts in accordance with depositor's instructions authorized.
32.12.050 Accounting--Entry of assets, real estate, securities, etc.
32.12.070 Computation of earnings.
32.12.080 Misleading advertisement of surplus or guaranty fund.
32.12.090 Interest--Rate--Notice of changed rate.
32.12.120 Adverse claim to a deposit to be accompanied by court order or bond--Exceptions.

Notes:

Depositaries

city: Chapter 35.38 RCW.

county: Chapter 36.48 RCW.

of state funds: Chapter 43.85 RCW.

Receiving deposits after insolvency prohibited: State Constitution Art. 12 § 12; RCW 9.24.030.

Uniform unclaimed property act: Chapter 63.29 RCW.

RCW 32.12.010 Deposits by individuals governed by chapter 30.22 RCW--Other deposits which a savings bank may establish--Limitations.

Deposits made by individuals in a mutual savings bank under this chapter are governed by chapter 30.22 RCW. In addition, other deposits which a savings bank may establish include but are not limited to the following:

(1) Deposits in the name of, or on behalf of, a partnership or other form of multiple ownership enterprise.

(2) Deposits in the name of a corporation, society, or unincorporated association.

(3) Deposits maintained by a person, society, or corporation as administrator, executor, guardian, or trustee under a will or trust agreement.

Every such bank may limit the aggregate amount which an individual or any corporation or society may have to his or her or its credit to such sum as such bank may deem expedient to receive; and may in its discretion refuse to receive a deposit, or may at any time return all or any part of any deposits or require the withdrawal of any dividends or interest. Any account in excess of one hundred thousand dollars may only be accepted or held in accordance with such regulations as the director may establish.

[1994 c 92 § 323; 1981 c 192 § 27; 1967 c 145 § 1; 1961 c 80 § 1; 1959 c 41 § 2; 1957 c 80 § 4; 1955 c 13 § 32.12.010. Prior: 1953 c 238 § 1; 1949 c 119 § 4; 1941 c 15 § 2; 1929 c 123 § 1; 1927 c 184 § 5; 1921 c 156 § 2; 1919 c 200 § 2; 1915 c 175 § 17; Rem. Supp. 1949 § 3346.]

Notes:

Effective date--1981 c 192: See RCW 30.22.900.

RCW 32.12.020 Repayment of deposits and dividends.

The sums deposited with any savings bank, together with any dividends or interest credited thereto, shall be repaid to the depositors thereof respectively, or to their legal representatives, after demand in such manner, and at such times, and under such regulations, as the board of trustees shall prescribe, subject to the provisions of this section and chapter 30.22 RCW. These regulations shall be available to depositors upon request, and shall be posted in a conspicuous place in the principal office and each branch in this state or, if the regulations are not so posted, a description of changes in the regulations after an account is opened shall be mailed to depositors pursuant to 12 U.S.C. Sec. 4305(c) or otherwise. All such rules and regulations, and all amendments thereto, from time to time in effect, shall be binding upon all depositors.

(1) Such bank may at any time by a resolution of its board of trustees require a notice of not more than six months before repaying deposits, in which event no deposit shall be due or payable until the required notice of intention to withdraw the same shall have been personally given by the depositor: PROVIDED, That such bank at its option may pay any deposit or deposits before the expiration of such notice. But no bank shall agree with its depositors or any of them in advance to waive the requirement of notice as herein provided: PROVIDED, That the bank may create a special class of depositors who shall be entitled to receive their deposits upon demand.

(2) The savings bank may pay dividend or interest, or repay a deposit or portion thereof, upon receipt of information in written, oral, visual, electronic, or other form satisfactory to such bank, that the recipient is entitled to receipt, and may pay any check drawn upon it by a depositor.

[1999 c 14 § 20; 1996 c 2 § 27; 1994 c 92 § 324; 1985 c 56 § 6; 1983 c 3 § 53; 1981 c 192 § 28; 1974 ex.s. c 117 § 40; 1969 c 55 § 2; 1967 c 145 § 2; 1963 c 176 § 3; 1961 c 80 § 2; 1959 c 41 § 3; 1955 c 13 § 32.12.020. Prior: 1945 c 228 § 6; 1921 c 156 § 3; 1915 c 175 § 18; Rem. Supp. 1945 § 3347.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.

Severability--1996 c 2: See RCW 30.38.900.

Effective date--1981 c 192: See RCW 30.22.900.

Application, construction--Severability--Effective date--1974 ex.s. c 117: See RCW 11.02.080 and notes following.

RCW 32.12.025 Withdrawals by savings bank's drafts in accordance with depositor's instructions authorized.

Subject to the provisions of RCW 32.12.020(1), a savings bank may, on instructions from a depositor, effect withdrawals from a savings account by the savings bank's drafts payable to parties and on terms as so instructed; to the extent of the subjection of accounts to such withdrawal instruction, such accounts may be specifically classified under RCW 32.12.090(2) and ineligible to receive interest or eligible only for limited interest.

[1967 c 145 § 3.]

RCW 32.12.050 Accounting--Entry of assets, real estate, securities, etc.

(1) No savings bank shall by any system of accounting, or any device of bookkeeping, directly or indirectly, enter any of its assets upon its books in the name of any other individual, partnership, unincorporated association, or corporation, or under any title or designation that is not in accordance with the actual facts.

(2) The bonds, notes, mortgages, or other interest bearing obligations purchased or acquired by a savings bank, shall not be entered on its books at more than the actual cost thereof, and shall not thereafter be carried upon its books for a longer period than until the next declaration of dividends, or in any event for more than one year, at a valuation exceeding their present cost as determined by amortization, that is, by deducting from the cost of any such security purchased for a sum in excess of the amount payable thereon at maturity and charging to "profit and loss" a sufficient sum to bring it to par at maturity, or adding to the cost of any such security purchased at less than the amount payable thereon at maturity and crediting to "profit and loss" a sufficient sum to bring it to par at maturity.

(3) No such bank shall enter, or at any time carry on its books, the real estate and the building or buildings thereon used by it as its place of business at a valuation exceeding their actual cost to the bank.

(4) Every such bank shall conform its methods of keeping its books and records to such

orders in respect thereof as shall have been made and promulgated by the director. Any officer, agent, or employee of any savings bank who refuses or neglects to obey any such order shall be punished as hereinafter provided.

(5) Real estate acquired by a savings bank, other than that acquired for use as a place of business, may be entered on the books of the bank at the actual cost thereof but shall not be carried beyond the current dividend period at an amount in excess of the amount of the debt in protection of which such real estate was acquired, plus the cost of any improvements thereto.

An appraisal shall be made by a qualified person of every such parcel of real estate within six months from the date of conveyance. If the value at which such real estate is carried on the books is in excess of the value found on appraisal the book value shall, at the end of the dividend period during which such appraisal was made, be reduced to an amount not in excess of such appraised value.

(6) No such bank shall enter or carry on its books any asset which has been disallowed by the director or the trustees of such bank, unless the director upon application by such savings bank has fixed a valuation at which such asset may be carried as permitted in subsection (7) of this section.

(7) Notwithstanding the provisions of this section, no savings bank may maintain its books and records or enter and carry on its books any asset or liability at any valuation contrary to any accounting rules promulgated or adopted by the federal deposit insurance corporation or the director or contrary to generally accepted accounting principles.

[1994 c 256 § 100; 1994 c 92 § 325; 1985 c 56 § 7; 1983 c 44 § 1; 1955 c 13 § 32.12.050. Prior: 1941 c 15 § 1; 1915 c 175 § 16; Rem. Supp. 1941 § 3345.]

Notes:

Reviser's note: This section was amended by 1994 c 92 § 325 and by 1994 c 256 § 100, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 32.12.070 Computation of earnings.

(1) Gross current operating earnings. Every savings bank shall close its books, for the purpose of computing its net earnings, at the end of any period for which a dividend is to be paid, and in no event less frequently than semiannually. To determine the amount of gross earnings of a savings bank during any dividend period the following items may be included:

(a) All earnings actually received during such period, less interest accrued and uncollected included in the last previous calculation of earnings;

(b) Interest accrued and uncollected upon debts owing to it secured by authorized collateral, upon which there has been no default for more than one year, and upon corporate bonds, or other interest bearing obligations owned by it upon which there is no default;

(c) The sums added to the cost of securities purchased for less than par as a result of amortization;

(d) Any profits actually received during such period from the sale of securities, real estate or other property owned by it;

(e) Such other items as the director, in his or her discretion and upon his or her written consent, may permit to be included.

(2) Net current earnings. To determine the amount of its net earnings for each dividend period the following items shall be deducted from gross earnings:

(a) All expenses paid or incurred, both ordinary and extraordinary, in the transaction of its business, the collection of its debts and the management of its affairs, less expenses incurred and interest accrued upon its debts deducted at the last previous calculation of net earnings for dividend purposes;

(b) Interest paid or accrued and unpaid upon debts owing by it;

(c) The amounts deducted through amortization from the cost of bonds or other interest bearing obligations purchased above par in order to bring them to par at maturity;

(d) Contributions to any corporation or any community chest fund or foundation organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation. The total contributions for any calendar year shall not exceed a sum equal to one-half of one percent of the net earnings of such savings bank for the preceding calendar year.

The balance thus obtained shall constitute the net earnings of the savings bank for such period.

(3) Earnings paid by a savings bank on deposits may be referred to as "dividends" or as "interest".

[1994 c 92 § 327; 1955 c 80 § 3; 1955 c 13 § 32.12.070. Prior: 1953 c 238 § 2; 1941 c 15 § 3; 1915 c 175 § 23; Rem. Supp. 1941 § 3352.]

RCW 32.12.080 Misleading advertisement of surplus or guaranty fund.

No savings bank shall put forth any sign or notice or publish or circulate any advertisement or advertising literature upon which or in which it is stated that such savings bank has a surplus or guaranty fund other than as determined in the manner prescribed by law.

[1955 c 13 § 32.12.080. Prior: 1929 c 123 § 5; 1915 c 175 § 27; RRS § 3356.]

RCW 32.12.090 Interest--Rate--Notice of changed rate.

(1) Every savings bank shall regulate the rate of interest upon the amounts to the credit of depositors therewith, in such manner that depositors shall receive as nearly as may be all the earnings of the bank after transferring the amount required by RCW 32.08.120 and such further amounts as its trustees may deem it expedient and for the security of the depositors to transfer to the guaranty fund, which to the amount of ten percent of the amount due its depositors the trustees shall gradually accumulate and hold. Such trustees may also deduct from its net earnings, and carry as reserves for losses, or other contingencies, or as undivided profits, such additional sums as they may deem wise.

(2) Every savings bank may classify its depositors according to the local market, character, amount, regularity, or duration of their dealings with the savings bank, and may regulate the interest in such manner that each depositor shall receive the same ratable portion of interest as all others of his or her class.

(3) Unimpaired contributions to the initial guaranty fund and to the expense fund, made by the incorporators or trustees of a savings bank, shall be entitled to have dividends apportioned thereon, which may be credited and paid to such incorporators or trustees.

Whenever the guaranty fund of any savings bank is sufficiently large to permit the return of such contributions, the contributors may receive interest thereon not theretofore credited or paid at the same rate paid to depositors.

(4) A savings bank may pay interest on deposits at such rates as its board or a committee or officer designated by the board shall from time to time determine.

(5) The trustees of any savings banks, other than a stock savings bank, whose undivided profits and guaranty fund, determined in the manner prescribed in RCW 32.12.070, amount to more than twenty-five percent of the amount due its depositors, shall at least once in three years divide equitably the accumulation beyond such twenty-five percent as an extra dividend to depositors in excess of the regular dividend authorized.

(6) A notice posted conspicuously in a savings bank of a change in the rate of interest shall be equivalent to a personal notice.

[1999 c 14 § 21; 1994 c 256 § 101; 1983 c 44 § 2; 1977 ex.s. c 104 § 2; 1969 c 55 § 3; 1961 c 80 § 3; 1957 c 80 § 5; 1955 c 13 § 32.12.090. Prior: 1953 c 238 § 3; 1921 c 156 § 4; 1919 c 200 § 3; 1915 c 175 § 25; RRS § 3354.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 32.12.120 Adverse claim to a deposit to be accompanied by court order or bond--Exceptions.

Notice to any mutual savings bank doing business in this state of an adverse claim to a deposit standing on its books to the credit of any person shall not be effectual to cause said bank to recognize said adverse claimant unless said adverse claimant shall also either procure a restraining order, injunction or other appropriate process against said bank from a court of competent jurisdiction in a cause therein instituted by him wherein the person to whose credit the deposit stands is made a party and served with summons or shall execute to said bank, in form and with sureties acceptable to it, a bond, in an amount which is double either the amount of said deposit or said adverse claim, whichever is the lesser, indemnifying said bank from any and all liability, loss, damage, costs and expenses, for and on account of the payment of such adverse claim or the dishonor of the check or other order of the person to whose credit the deposit stands on the books of said bank: PROVIDED, That this law shall not apply in any instance where the person to whose credit the deposit stands is a fiduciary for such adverse claimant, and the facts constituting such relationship as also the facts showing reasonable cause of belief on the part of said claimant that the said fiduciary is about to misappropriate said deposit, are made to appear by the affidavit of such claimant.

This section shall not apply to accounts subject to chapter 30.22 RCW.

[1981 c 192 § 31; 1963 c 176 § 13. Cf. 1961 c 280 § 4; RCW 30.20.090.]

Notes:

Effective date--1981 c 192: See RCW 30.22.900.

Chapter 32.16 RCW
OFFICERS AND EMPLOYEES

Sections

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RCW 32.16.010 Board of trustees--Number--Qualifications.

(1) There shall be a board of trustees who shall have the entire management and control of the affairs of the savings bank. The persons named in the certificate of authorization shall be the first trustees. The board shall consist of not less than nine nor more than thirty members.

(2) A person shall not be a trustee of a savings bank, if he

(a) Is not a resident of a state of the United States;

(b) Has been adjudicated a bankrupt or has taken the benefit of any insolvency law, or has made a general assignment for the benefit of creditors;

(c) Has suffered a judgment recovered against him for a sum of money to remain unsatisfied of record or unsecured on appeal for a period of more than three months;

(d) Is a trustee, officer, clerk, or other employee of any other savings bank.

(3) Nor shall a person be a trustee of a savings bank solely by reason of his holding public office.

[1985 c 56 § 8; 1955 c 13 § 32.16.010. Prior: 1915 c 175 § 28; RRS § 3357.]

RCW 32.16.012 Age requirements.

The bylaws of a savings bank may prescribe a maximum age beyond which no person shall be eligible for election to the board of trustees and may prescribe a mandatory retirement age of seventy-five years or less for trustees subject to the following limitations:

(1) No person shall be eligible for initial election as a trustee after December 31, 1969, who is seventy years of age or more; and

(2) No person shall continue to serve as a trustee after December 31, 1973, who is seventy-five years of age or more and the office of any such trustee shall become vacant on the last day of the month in which the trustee reaches his seventy-fifth birthday or December 31, 1973, whichever is the latest.

If a savings bank does not adopt a bylaw prescribing a mandatory retirement age for trustees prior to January 1, 1970, or does not maintain thereafter a bylaw prescribing a mandatory retirement age, the office of a trustee of such savings bank shall become vacant on the last day of the month in which such trustee reaches his seventieth birthday or on December 31, 1969, whichever is the latest.

[1969 c 55 § 14.]

RCW 32.16.020 Oath of trustees--Declaration of incumbency--Not applicable to directors of stock savings banks.

(1) Each trustee, whether named in the certificate of authorization or elected to fill a vacancy, shall, when such certificate of authorization has been issued, or when notified of such election, take an oath that he or she will, so far as it devolves on him or her, diligently and honestly administer the affairs of the savings bank, and will not knowingly violate, or willingly permit to be violated, any of the provisions of law applicable to such savings bank. Such oath shall be subscribed by the trustee making it and certified by the officer before whom it is taken, and shall be immediately transmitted to the director and filed and preserved in his or her office.

(2) Prior to the first day of March in each year, every trustee of every savings bank shall subscribe a declaration to the effect that he or she is, at the date thereof, a trustee of the savings bank, and that he or she has not resigned, become ineligible, or in any other manner vacated his or her office as such trustee. Such declaration shall be acknowledged in like manner as a deed to be entitled to record and shall be transmitted to the director and filed in his or her office prior to the tenth day of March in each year.

(3) This section does not apply to the directors of stock savings banks.

[1994 c 256 § 102; 1994 c 92 § 328; 1955 c 13 § 32.16.020. Prior: 1915 c 175 § 29; RRS § 3358.]

Notes:

Reviser's note: This section was amended by 1994 c 92 § 328 and by 1994 c 256 § 102, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW

1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 32.16.030 Vacancies, when to be filled.

A vacancy in the board of trustees shall be filled by the board as soon as practicable, at a regular meeting thereof.

[1955 c 13 § 32.16.030. Prior: 1915 c 175 § 36; RRS § 3365.]

RCW 32.16.040 Quorum--Meetings.

A quorum at any regular or special or adjourned meeting of the board of trustees shall consist of not less than five of whom the chief executive officer shall be one, except when he or she is prevented from attending by sickness or other unavoidable detention, when he or she may be represented in forming a quorum by such other officer as the board may designate; but less than a quorum shall have power to adjourn from time to time until the next regular meeting. However, a savings bank may adopt procedures which provide that, in the event of a national emergency, any trustee may act on behalf of the board to continue the operations of the savings bank. For purposes of this subsection, a national emergency is an emergency declared by the president of the United States or the person performing the president's functions, or a war, or natural disaster.

Regular meetings of the board of trustees shall be held as established from time to time by the board, not less than six times during each year.

[1999 c 14 § 22; 1985 c 56 § 9; 1969 c 55 § 4; 1955 c 13 § 32.16.040. Prior: 1915 c 175 § 31; RRS § 3360.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.

RCW 32.16.050 Compensation of trustees.

(1) A trustee of a savings bank shall not directly or indirectly receive any pay or emolument for services as trustee, except as provided in this section.

(2) A trustee may receive, by affirmative vote of a majority of all the trustees, reasonable compensation for (a) attendance at meetings of the board of trustees; (b) service as an officer of the savings bank, provided his or her duties as officer require and receive his or her regular and faithful attendance at the savings bank; (c) service in appraising real property for the savings bank; and (d) service as a member of a committee of the board of trustees: PROVIDED, That a trustee receiving compensation for service as an officer pursuant to (b) shall not receive any additional compensation for service under (a), (c), or (d).

(3) An attorney for a savings bank, although he or she is a trustee thereof, may receive a reasonable compensation for his or her professional services, including examinations and certificates of title to real property on which mortgage loans are made by the savings bank; or if the bank requires the borrowers to pay all expenses of searches, examinations, and certificates of title, including the drawing, perfecting, and recording of papers, such attorney may collect of the

borrower and retain for his or her own use the usual fees for such services, excepting any commissions as broker or on account of placing or accepting such mortgage loans.

(4) All incentive compensation, bonus, or supplemental compensation plans for officers and employees of a savings bank shall be approved by a majority of nonofficer trustees of the savings bank or approved by a committee of not less than three trustees, none of whom shall be officers of the savings bank. No such plan shall permit any officer or employee of a savings bank who has or exercises final authority with regard to any loan or investment to receive any commission on such loan or investment.

(5) If an officer or attorney of a savings bank receives, on any loan made by the bank, any commission which he or she is not authorized by this section to retain for his or her own use, he or she shall immediately pay the same over to the savings bank.

[1999 c 14 § 23; 1985 c 56 § 10; 1957 c 80 § 6; 1955 c 13 § 32.16.050. Prior: 1915 c 175 § 32; RRS § 3361.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.

RCW 32.16.060 Change in number of trustees.

The board of trustees of every savings bank may, by resolution incorporated in its bylaws, increase or reduce the number of trustees named in the original charter or certificate of authorization.

(1) The number may be increased to a number designated in the resolution not exceeding thirty: PROVIDED, That reasons therefor are shown to the satisfaction of the director and his or her written consent thereto is first obtained.

(2) The number may be reduced to a number designated in the resolution but not less than nine. The reduction shall be effected by omissions to fill vacancies occurring in the board.

[1994 c 92 § 329; 1955 c 13 § 32.16.060. Prior: 1915 c 175 § 33; RRS § 3362.]

RCW 32.16.070 Restrictions on trustees.

(1) A trustee of a savings bank shall not, except to the extent permitted for a director of a federal mutual savings bank:

(a) Have any interest, direct or indirect, in the gains or profits of the savings bank, except to receive dividends (i) upon the amounts contributed by him or her to the guaranty fund and the expense fund of the savings bank as provided in RCW 32.08.090 and 32.08.100, and (ii) upon any deposit he or she may have in the bank, the same as any other depositor and under the same regulations and conditions.

(b) Become a member of the board of directors of a bank, trust company, or national banking association of which board enough other trustees of the savings bank are members to constitute with him a majority of the board of trustees.

(2) Neither a trustee nor an officer of a savings bank shall, except to the extent permitted for a director or officer of a federal mutual savings bank:

(a) For himself or herself or as agent or partner of another, directly or indirectly use any of the funds or deposits held by the savings bank, except to make such current and necessary payments as are authorized by the board of trustees.

(b) Receive directly or indirectly and retain for his or her own use any commission on or benefit from any loan made by the savings bank, or any pay or emolument for services rendered to any borrower from the savings bank in connection with such loan, except as authorized by RCW 32.16.050.

(c) Become an indorser, surety, or guarantor, or in any manner an obligor, for any loan made by the savings bank.

(d) For himself or herself or as agent or partner of another, directly or indirectly borrow any of the funds or deposits held by the savings bank, or become the owner of real property upon which the savings bank holds a mortgage. A loan to or a purchase by a corporation in which he or she is a stockholder to the amount of fifteen percent of the total outstanding stock, or in which he or she and other trustees of the savings bank hold stock to the amount of twenty-five percent of the total outstanding stock, shall be deemed a loan to or a purchase by such trustee within the meaning of this section, except when the loan to or purchase by such corporation occurred without his or her knowledge or against his or her protest. A deposit in a bank shall not be deemed a loan within the meaning of this section.

[1994 c 256 § 103; 1955 c 13 § 32.16.070. Prior: 1925 ex.s. c 86 § 12; 1915 c 175 § 34; RRS § 3363.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 32.16.080 Removal of trustees--Vacancies--Eligibility to reelection.

(1) Whenever, in the judgment of three-fourths of the trustees, the conduct and habits of a trustee of any savings bank are of such character as to be injurious to such bank, or he or she has been guilty of acts that are detrimental or hostile to the interests of the bank, he or she may be removed from office, at any regular meeting of the trustees, by the affirmative vote of three-fourths of the total number thereof: PROVIDED, That a written copy of the charges made against him or her has been served upon him or her personally at least two weeks before such meeting, that the vote of such trustees by ayes and noes is entered in the record of the minutes of such meeting, and that such removal receives the written approval of the director which shall be attached to the minutes of such meeting and form a part of the record.

(2) The office of a trustee of a savings bank shall immediately become vacant whenever he or she:

(a) Fails to comply with any of the provisions of RCW 32.16.020 relating to his or her official oath and declaration;

(b) Becomes disqualified for any of the reasons specified in RCW 32.16.010(2);

(c) Has failed to attend the regular meetings of the board of trustees, or to perform any of his or her duties as trustee, for a period of six successive months, unless excused by the board for such failure;

(d) Violates any of the provisions of RCW 32.16.070 imposing restrictions upon trustees

and officers, except subsection (2)(c) thereof.

(3) A trustee who has forfeited or vacated his or her office shall not be eligible to reelection, except when the forfeiture or vacancy occurred solely by reason of his or her:

(a) Failure to comply with the provisions of RCW 32.16.020, relating to his or her official oath and declaration; or

(b) Neglect of his or her official duties as prescribed in subsection (2)(c) of this section; or

(c) Disqualification through becoming a nonresident, or becoming a trustee, officer, clerk or other employee of another savings bank, or becoming a director of a bank, trust company, or national banking association under the circumstances specified in RCW 32.16.070(1)(b) and such disqualification has been removed.

[1994 c 92 § 330; 1955 c 13 § 32.16.080. Prior: 1915 c 175 § 35; RRS § 3364.]

RCW 32.16.090 Removal of trustee, officer, or employee or prohibition from participation in conduct of affairs on objection of the director--Grounds--Notice.

Whenever the director finds that:

(1) Any trustee, officer, or employee of any mutual savings bank has committed or engaged in:

(a) A violation of any law, rule, or cease and desist order which has become final;

(b) Any unsafe or unsound practice in connection with the mutual savings bank; or

(c) Any act, omission, or practice which constitutes a breach of his or her fiduciary duty as trustee, officer, or employee; and

(2) The director determines that:

(a) The mutual savings bank has suffered or may suffer substantial financial loss or other damage; or

(b) The interests of its depositors could be seriously prejudiced by reason of the violation, practice, or breach of fiduciary duty; and

(3) The director determines that the violation, practice, or breach of fiduciary duty is one involving personal dishonesty, recklessness, or incompetence on the part of the trustee, officer, or employee;

Then the director may serve upon the trustee, officer, or employee of any mutual savings bank a written notice of the director's intention to remove the person from office or to prohibit the person from participation in the conduct of the affairs of the mutual savings bank.

[1994 c 92 § 331; 1979 c 46 § 7; 1955 c 13 § 32.16.090. Prior: 1931 c 132 § 2; RRS § 3364a.]

Notes:

Severability--1979 c 46: See note following RCW 32.04.250.

RCW 32.16.093 Notice of intention to remove or prohibit participation in conduct of affairs--Hearing--Order of removal and/or prohibition.

A notice of an intention to remove a trustee, officer, or employee from office or to prohibit his or her participation in the conduct of the affairs of a mutual savings bank shall contain a statement of the facts which constitute grounds therefor and shall fix a time and place at which a hearing will be held. The hearing shall be set not earlier than ten days nor later than thirty days after the date of service of the notice unless an earlier or later date is set by the director at the request of the trustee, officer, or employee for good cause shown or at the request of the attorney general of the state.

Unless the trustee, officer, or employee appears at the hearing personally or by a duly authorized representative, the person shall be deemed to have consented to the issuance of an order of removal or prohibition or both. In the event of such consent or if upon the record made at the hearing the director finds that any of the grounds specified in the notice have been established, the director may issue such orders of removal from office or prohibition from participation in the conduct of the affairs of the mutual savings bank as the director may consider appropriate.

Any order under this section shall become effective at the expiration of ten days after service upon the mutual savings bank and the trustee, officer, or employee concerned except that an order issued upon consent shall become effective at the time specified in the order.

An order shall remain effective except to the extent it is stayed, modified, terminated, or set aside by the director or a reviewing court.

[1994 c 92 § 332; 1979 c 46 § 8.]

Notes:

Severability--1979 c 46: See note following RCW 32.04.250.

Administrative hearings, procedure, orders, and judicial review: RCW 32.04.290.
Jurisdiction of courts as to orders to remove trustee, officer, or employee: RCW 32.04.300.
Violations or unsafe practices, procedure, etc.: RCW 32.04.250 through 32.04.300.

RCW 32.16.095 Removal of trustees--Lack of quorum--Temporary trustees.

If at any time because of the removal of one or more trustees under this chapter there shall be on the board of trustees of a mutual savings bank less than a quorum of trustees, all powers and functions vested in, or exercisable by the board shall vest in, and be exercisable by the trustee or trustees remaining, until such time as there is a quorum on the board of trustees. If all of the trustees of a mutual savings bank are removed under this chapter, the director shall appoint persons to serve temporarily as trustees until such time as their respective successors take office.

[1994 c 92 § 333; 1979 c 46 § 9.]

Notes:

Severability--1979 c 46: See note following RCW 32.04.250.

RCW 32.16.097 Penalty for violation of order issued under RCW 32.16.093.

Any present or former trustee, officer, or employee of a mutual savings bank or any other person against whom there is outstanding an effective final order issued under RCW 32.16.093, which order has been served upon the person, and who, in violation of the order, (1) participates in any manner in the conduct of the affairs of the mutual savings bank involved; or (2) directly or indirectly solicits or procures, transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorizations with respect to any voting rights in the mutual savings bank; or (3) without the prior approval of the director, votes for a trustee or serves or acts as a trustee, officer, employee, or agent of any mutual savings bank, shall be guilty of a gross misdemeanor, and, upon conviction, shall be punishable as prescribed under chapter 9A.20 RCW.

[1994 c 92 § 334; 1979 c 46 § 10.]

Notes:

Severability--1979 c 46: See note following RCW 32.04.250.

RCW 32.16.100 Examination by trustees' committee--Report.

The trustees of every savings bank, by a committee of not less than three of their number, shall at least annually fully examine the records and affairs of such savings bank for the purpose of determining its financial condition. The trustees may employ such assistants as they deem necessary in making the examination. A report of each such examination shall be presented to the board of trustees at a regular meeting within thirty days after the completion of the same, and shall be filed in the records of the savings bank.

[1994 c 256 § 104; 1955 c 13 § 32.16.100. Prior: 1941 c 15 § 5; 1915 c 175 § 38; Rem. Supp. 1941 § 3367.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 32.16.110 Officers.

The board of trustees shall elect from their number, or otherwise, a president and two vice presidents and such other officers as they may deem fit.

[1955 c 13 § 32.16.110. Prior: 1915 c 175 § 30; RRS § 3359.]

RCW 32.16.120 Fidelity bonds.

The trustees of every savings bank shall have power to require from the officers, clerks, and agents thereof such security for their fidelity and the faithful performance of their duties as the trustees deem necessary. Such security may be accepted from any company authorized to furnish fidelity bonds and doing business under the laws of this state, and the premiums therefor may be paid as a necessary expense of the savings bank.

[1955 c 13 § 32.16.120. Prior: 1915 c 175 § 37; RRS § 3366.]

RCW 32.16.130 Conversion of savings and loan association to mutual savings

bank--Director may serve as trustee.

In the event a savings and loan association is converted to a mutual savings bank, any person, who at the time of such conversion was a director of the savings and loan association, may serve as a trustee of the mutual savings bank until he reaches the age of seventy-five years or until one year following the date of conversion of such savings and loan association, whichever is later. The bylaws of any mutual savings bank may modify this provision by requiring earlier retirement of any trustee affected hereby.

[1971 ex.s. c 222 § 2.]

Notes:

Severability--1971 ex.s. c 222: See note following RCW 32.04.085.

RCW 32.16.140 Violations--Director liability.

If the directors of any bank shall knowingly violate, or knowingly permit any of the officers, agents, or servants of the bank to violate any of the provisions of this title or any lawful regulation or directive of the director, and if the directors are aware that such facts and circumstances constitute such violations, then each director who participated in or assented to the violation is personally and individually liable for all damages which the state or any insurer of the deposits sustains due to the violation.

[1994 c 92 § 335; 1989 c 180 § 9.]

Chapter 32.20 RCW
INVESTMENTS

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RCW 32.20.010 Definitions.

The words "mutual savings bank" and "savings bank," whenever used in this chapter, shall mean a mutual savings bank organized and existing under the laws of the state of Washington.

The words "its funds," whenever used in this chapter, shall mean and include moneys deposited with or borrowed by a mutual savings bank, sums credited to the guaranty fund of a

mutual savings bank, and the income derived from such deposits or fund, or both, and the principal balance of any outstanding capital notes, and capital debentures.

[1999 c 14 § 24; 1977 ex.s. c 241 § 2; 1955 c 13 § 32.20.010. Prior: 1929 c 74 § 1; RRS § 3381-1.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.

RCW 32.20.020 Power to invest funds--Restrictions.

A mutual savings bank shall have the power to invest its funds in the manner set forth in chapter 32.08 RCW and in this chapter and not otherwise.

[1999 c 14 § 25; 1955 c 13 § 32.20.020. Prior: 1929 c 74 § 2; RRS § 3381-2.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.

RCW 32.20.030 Bonds or obligations of United States and Canada.

A mutual savings bank may invest its funds in the bonds or obligations of the United States or the Dominion of Canada or those for which the faith of the United States or the Dominion of Canada is pledged to provide for the payment of the interest and principal, including bonds of the District of Columbia: PROVIDED, That in the case of bonds of the Dominion or those for which its faith is pledged the interest and principal is payable in the United States or with exchange to a city in the United States and in lawful money of the United States or its equivalent.

[1955 c 13 § 32.20.030. Prior: 1937 c 95 § 1; 1929 c 74 § 3; 1925 ex.s. c 86 § 2; 1921 c 156 §§ 11, 11a; RRS § 3381-3.]

RCW 32.20.035 Investment trusts or companies.

Except as may be limited by the director by rule, a mutual savings bank may invest its funds in obligations of the United States, as authorized by RCW 32.20.030, either directly or in the form of securities of, or other interests in, an open-end or closed-end management type investment company or investment trust registered under the federal investment company act of 1940, as now or hereafter amended, if both of the following conditions are met:

(1) The portfolio of the investment company or investment trust is limited to obligations of the United States and to repurchase agreements fully collateralized by such obligations; and

(2) The investment company or investment trust takes delivery of the collateral for any repurchase agreement either directly or through an authorized custodian.

[1994 c 92 § 336; 1989 c 97 § 2.]

RCW 32.20.040 Federally insured or secured loans, securities, etc.

A mutual savings bank may invest its funds:

(1) In such loans and advances of credit and purchases of obligations representing loans and advances of credit as are eligible for insurance by the Federal Housing Administrator, and may obtain such insurance.

(2) In such loans secured by mortgage on real property as the Federal Housing Administrator insures or makes a commitment to insure, and may obtain such insurance.

(3) In such other loans or contracts or advances of credit as are insured or guaranteed or which are covered by a repurchase agreement in whole or in part by the United States or through any corporation, administrator, agency or instrumentality which is or hereafter may be created by the United States, and may obtain such insurance or guarantee.

(4) In capital stock, notes, bonds, debentures, or other such obligations of any national mortgage association.

(5) In such loans as are secured by contracts of the United States or any agency or department thereof assigned under the "Assignment of Claims Act of 1940," approved October 9, 1940, and acts amendatory thereof or supplementary thereto, and may participate with others in such loans.

(6) In notes or bonds secured by mortgages issued under sections 500 to 505, inclusive, of Title III of the Servicemen's Readjustment Act of 1944 (Public Law 346, 78th congress), and any amendments thereto, and the regulations, orders or rulings promulgated thereunder.

No law of this state prescribing the nature, amount, or form of security or requiring security or prescribing or limiting interest rates or prescribing or limiting the term, shall be deemed to apply to loans, contracts, advances of credit or purchases made pursuant to the foregoing subdivisions (1), (2), (3), (4), (5), and (6).

[1963 c 176 § 5; 1955 c 13 § 32.20.040. Prior: 1945 c 228 § 1; 1941 c 15 § 6; 1939 c 33 § 1; 1935 c 10 § 1; 1929 c 74 § 3a; Rem. Supp. 1945 § 3381-3a.]

RCW 32.20.045 Obligations of corporations created as federal agency or instrumentality.

A mutual savings bank may invest its funds in capital stock, notes, bonds, debentures, or other such obligations of any corporation which is or hereafter may be created by the United States as a governmental agency or instrumentality: PROVIDED, That the total amount a mutual savings bank may invest pursuant to this section shall not exceed fifteen percent of the funds of such savings bank: PROVIDED FURTHER, That the amounts heretofore or hereafter invested by a mutual savings bank pursuant to any law of this state other than this section, even if such investment might also be authorized under this section, shall not be limited by the provisions of this section and amounts so invested pursuant to any such other law of this state shall not be included in computing the maximum amount which may be invested pursuant to this section.

[1967 c 145 § 4; 1957 c 80 § 10.]

RCW 32.20.047 Stock of small business investment companies regulated by United States.

A savings bank may purchase and hold for its own investment account stock in small business investment companies licensed and regulated by the United States, as authorized by the Small Business Act, Public Law 85-536, 72 Statutes at Large 384, in an amount not to exceed one percent of the guaranty fund of such mutual savings bank.

[1959 c 185 § 2.]

RCW 32.20.050 Bonds of state of Washington and its agencies.

A mutual savings bank may invest its funds in the bonds or interest bearing obligations of this state, or any agency thereof, issued pursuant to the authority of any law of this state, whether such bonds or interest bearing obligations are general or limited obligations of the state or such agency.

[1955 c 13 § 32.20.050. Prior: 1953 c 238 § 4; 1929 c 74 § 9; 1921 c 156 § 11b; RRS § 3381-4.]

RCW 32.20.060 Bonds of other states.

A mutual savings bank may invest its funds in the bonds or obligations of any other state of the United States upon which there is no default.

[1955 c 13 § 32.20.060. Prior: 1937 c 95 § 2; 1929 c 74 § 5; 1921 c 156 § 11c; RRS § 3381-5.]

RCW 32.20.070 Bonds and warrants of counties, municipalities, etc., of Washington.

A mutual savings bank may invest its funds in the valid warrants or bonds of any county, city, town, school district, port district, water-sewer district, or other municipal corporation in the state of Washington issued pursuant to law and for the payment of which the faith and credit of such county, municipality, or district is pledged and taxes are leviable upon all taxable property within its limits.

A mutual savings bank may invest its funds in the water revenue, sewer revenue, or electric revenue bonds of any city or public utility district of this state for the payment of which the entire revenue of the city's or district's water system, sewer system, or electric system, less maintenance and operating costs, is irrevocably pledged.

[1999 c 153 § 26; 1955 c 13 § 32.20.070. Prior: 1941 c 15 § 7; 1937 c 95 § 3; 1929 c 74 § 6; 1925 ex.s. c 86 § 3; 1921 c 156 § 11d; Rem. Supp. 1941 § 3381-6.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

RCW 32.20.080 Municipal bonds in adjoining state.

A mutual savings bank may invest its funds in the valid bonds of any incorporated city having a population in excess of three thousand inhabitants as shown by the last decennial

federal census or of any county or school district situated in one of the states of the United States which adjoins the state of Washington: PROVIDED, That the indebtedness of such city or school district, together with the indebtedness of any other district or other municipal corporation or subdivision (except a county) which is wholly or in part included within the boundaries or limits of the city or school district, less its water debt and sinking fund, does not exceed twelve percent, or the indebtedness of the county less its sinking fund does not exceed seven percent, of the valuation thereof for the purposes of taxation.

[1955 c 13 § 32.20.080. Prior: 1937 c 95 § 4; 1929 c 74 § 7; 1925 ex.s. c 86 § 4; 1921 c 156 § 11e; RRS § 3381-7.]

RCW 32.20.090 Housing and industrial development bonds and municipal obligations in any state.

A mutual savings bank may invest in housing or industrial development bonds or municipal obligations issued by a state, county, parish, borough, city, or district situated in the United States, or by any instrumentality thereof, provided such bonds or obligations at the time of purchase are prudent investments.

[1985 c 56 § 11; 1955 c 13 § 32.20.090. Prior: 1937 c 95 § 5; 1929 c 74 § 8; 1921 c 156 § 11f; RRS § 3381-8.]

RCW 32.20.100 Revenue bonds of certain cities in any state.

A mutual savings bank may invest its funds in the water revenue or electric revenue bonds of any incorporated city situated in the United States: PROVIDED, That the city has a population as shown by the last decennial federal census of at least forty-five thousand inhabitants, and the entire revenue of the city's water or electric system less maintenance and operating costs is irrevocably pledged to the payment of the interest and principal of the bonds.

[1955 c 13 § 32.20.100. Prior: 1941 c 15 § 8; 1937 c 95 § 6; Rem. Supp. 1941 § 3381-8a.]

RCW 32.20.110 District bonds secured by taxing power.

A mutual savings bank may invest its funds in the bonds of any port district, sanitary district, water-sewer district, tunnel district, bridge district, flood control district, park district, or highway district in the United States which has a population as shown by the last decennial federal census of not less than one hundred fifty thousand inhabitants, and has taxable real property with an assessed valuation in excess of two hundred million dollars and has power to levy taxes on the taxable real property therein for the payment of the bonds without limitation of rate or amount.

[1999 c 153 § 27; 1955 c 13 § 32.20.110. Prior: 1937 c 95 § 7; RRS § 3381-8b.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

RCW 32.20.120 Local improvement district bonds.

A mutual savings bank may invest not to exceed fifteen percent of its funds in the bonds or warrants of any local improvement district of any city or town of this state (except bonds or warrants issued for an improvement consisting of grading only), unless the total indebtedness of the district after the completion of the improvement for which the bonds or warrants are issued, plus the amount of all other assessments of a local or special nature against the land assessed or liable to be assessed to pay the bonds, exceed fifty percent of the value of the benefited property, exclusive of improvements, at the time the bonds or warrants are purchased or taken by the bank, according to the actual valuation last placed upon the property for general taxation.

Before any such bonds or warrants are purchased or taken as security the condition of the district's affairs shall be ascertained and the property of the district examined by at least two members of the board of investment who shall report in writing their findings and recommendations; and no bonds or warrants shall be taken unless such report is favorable, nor unless the executive committee of the board of trustees after careful investigation is satisfied of the validity of the bonds or warrants and of the validity and sufficiency of the assessment or other means provided for payment thereof: PROVIDED, That, excepting bonds issued by local improvement districts in cities of the first or second class, for improvements ordered after June 7, 1927, no local improvement district bonds falling within the twenty-five percent in amount of any issue last callable for payment, shall be acquired or taken as security.

[1955 c 13 § 32.20.120. Prior: 1953 c 238 § 5; 1929 c 74 § 9; 1921 c 156 § 11h; RRS § 3381-9.]

RCW 32.20.130 Bonds of irrigation, diking, drainage districts.

A mutual savings bank may invest not to exceed five percent of its funds in the bonds of any irrigation, diking, drainage, diking improvement, or drainage improvement district of this state, unless the total indebtedness of the district after the completion of the improvement for which the bonds are issued, plus the amount of all other assessments of a local or special nature against the land assessed or liable to be assessed to pay the bonds, exceeds forty percent of the value of the benefited property, exclusive of improvements, at the time the bonds are purchased or taken by the bank, according to the actual valuation last placed upon the property for general taxation.

Before any such bonds are purchased or taken as security the condition of the district's affairs shall be ascertained and the property of the district examined by at least two members of the board of investment of the mutual savings bank, who shall report in writing their findings and recommendations; and no bonds shall be taken unless such report is favorable, nor unless the executive committee of the board of trustees after careful investigation is satisfied of the validity of the bonds and of the sufficiency of the assessment or other means provided for payment thereof: PROVIDED, That no mutual savings bank shall invest a sum greater than three percent of its funds, or, in any event, more than three hundred thousand dollars, in the bonds of any one district described in this section.

[1955 c 13 § 32.20.130. Prior: 1929 c 74 § 10; 1921 c 156 § 11h; RRS § 3381-10.]

RCW 32.20.210 Obligations of International Bank for Reconstruction and Development.

A mutual savings bank may invest not to exceed five percent of its funds in interest bearing obligations of the International Bank for Reconstruction and Development.

[1955 c 13 § 32.20.210. Prior: 1949 c 119 § 3; Rem. Supp. 1949 § 3381-16b.]

RCW 32.20.215 Obligations issued or guaranteed by Inter-American Development Bank.

A mutual savings bank may invest not to exceed five percent of its funds in obligations issued or guaranteed by the Inter-American Development Bank.

[1963 c 176 § 14.]

RCW 32.20.217 Obligations of Asian Development Bank.

A mutual savings bank may invest not to exceed five percent of its funds in obligations issued or guaranteed by the Asian Development Bank.

[1971 ex.s. c 222 § 7.]

Notes:

Severability--1971 ex.s. c 222: See note following RCW 32.04.085.

RCW 32.20.219 Obligations issued or guaranteed by African Development Bank or other multilateral development bank.

A mutual savings bank may invest not to exceed five percent of its funds in obligations issued or guaranteed by the African Development Bank or in obligations issued or guaranteed by any multilateral development bank in which the United States government formally participates.

[1985 c 301 § 1.]

RCW 32.20.220 Bankers' acceptances, bills of exchange, and commercial paper.

A mutual savings bank may invest not to exceed twenty percent of its funds in the following:

(1) Bankers' acceptances, and bills of exchange made eligible by law for rediscount with federal reserve banks, provided the same are accepted by a bank or trust company which is a member of the federal reserve system and which has a capital and surplus of not less than two million dollars, or commercial paper which is a prudent investment.

(2) Bills of exchange drawn by the seller on the purchaser of goods and accepted by such purchaser, of the kind made eligible by law for rediscount with federal reserve banks, provided the same are indorsed by a bank or trust company which is a member of the federal reserve

system and which has a capital and surplus of not less than two million dollars.

The aggregate amount of the liability of any bank or trust company to any mutual savings bank, whether as principal or indorser, for acceptances held by such savings bank and deposits made with it, shall not exceed twenty-five percent of the paid up capital and surplus of such bank or trust company, and not more than five percent of the funds of any mutual savings bank shall be invested in the acceptances of or deposited with a bank or trust company of which a trustee of such mutual savings bank is a director.

[1985 c 56 § 12; 1955 c 13 § 32.20.220. Prior: 1929 c 74 § 17; RRS § 3381-17.]

RCW 32.20.230 Notes secured by investments.

A mutual savings bank may invest its funds in promissory notes payable to the order of the savings bank, secured by the pledge or assignment of investments lawfully purchasable by a savings bank. No such loan shall exceed ninety percent of the cash market value of such investments so pledged. Should any of the investments so held in pledge depreciate in value after the making of such loan, the savings bank shall require an immediate payment of such loan, or of a part thereof, or additional security therefor, so that the amount loaned thereon shall at no time exceed ninety percent of the market value of the investments so pledged for such loan.

[1969 c 55 § 5; 1963 c 176 § 6; 1955 c 13 § 32.20.230. Prior: 1945 c 228 § 2; 1929 c 74 § 18; Rem. Supp. 1945 § 3381-18.]

Notes:
Interest and usury in general: Chapter 19.52 RCW.

RCW 32.20.240 Notes secured by pledge or assignment of account.

A mutual savings bank may invest its funds in promissory notes made payable to the order of the savings bank, secured by the pledge or assignment of the account of the mutual savings bank as collateral security for the payment thereof. No such loan shall exceed the balance due the holder of such account.

[1967 c 145 § 5; 1955 c 13 § 32.20.240. Prior: 1945 c 228 § 3; 1929 c 74 § 19; 1921 c 156 § 11m; Rem. Supp. 1945 § 3381-19.]

Notes:
Interest and usury in general: Chapter 19.52 RCW.

RCW 32.20.253 Loans secured by real estate, mobile homes, movable buildings.

A mutual savings bank may invest its funds in loans secured by real estate or on the security of mobile homes or other movable buildings or any interest or estate in any of the foregoing. Such loans may be on such terms and conditions and subject to such limitations and restrictions as the board of trustees shall from time to time establish.

[1981 c 86 § 14.]

Notes:

Severability--1981 c 86: See note following RCW 32.08.140.

RCW 32.20.265 Valuation of property to be mortgaged--Appraiser's opinion.

When, under any provision of this title, a written report is required of members of the board of investment of a mutual savings bank certifying according to their best judgment the value of any property to be mortgaged such value may be determined upon the signed opinion in writing of an appraiser appointed by the board of trustees of such bank.

[1957 c 80 § 9.]

RCW 32.20.280 Investments in real estate.

A mutual savings bank may invest its funds in real estate as follows:

(1) A tract of land whereon there is or may be erected a building or buildings suitable for the convenient transaction of the business of the savings bank, from portions of which not required for its own use revenue may be derived: PROVIDED, That the cost of the land and building or buildings for the transaction of the business of the savings bank shall in no case exceed fifty percent of the guaranty fund, undivided profits, reserves, and subordinated securities of the savings bank, except with the approval of the director; and before the purchase of such property is made, or the erection of a building or buildings is commenced, the estimate of the cost thereof, and the cost of the completion of the building or buildings, shall be submitted to and approved by the director. "The cost of the land and building or buildings" means the amounts paid or expended therefor less the reasonable depreciation thereof taken by the bank against such improvements during the time they were held by the bank.

(2) Such lands as shall be conveyed to the savings bank in satisfaction of debts previously contracted in the course of its business.

(3) Such lands as the savings bank shall purchase at sales under judgments, decrees, or mortgages held by it.

All real estate purchased by any such savings bank, or taken by it in satisfaction of debts due it, under this section, shall be conveyed to it directly by name, or in the name of a corporation all of the stock of which is owned by the bank, or in such other manner as the bank shall determine to be in the best interest of the bank, and the conveyance shall be immediately recorded in the office of the proper recording officer of the county in which such real estate is situated.

(4) Every parcel of real estate purchased or acquired by a savings bank under subsections (2) and (3) of this section, shall be sold by it within five years from the date on which it was purchased or acquired, or in case it was acquired subject to a right of redemption, within five years from the date on which the right of redemption expires, unless:

(a) There is a building thereon occupied by the savings bank and its offices,

(b) The director, on application of the board of trustees of the savings bank, extends the time within which such sale shall be made, or

(c) The property is held by the bank as an investment under the provisions of RCW 32.20.285, as now or hereafter amended.

[1994 c 92 § 337; 1981 c 86 § 4; 1973 1st ex.s. c 31 § 6; 1969 c 55 § 7; 1955 c 13 § 32.20.280. Prior: 1929 c 74 § 22; 1921 c 156 § 110; 1915 c 175 § 12; RRS § 3381-22.]

Notes:

Severability--1981 c 86: See note following RCW 32.08.140.

Construction--1973 1st ex.s. c 31: See RCW 32.20.500.

RCW 32.20.285 Investments through purchase of real estate--Improvements.

A mutual savings bank may invest its funds in such real estate, improved or unimproved, and its fixtures and equipment, as the savings bank shall purchase either alone or with others or through ownership of interests in entities holding such real estate. The savings bank may improve property which it owns, and rent, lease, sell, and otherwise deal in such property, the same as any other owner thereof. The total amount a mutual savings bank may invest pursuant to this section shall not exceed twenty percent of its funds. No officer or trustee of the bank shall own or hold any interest in any property in which the bank owns an interest, and in the event the bank owns an interest in property hereunder with or as a part of another entity, no officer or trustee of the bank shall own more than two and one-half percent of the equity or stock of any entity involved, and all of the officers and trustees of the bank shall not own more than five percent of the equity or stock of any entity involved.

[1981 c 86 § 5; 1969 c 55 § 15.]

Notes:

Severability--1981 c 86: See note following RCW 32.08.140.

RCW 32.20.300 Home loan bank as depositary.

See RCW 30.32.040.

RCW 32.20.310 Deposit of securities.

A savings bank may deposit securities owned by it, for safekeeping, with any duly designated depositary for the bank's funds. The written statement of the depositary that it holds for safekeeping specified securities of a savings bank may be taken as evidence of the facts therein shown by any public officer or any officer of the bank or committee of its trustees whose duty it is to examine the affairs and assets of the bank.

[1955 c 13 § 32.20.310. Prior: 1929 c 74 § 24; 1927 c 184 § 4; RRS § 3381-24.]

RCW 32.20.320 Investment of funds.

The trustees of every savings bank shall as soon as practicable invest the moneys deposited with it in the securities prescribed in this title.

The purchase by a savings bank of a negotiable certificate of deposit or similar security issued by a bank need not be considered a deposit if the certificate or security is eligible for investment by a savings bank under any other provision of this title.

[1969 c 55 § 8; 1955 c 13 § 32.20.320. Prior: 1929 c 74 § 25; 1925 ex.s. c 86 § 11; 1915 c 175 § 20; RRS § 3381-25.]

RCW 32.20.330 Investments--Loans, preferred stock, or interest-bearing obligations--Restrictions.

A mutual savings bank may invest in loans to sole proprietorships, partnerships, limited liability companies, corporations, or other entities, or in preferred stock or discounted or other interest bearing obligations issued, guaranteed, or assumed by limited liability companies or corporations commonly accepted as industrial corporations or engaged in communications, transportation, agriculture, furnishing utility professional services, manufacturing, construction, mining, fishing, processing or merchandising of goods, food, or information, banking, or commercial or consumer financing, doing business or incorporated under the laws of the United States, or any state thereof, or the District of Columbia, or the Dominion of Canada, or any province thereof, subject to the following conditions:

(1) Not more than two percent of the bank's funds shall be invested, pursuant to this section, in the aggregate of loans to and preferred stock and obligations of any person, as defined in RCW 32.32.228(1)(c), and such person's affiliates, as defined in RCW 32.32.025(1), incorporating the definition of control in RCW 32.32.025(8).

(2) Such loans or securities shall be prudent investments.

(3) Pursuant to this section, the total amount a savings bank may invest shall not exceed fifty percent of its funds, and not more than fifteen percent of the bank's funds may be invested in such loans to or securities of any industry.

[1999 c 14 § 26; 1985 c 56 § 13; 1973 1st ex.s. c 31 § 7; 1971 ex.s. c 222 § 6; 1955 c 80 § 6.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.
Construction--1973 1st ex.s. c 31: See RCW 32.20.500.
Severability--1971 ex.s. c 222: See note following RCW 32.04.085.

RCW 32.20.335 Investments--Qualified thrift investments.

A mutual savings bank may invest in loans or securities that are qualified thrift investments for a savings association subject to the limits specified in 12 U.S.C. Sec. 1467a(m).

[1999 c 14 § 27.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.

RCW 32.20.340 Stock or bonds of federal home loan bank.

See RCW 30.32.020.

RCW 32.20.350 Stock of federal reserve bank or Federal Deposit Insurance Corporation.

See RCW 30.32.010.

RCW 32.20.360 Investment in safe deposit corporation authorized.

See RCW 30.04.122.

RCW 32.20.361 Capital stock of banking service corporations.

See RCW 30.04.128.

RCW 32.20.370 Corporate bonds and other interest-bearing or discounted obligations.

A mutual savings bank may invest its funds in bonds or other interest bearing or discounted obligations of corporations not otherwise eligible for investment by the savings bank which are prudent investments for such bank in the opinion of its board of trustees or of a committee thereof whose action is ratified by such board at its regular meeting next following such investment. The total amount a mutual savings bank may invest pursuant to this section shall not exceed ten percent of its funds.

[1977 ex.s. c 104 § 5; 1967 c 145 § 9; 1959 c 41 § 6.]

RCW 32.20.380 Stocks, securities, of corporations not otherwise eligible for investment.

A mutual savings bank may invest its funds in stocks or other securities of corporations not otherwise eligible for investment by the savings bank which are prudent investments for the bank in the opinion of its board of trustees or of a committee thereof whose action is ratified by the board at its regular meeting next following the investment. The total amount a mutual savings bank may invest pursuant to this section shall not exceed fifty percent of the total of its guaranty fund, undivided profits, and unallocated reserves, or five percent of its deposits, whichever is less.

[1981 c 86 § 6; 1963 c 176 § 16.]

Notes:

Severability--1981 c 86: See note following RCW 32.08.140.

RCW 32.20.390 Obligations of corporations or associations federally authorized to

insure or market real estate mortgages--Loans, etc., eligible for insurance.

A mutual savings bank may invest its funds:

(1) In capital stock, notes, bonds, debentures, participating certificates, and other obligations of any corporation or association which is or hereafter may be created pursuant to any law of the United States for the purpose of insuring or marketing real estate mortgages: PROVIDED, That the amount a mutual savings bank may invest in the capital stock of any one such corporation shall not exceed five percent of the funds of the mutual savings bank and the total amount it may invest in capital stock pursuant to this subsection (1) shall not exceed ten percent of the funds of the mutual savings bank.

(2) In such loans, advances of credit, participating certificates, and purchases of obligations representing loans and advances of credit as are eligible for insurance by any corporation or association which is or hereafter may be created pursuant to any law of the United States for the purpose of insuring real estate mortgages. The bank may do all acts necessary or appropriate to obtain such insurance. No law of this state prescribing the nature, amount, or form of security, or prescribing or limiting the period for which loans or advances of credit may be made shall apply to loans, advances of credit, or purchases made pursuant to this subsection (2).

[1963 c 176 § 17.]

RCW 32.20.400 Loans for home or property repairs, alterations, appliances, improvements, additions, furnishings, underground utilities, education or nonbusiness family purposes.

A mutual savings bank may invest not to exceed twenty percent of its funds pursuant to this section in loans for home or property repairs, alterations, appliances, improvements, or additions, home furnishings, for installation of underground utilities, for educational purposes, or for nonbusiness family purposes: PROVIDED, That the application therefor shall state that the proceeds are to be used for one of the above purposes.

[1999 c 14 § 28; 1981 c 86 § 7; 1977 ex.s. c 104 § 6; 1969 c 55 § 9; 1967 c 145 § 10; 1963 c 176 § 18.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.

Severability--1981 c 86: See note following RCW 32.08.140.

RCW 32.20.410 Limitation of total investment in certain obligations.

The aggregate total amount a mutual savings bank may invest in the following shall not exceed the sum of eighty-five percent of its funds and one hundred percent of its borrowings as permitted under RCW 32.08.140, as now or hereafter amended and RCW 32.08.190, as now or hereafter amended:

(1) Mortgages upon real estate and participations therein;

(2) Contracts for the sale of realty;

(3) Mortgages upon leasehold estates; and

(4) Notes secured by pledges or assignments of first mortgages or real estate contracts.

The limitation of this section shall not apply to GNMA certificates, mortgage backed bonds, mortgage passthrough certificates or other similar securities purchased or held by the bank.

[1981 c 86 § 8; 1977 ex.s. c 104 § 7; 1969 c 55 § 10; 1963 c 176 § 19.]

Notes:

Severability--1981 c 86: See note following RCW 32.08.140.

RCW 32.20.415 Limitation on certain secured and unsecured loans.

In addition to all other investments and loans authorized for mutual savings banks in this state, a mutual savings bank may invest not more than twenty percent of its funds in secured or unsecured loans on such terms and conditions as the bank may determine.

[1981 c 86 § 15.]

Notes:

Severability--1981 c 86: See note following RCW 32.08.140.

RCW 32.20.430 Loans to banks or trust companies.

A mutual savings bank may invest its funds in loans to banks or trust companies which mature on the next business day following the day of making such loan. The loans may be evidenced by any writing or ledger entries deemed adequate by the mutual savings bank and may be secured or unsecured. The loans made hereunder are payable on the same basis as are regular deposits in such banks, and therefore the transactions may be characterized for accounting and statement purposes and carried on the books of the mutual savings bank as either a deposit with or a loan to the bank.

[1971 ex.s. c 222 § 3.]

Notes:

Severability--1971 ex.s. c 222: See note following RCW 32.04.085.

RCW 32.20.440 Purchase of United States securities from banks or trust companies.

A mutual savings bank may invest its funds in the purchase of United States government securities from a bank or trust company, subject to the selling bank's or trust company's agreement to repurchase such securities on the business day next following their purchase by the mutual savings bank. The securities may be purchased at par, or at a premium or discount, as the mutual savings bank may agree, and may be characterized for accounting and statement purposes and carried on the books of the mutual savings bank as such securities to the extent of their market value, and as due from such banks or trust companies to the extent that the repurchase price agreed to be paid exceeds such market value.

[1971 ex.s. c 222 § 4.]

Notes:

Severability--1971 ex.s. c 222: See note following RCW 32.04.085.

RCW 32.20.445 Stock, other securities, and obligations of federally insured institutions.

A savings bank may invest its funds in the stock and other securities and obligations of a savings or banking institution or holding company thereof if the deposits of the savings or banking institution are insured by the federal deposit insurance corporation or any other federal instrumentalities established to carry on substantially the same functions as such corporations.

[1999 c 14 § 29; 1989 c 180 § 8.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.

RCW 32.20.450 Low-cost housing--Legislative finding.

The legislature finds there is a shortage of adequate housing in a suitable environment in many parts of this state for people of modest means, which shortage adversely affects the public in general and the mutual savings banks of this state and their depositors. The legislature further finds that the making of loans or investments to alleviate this problem which may provide a less than market rate of return and entail a higher degree of risk than might otherwise be acceptable, will benefit this state, the banks, and their depositors.

[1973 1st ex.s. c 31 § 1.]

Notes:

Construction--1973 1st ex.s. c 31: See RCW 32.20.500.

RCW 32.20.460 Low-cost housing--Factory built housing--Mobile homes.

In addition to the portions of its funds permitted to be invested in real estate loans under RCW 32.20.410, a mutual savings bank may invest not to exceed fifteen percent of its funds in loans and investments as follows:

(1) Loans for the rehabilitation, remodeling, or expansion of existing housing.

(2) Loans in connection with, or participation in:

(a) Housing programs of any agency of federal, state, or local government; and

(b) Housing programs of any nonprofit, union, community, public, or quasi-public corporation or entity.

Such housing must be made available to all without regard to race, creed, sex, color, or national origin.

(3) Loans for purchasing or constructing factory built housing, including but not limited

to mobile homes. The bank shall determine the amount, security, and repayment basis which it considers prudent for the loans.

(4) In mobile home chattel paper which finances the acquisition of inventory by a mobile home dealer if the inventory is to be held for sale in the ordinary course of business by the mobile home dealer, the monetary obligation evidenced by such chattel paper is the obligation of the mobile home dealer and the amount thereof does not exceed the amount allowed to be loaned on such mobile homes under subsection (3) of this section.

[1981 c 86 § 9; 1977 ex.s. c 104 § 9; 1973 1st ex.s. c 31 § 2.]

Notes:

Severability--1981 c 86: See note following RCW 32.08.140.

Construction--1973 1st ex.s. c 31: See RCW 32.20.500.

RCW 32.20.470 Improvement of private land for public parks and recreation areas.

Subject to the limits hereinafter set forth, a mutual savings bank may expend its funds for the improvement for public use of privately owned land as parks or recreation areas, including but not limited to "vest pocket" parks, provided that the owner of such land will:

(1) Permit public use thereof for a period of at least eighteen months or for such longer period and subject to such other requirements as the bank may impose; and

(2) At or before the end of public use, permit the removal of all such improvements which in the bank's judgment reasonably may be accomplished.

As used in this section, "public use" means use without regard to race, creed, sex, color, or national origin. The amount expended hereunder and under RCW 32.12.070(2)(d) in any calendar year shall not exceed one-half of one percent of the net earnings of bank for the preceding year.

[1973 1st ex.s. c 31 § 3.]

Notes:

Construction--1973 1st ex.s. c 31: See RCW 32.20.500.

RCW 32.20.480 Loans or investments to provide adequate housing and environmental improvements--Criteria--Restrictions.

Loans or investments made under *this 1973 amendatory act may provide a less than market rate of return and entail a higher degree of risk than might otherwise be acceptable to the general market, so long as the board of trustees of the bank determines the loan or investment may be beneficial to the community where made, without the need to show a direct corporate benefit, and so long as any private individual who benefits is not, and is not related to any person who is, an officer, employee, or trustee of the bank. It is hereby recognized that the mutual savings banks of the state of Washington and their depositors are affected adversely by the absence of adequate low-cost housing and environmental developments and improvements within the communities they serve and the state of Washington.

The amount a mutual savings bank may invest under *this 1973 amendatory act during any twelve month period at less than a market rate of return shall not exceed two percent of the total principal amount of all real estate loans made by the bank during the preceding twelve months.

[1973 1st ex.s. c 31 § 4.]

Notes:

***Reviser's note:** "This 1973 amendatory act" consists of the enactment of RCW 32.20.450, 32.20.460, 32.20.470, 32.20.480, 32.20.490, and 32.20.500 and the amendments to RCW 32.20.280 and 32.20.330 by 1973 1st ex.s. c 31.

Construction--1973 1st ex.s. c 31: See RCW 32.20.500.

RCW 32.20.500 Construction--1973 1st ex.s. c 31.

The powers granted by *this 1973 amendatory act are in addition to and not in limitation of the powers conferred upon a mutual savings bank by other provisions of law.

[1973 1st ex.s. c 31 § 8.]

Notes:

***Reviser's note:** For "this 1973 amendatory act," see note following RCW 32.20.480.

Chapter 32.24 RCW
INSOLVENCY AND LIQUIDATION

Sections

32.24.010 Liquidation of solvent bank.
32.24.020 Procedure to liquidate and dissolve.
32.24.030 Transfer of assets and liabilities to another bank.
32.24.040 Unsafe practices--Notice to correct.
32.24.050 Liquidation of bank in unsound condition or insolvent.
32.24.060 Possession by director--Bank may contest.
32.24.070 Receiver prohibited except in emergency.
32.24.080 Transfer of assets when insolvent--Penalty.
32.24.090 Federal deposit insurance corporation as receiver or liquidator--Appointment--Powers and duties.
32.24.100 Payment or acquisition of deposit liabilities by federal deposit insurance corporation--Not hindered by judicial review--Liability.

RCW 32.24.010 Liquidation of solvent bank.

If the trustees of any solvent mutual savings bank deem it necessary or expedient to close the business of such bank, they may, by affirmative vote of not less than two-thirds of the whole number of trustees, at a meeting called for that purpose, of which one month's notice has been given, either personally or by mailing such notice to the post office address of each trustee, declare by resolution their determination to close such business and pay the moneys due

depositors and creditors and to surrender the corporate franchise. Subject to the approval and under the direction of the director, such savings bank may adopt any lawful plan for closing up its affairs, as nearly as may be in accordance with the original plan and objects.

[1994 c 92 § 339; 1955 c 13 § 32.24.010. Prior: 1915 c 175 § 45; RRS § 3374.]

RCW 32.24.020 Procedure to liquidate and dissolve.

When the trustees, acting under the provisions of RCW 32.24.010, have paid the sums due respectively to all creditors and depositors, who, after such notice as the director shall prescribe, claim the money due and their deposits, the trustees shall make a transcript or statement from the books in the bank of the names of all depositors and creditors who have not claimed or have not received the balance of the credit due them, and of the sums due them, respectively, and shall file such transcript with the director and pay over and transfer all such unclaimed and unpaid deposits, credits, and moneys to the director. The trustees shall then report their proceedings, duly verified, to the superior court of the county wherein the bank is located, and upon such report and the petition of the trustees, and after notice to the attorney general and the director, and such other notice as the court may deem necessary, the court shall adjudge the franchise surrendered and the existence of the corporation terminated. Certified copies of the judgment shall be filed in the offices of the secretary of state and the director and shall be recorded in the office of the secretary of state.

[1994 c 92 § 340; 1981 c 302 § 29; 1955 c 13 § 32.24.020. Prior: 1931 c 132 § 4; 1915 c 175 § 46; RRS § 3375.]

Notes:

Severability--1981 c 302: See note following RCW 19.76.100.

RCW 32.24.030 Transfer of assets and liabilities to another bank.

An unconverted mutual savings bank may for the purpose of consolidation, acquisition, pooling of assets, merger, or voluntary liquidation arrange for its assets and liabilities to become assets and liabilities of another mutual savings bank, by the affirmative vote or with the written consent of two-thirds of the whole number of its trustees, but only with the written consent of the director and upon such terms and conditions as he or she may prescribe.

Upon any such transfer being made, or upon the liquidation of any such mutual savings bank for any cause whatever, or upon its being no longer engaged in the business of a mutual savings bank, the director shall terminate its certificate of authority, which shall not thereafter be revived or renewed. When the certificate of authority of any such corporation has been revoked, it shall forthwith collect and distribute its remaining assets, and when that is done, the director shall certify the fact to the secretary of state, whereupon the corporation shall cease to exist and the secretary of state shall note the fact upon his or her records.

In case of the consolidation with or voluntary liquidation of a mutual savings bank by another mutual savings bank, as herein provided, any sums advanced by its incorporators, or others, to create or maintain its guaranty fund or its expense fund shall not be liabilities of such

mutual savings bank unless the mutual savings bank, so assuming its liabilities shall specifically undertake to pay the same, or a stated portion thereof.

[1994 c 92 § 341; 1985 c 56 § 14; 1955 c 13 § 32.24.030. Prior: 1931 c 132 § 5; RRS § 3375a.]

RCW 32.24.040 Unsafe practices--Notice to correct.

Whenever it appears to the director that any mutual savings bank is conducting its business in an unsafe manner or that it refuses to submit its books, papers, or concerns to lawful inspection, or that any trustee or officer thereof refuses to submit to examination on oath touching its concerns, or that it has failed to carry out any authorized order or direction of the director, such director may give notice to the mutual savings bank so offending or delinquent or whose trustee or officer is thus offending or delinquent to correct such offense or delinquency, and if the mutual savings bank fails to comply with the terms of such notice within thirty days from the date of its issuance, or within such further time as the director may allow, then the director may take possession of such mutual savings bank as in the case of insolvency.

[1994 c 92 § 342; 1955 c 13 § 32.24.040. Prior: 1931 c 132 § 6; RRS § 3375b.]

RCW 32.24.050 Liquidation of bank in unsound condition or insolvent.

Whenever it appears to the director that any offense or delinquency referred to in RCW 32.24.040 renders a mutual savings bank in an unsound or unsafe condition to continue its business, or that it has suspended payment of its obligations, or is insolvent, such director may take possession thereof without notice.

Upon taking possession of any mutual savings bank, the director shall forthwith proceed to liquidate the business, affairs, and assets thereof and such liquidation shall be had in accordance with the provisions of law governing the liquidation of insolvent banks and trust companies.

[1994 c 92 § 343; 1955 c 13 § 32.24.050. Prior: 1931 c 132 § 7; RRS § 3375c.]

RCW 32.24.060 Possession by director--Bank may contest.

Within ten days after the director takes possession thereof, a mutual savings bank may serve notice upon such director to appear before the superior court in the county wherein such corporation is located, at a time to be fixed by said court, which shall not be less than five nor more than fifteen days from the date of the service of such notice, to show cause why such corporation should not be restored to the possession of its assets. Upon the return day of such notice, or such further day as the matter may be continued to, the court shall summarily hear said cause and shall dismiss the same, if it finds that possession was taken by the director in good faith and for cause, but if it finds that no cause existed for the taking possession of such corporation, it shall require the director to restore the bank to the possession of its assets and enjoin him or her from further interference therewith without cause.

[1994 c 92 § 344; 1955 c 13 § 32.24.060. Prior: 1931 c 132 § 8; RRS § 3375d.]

RCW 32.24.070 Receiver prohibited except in emergency.

No receiver shall be appointed by any court for any mutual savings bank, nor shall any assignment of any such bank for the benefit of creditors be valid, excepting only that a court otherwise having jurisdiction may in case of imminent necessity appoint a temporary receiver to take possession of and preserve the assets of the mutual savings bank. Immediately upon any such appointment, the clerk of the court shall notify the director by telegram and mail of such appointment and the director shall forthwith take possession of the mutual savings bank, as in case of insolvency, and the temporary receiver shall upon demand of the director surrender up to him or her such possession and all assets which have come into his or her hands. The director shall in due course pay such receiver out of the assets of the mutual savings bank such amount as the court shall allow.

[1994 c 92 § 345; 1955 c 13 § 32.24.070. Prior: 1931 c 132 § 9; RRS § 3375e.]

RCW 32.24.080 Transfer of assets when insolvent--Penalty.

Every transfer of its property or assets by any mutual savings bank in this state, made (1) after it has become insolvent, (2) within ninety days before the date the director takes possession of such savings bank under RCW 32.24.050 or the federal deposit insurance corporation is appointed as receiver or liquidator of such savings bank under RCW 32.24.090, and (3) with the view to the preference of one creditor over another or to prevent equal distribution of its property and assets among its creditors, shall be void. Every trustee, officer, or employee making any such transfer shall be guilty of a felony.

[1994 c 92 § 346; 1985 c 56 § 15; 1955 c 13 § 32.24.080. Prior: 1931 c 132 § 10; RRS § 3379a.]

RCW 32.24.090 Federal deposit insurance corporation as receiver or liquidator--Appointment--Powers and duties.

The federal deposit insurance corporation is hereby authorized and empowered to be and act without bond as receiver or liquidator of any mutual savings bank the deposits in which are to any extent insured by that corporation and which shall have been closed on account of inability to meet the demands of its depositors. In the event of such closing, the director may appoint the federal deposit insurance corporation as receiver or liquidator of such mutual savings bank. If the corporation accepts such appointment, it shall have and possess all the powers and privileges provided by the laws of this state with respect to a liquidator of a mutual savings bank, its depositors and other creditors, and be subject to all the duties of such liquidator, except insofar as such powers, privileges, or duties are in conflict with the provisions of the federal deposit insurance act, as now or hereafter amended.

[1994 c 92 § 347; 1973 1st ex.s. c 54 § 3.]

RCW 32.24.100 Payment or acquisition of deposit liabilities by federal deposit insurance corporation--Not hindered by judicial review--Liability.

The pendency of any proceedings for judicial review of the director's actions in taking possession and control of a mutual savings bank and its assets for the purpose of liquidation shall not operate to defer, delay, impede, or prevent the payment or acquisition by the federal deposit insurance corporation of the deposit liabilities of the mutual savings bank which are insured by the corporation. During the pendency of any proceedings for judicial review, the director shall make available to the federal deposit insurance corporation such facilities in or of the mutual savings bank and such books, records, and other relevant data of the mutual savings bank as may be necessary or appropriate to enable the corporation to pay out or to acquire the insured deposit liabilities of the mutual savings bank. The federal deposit insurance corporation and its directors, officers, agents, and employees, the director, and his or her agents and employees shall be free from liability to the mutual savings bank, its directors, stockholders, and creditors for or on account of any action taken in connection herewith.

[1994 c 92 § 348; 1973 1st ex.s. c 54 § 4.]

Chapter 32.28 RCW
SATELLITE FACILITIES

(See chapter 30.43 RCW)

Chapter 32.30 RCW
CONVERSION OF MUTUAL SAVINGS BANK TO BUILDING AND LOAN OR SAVINGS AND LOAN ASSOCIATION

(See chapter 33.46 RCW)

Chapter 32.32 RCW
CONVERSION OF MUTUAL SAVINGS BANK TO CAPITAL STOCK SAVINGS BANK

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RCW 32.32.010 Chapter exclusive--Prohibition on conversion without approval--Waiver of requirements.

This chapter shall exclusively govern the conversion of mutual savings banks to capital stock savings banks. No mutual savings bank may convert to the capital stock form of organization without the prior written approval of the director pursuant to this chapter, except that the director may waive requirements of this chapter in appropriate cases.

[1994 c 92 § 349; 1981 c 85 § 1.]

RCW 32.32.015 Forms.

The director may prescribe under this chapter such forms as the director deems appropriate for use by a mutual savings bank seeking to convert to a capital stock savings bank pursuant to this chapter.

[1994 c 92 § 350; 1981 c 85 § 2.]

RCW 32.32.020 Request of noncompliance--Requirements.

(1) If an applicant finds that compliance with any provision of this chapter would be in conflict with applicable federal law, the director shall grant or deny a request of noncompliance with the provision. The request may be incorporated in the application for conversion; otherwise, the applicant shall file the request in accordance with the requirements of the director.

(2) In making any such request, the applicant shall:

(a) Specify the provision or provisions of this chapter with respect to which the applicant desires waiver;

(b) Furnish an opinion of counsel demonstrating that applicable federal law is in conflict with the specified provision or provisions of this chapter; and

(c) Demonstrate that the requested waiver would not result in any effects that would be inequitable or detrimental to the applicant, its account holders, or other financial institutions or would be contrary to the public interest.

[1994 c 92 § 351; 1981 c 85 § 3.]

RCW 32.32.025 Definitions.

As used in this chapter, the following definitions apply, unless the context otherwise requires:

(1) Except as provided in RCW 32.32.230, an "affiliate" of, or a person "affiliated" with, a specified person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(2) The term "amount", when used in regard to securities, means the principal amount if relating to evidences of indebtedness, the number of shares if relating to shares, and the number of units if relating to any other kind of security.

(3) An "applicant" is a mutual savings bank which has applied to convert pursuant to this chapter.

(4) The term "associate", when used to indicate a relationship with any person, means (a) any corporation or organization (other than the applicant or a majority-owned subsidiary of the applicant) of which the person is an officer or partner or is, directly or indirectly, the beneficial owner of ten percent or more of any class of equity securities, (b) any trust or other estate in which the person has a substantial beneficial interest or as to which the person serves as trustee or in a similar fiduciary capacity, and (c) any relative who would be a "class A beneficiary" if the person were a decedent.

(5) The term "broker" means any person engaged in the business of effecting transactions in securities for the account of others.

(6) The term "capital stock" includes permanent stock, guaranty stock, permanent reserve stock, any similar certificate evidencing nonwithdrawable capital, or preferred stock, of a savings bank converted under this chapter or of a subsidiary institution or holding company.

(7) The term "charter" includes articles of incorporation, articles of reincorporation, and certificates of incorporation, as amended, effecting (either with or without filing with any governmental agency) the organization or creation of an incorporated person.

(8) Except as provided in RCW 32.32.230, the term "control" (including the terms "controlling", "controlled by", and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(9) The term "dealer" means any person who engages either for all or part of his or her time, directly or indirectly, as agent, broker, or principal, in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.

(10) The term "deposits" refers to the deposits of a savings bank that is converting under this chapter, and may refer in addition to the deposits or share accounts of any other financial institution that is converting to the stock form in connection with a merger with and into a savings bank.

(11) The term "director" means any director of a corporation, any trustee of a mutual savings bank, or any person performing similar functions with respect to any organization

whether incorporated or unincorporated.

(12) The term "eligibility record date" means the record date for determining eligible account holders of a converting mutual savings bank.

(13) The term "eligible account holder" means any person holding a qualifying deposit as determined in accordance with RCW 32.32.180.

(14) The term "employee" does not include a director or officer.

(15) The term "equity security" means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right.

(16) The term "market maker" means a dealer who, with respect to a particular security, (a) regularly publishes bona fide, competitive bid and offer quotations in a recognized interdealer quotation system; or (b) furnishes bona fide competitive bid and offer quotations on request; and (c) is ready, willing, and able to effect transaction in reasonable quantities at his or her quoted prices with other brokers or dealers.

(17) The term "material", when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters as to which an average prudent investor ought reasonably to be informed before purchasing an equity security of the applicant.

(18) The term "mutual savings bank" means a mutual savings bank organized and operating under Title 32 RCW.

(19) Except as provided in RCW 32.32.435, the term "offer", "offer to sell", or "offer of sale" shall include every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, for value. These terms shall not include preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are or are to be in privity of contract with an applicant.

(20) The term "officer", for purposes of the purchase of stock in a conversion under this chapter or the sale of this stock, means the chairman of the board, president, vice president, secretary, treasurer or principal financial officer, comptroller or principal accounting officer, and any other person performing similar functions with respect to any organization whether incorporated or unincorporated.

(21) Except as provided in RCW 32.32.435, the term "person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust, any unincorporated organization, or a government or political subdivision thereof.

(22) The term "proxy" includes every form of authorization by which a person is or may be deemed to be designated to act for a stockholder in the exercise of his or her voting rights in the affairs of an institution. Such an authorization may take the form of failure to dissent or object.

(23) The terms "purchase" and "buy" include every contract to purchase, buy, or otherwise acquire a security or interest in a security for value.

(24) The terms "sale" and "sell" include every contract to sell or otherwise dispose of a security or interest in a security for value; but these terms do not include an exchange of securities in connection with a merger or acquisition approved by the director.

(25) The term "savings account" means deposits established in a mutual savings bank and includes certificates of deposit.

(26) Except as provided in RCW 32.32.435, the term "security" includes any note, stock, treasury stock, bond, debenture, transferable share, investment contract, voting-trust certificate, or in general, any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase any of the foregoing.

(27) The term "series of preferred stock" refers to a subdivision, within a class of preferred stock, each share of which has preferences, limitations, and relative rights identical with those of other shares of the same series.

(28) The term "subscription offering" refers to the offering of shares of capital stock, through nontransferable subscription rights issued to: (a) Eligible account holders as required by RCW 32.32.045; (b) supplemental eligible account holders as required by RCW 32.32.055; (c) directors, officers, and employees, as permitted by RCW 32.32.140; and (d) eligible account holders and supplemental eligible account holders as permitted by RCW 32.32.145.

(29) A "subsidiary" of a specified person is an affiliate controlled by the person, directly or indirectly through one or more intermediaries.

(30) The term "supplemental eligibility record date" means the supplemental record date for determining supplemental eligible account holders of a converting savings bank required by RCW 32.32.055. The date shall be the last day of the calendar quarter preceding director approval of the application for conversion.

(31) The term "supplemental eligible account holder" means any person holding a qualifying deposit, except officers, directors, and their associates, as of the supplemental eligibility record date.

(32) The term "underwriter" means any person who has purchased from an applicant with a view to, or offers or sells for an applicant in connection with, the distribution of any security, or participates or has a direct or indirect participation in the direct or indirect underwriting of any such undertaking; but the term does not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers commission. The term "principal underwriter" means an underwriter in privity of contract with the applicant or other issuer of securities as to which that person is the underwriter.

Terms defined in other chapters of this title, when used in this chapter, shall have the meanings given in those definitions, to the extent those definitions are not inconsistent with the definitions contained in this chapter unless the context otherwise requires.

[1995 c 134 § 7. Prior: 1994 c 256 § 105; 1994 c 92 § 352; 1985 c 56 § 16; 1981 c 85 § 4.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 32.32.030 Prohibition on approval of certain applications for conversion.

No application for conversion may be approved by the director if:

(1) The plan of conversion adopted by the applicant's board of directors is not in

accordance with this chapter;

(2) The conversion would result in a reduction of the applicant's net worth below requirements established by the director;

(3) The conversion may result in a taxable reorganization of the applicant under the United States Internal Revenue Code of 1954, as amended; or

(4) The converted savings bank does not meet the insurance requirements as established by the director.

[1994 c 92 § 353; 1981 c 85 § 5.]

RCW 32.32.035 Requirements of plan of conversion.

The plan of conversion shall contain all of the provisions set forth in RCW 32.32.040 through 32.32.125.

[1981 c 85 § 6.]

RCW 32.32.040 Issuance of capital stock--Price.

A converted savings bank or a holding company organized pursuant to chapter 32.34 RCW shall issue and sell capital stock at a total price equal to the estimated pro forma market value of the stock issued in connection with the conversion, based on an independent valuation, as provided in RCW 32.32.305. In the conversion of a mutual savings bank or holding company, either of which is in the process of merging with, being acquired by, or consolidating with a stock savings bank, or a savings bank holding company owned by stockholders, or a subsidiary thereof, the following subsections apply:

(1) The price per share of the shares offered for subscription and issued in the conversion shall be not less than the price reported for stock which is listed on a national or regional stock exchange, or the bid price for stock which is traded on the NASDAQ system, as of the day before any public offering or other completion of the sale of stock in the conversion: PROVIDED, That for stock not so listed and not traded on the NASDAQ system, and any stock whose price has been affected, as of the day specified above, by a violation of RCW 32.32.225, the price per share shall be determined by the director, upon the submission of such information as the director may request.

(2) The independent valuation as provided in RCW 32.32.305 shall determine the aggregate value of shares for which subscription rights are granted pursuant to RCW 32.32.045, 32.32.050, and 32.32.055, rather than a price per share or number of shares as provided in RCW 32.32.290, 32.32.325, and 32.32.330. This independent valuation may be replaced by a demonstration, to the satisfaction of the director, of the fairness of the price of the shares issued.

[1994 c 92 § 354; 1985 c 56 § 17; 1981 c 85 § 7.]

RCW 32.32.042 Shares--Certificate not required.

(1) Shares of a savings bank may, but need not be, represented by certificates. Unless this title expressly provides otherwise, the rights and obligations of shareholders are identical whether or not their shares are represented by certificates. At a minimum, each share certificate must state the information required to be stated and must be signed as provided in RCW 23B.06.250 and/or 23B.06.270 for corporations.

(2) Unless the articles of incorporation or bylaws provide otherwise, the board of directors of a savings bank may authorize the issue of some or all of the shares of any or all of its classes or series without certificates. The authorization does not affect shares already represented by certificates until they are surrendered to the savings bank.

(3) Within a reasonable time after the issue or transfer of shares without certificates, the savings bank shall send the shareholder a written statement of the information required to be stated on certificates under subsection (1) of this section.

[1994 c 256 § 114.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 32.32.045 Stock purchase subscription rights--Eligible account holders.

Each eligible account holder shall receive, without payment, nontransferable subscription rights to purchase capital stock in an amount equal to the greatest of two hundred shares, one-tenth of one percent of the total offering of shares, or fifteen times the product (rounded down to the next whole number) obtained by multiplying the total number of shares of capital stock to be issued by a fraction of which the numerator is the amount of the qualifying deposit of the eligible account holder and the denominator is the total amount of qualifying deposits of all eligible account holders in the converting savings bank. If the allotment made in this section results in an oversubscription, shares shall be allocated among subscribing eligible account holders so as to permit each such account holder, to the extent possible, to purchase a number of shares sufficient to make his total allocation equal to one hundred shares. Any shares not so allocated shall be allocated among the subscribing eligible account holders on such equitable basis, related to the amounts of their respective qualifying deposits, as may be provided in the plan of conversion.

[1981 c 85 § 8.]

RCW 32.32.050 Stock purchase subscription rights received by officers, directors, and their associates--Subordination.

Nontransferable subscription rights to purchase capital stock received by officers and directors and their associates of the converting savings bank based on their increased deposits in the converting savings bank in the one-year period preceding the eligibility record date shall be subordinated to all other subscriptions involving the exercise of nontransferable subscription rights to purchase shares pursuant to RCW 32.32.045.

[1981 c 85 § 9.]

RCW 32.32.055 Supplemental share purchase subscription rights--Supplemental eligible account holder--Conditions.

In plans involving an eligibility record date that is more than fifteen months prior to the date of the latest amendment to the application for conversion filed prior to the director approval, a supplemental eligibility record date shall be determined whereby each supplemental eligible account holder of the converting savings bank shall receive, without payment, nontransferable subscription rights to purchase supplemental shares in an amount equal to the greatest of two hundred shares, one-tenth of one percent of the total offering of shares, or fifteen times the product (rounded down to the next whole number) obtained by multiplying the total number of shares of capital stock to be issued by a fraction of which the numerator is the amount of the qualifying deposit of the supplemental eligible account holder and the denominator is the total amount of the qualifying deposits of all supplemental eligible account holders in the converting savings bank on the supplemental eligibility record date.

(1) Subscription rights received pursuant to this section shall be subordinated to all rights received by eligible account holders to purchase shares pursuant to RCW 32.32.045 and 32.32.050.

(2) Any nontransferable subscription rights to purchase shares received by an eligible account holder in accordance with RCW 32.32.045 shall be applied in partial satisfaction of the subscription rights to be distributed pursuant to this section.

(3) In the event of an oversubscription for supplemental shares pursuant to this section, shares shall be allocated among the subscribing supplemental eligible account holders as follows:

(a) Shares shall be allocated among subscribing supplemental eligible account holders so as to permit each such supplemental account holder, to the extent possible, to purchase a number of shares sufficient to make the supplemental account holder's total allocation (including the number of shares, if any, allocated in accordance with RCW 32.32.045) equal to one hundred shares.

(b) Any shares not allocated in accordance with subsection (3)(a) of this section shall be allocated among the subscribing supplemental eligible account holders on such equitable basis, related to the amounts of their respective qualifying deposits, as may be provided in the plan of conversion.

[1994 c 92 § 355; 1981 c 85 § 10.]

RCW 32.32.060 Sale of shares not sold in subscription offering--Methods--Conditions.

Any shares of the converting savings bank not sold in the subscription offering shall either be sold in a public offering through an underwriter or directly by the converting savings bank in a direct community marketing, subject to the applicant demonstrating to the director the feasibility of the method of sale and to such conditions as may be provided in the plan of conversion. The conditions shall include, but not be limited to:

(1) A condition limiting purchases by each officer and director or their associates in this phase of the offering to one-tenth of one percent of the total offering of shares.

(2) A condition limiting purchases by any person and that person's associates in this phase of the offering to a number of shares or a percentage of the total offering so long as the limitation does not exceed two percent of the shares to be sold in the total offering.

(3) A condition that any direct community offering by the converting savings bank shall give a preference to natural persons residing in the counties in which the savings bank has an office. The methods by which preference shall be given shall be approved by the director.

[1994 c 92 § 356; 1981 c 85 § 11.]

RCW 32.32.065 Limitation on subscription and purchase of shares by person with associate or group--Amount.

The number of shares which any person together with any associate or group of persons acting in concert may subscribe for or purchase in the conversion shall not exceed five percent of the total offering of shares. For purposes of this section, the members of the converting savings bank's board of directors shall not be deemed to be associates or a group acting in concert solely as a result of their board membership.

[1981 c 85 § 12.]

RCW 32.32.070 Limitation on purchase of shares by officers, directors, and their associates--Amount.

The number of shares which officers and directors of the converting savings bank and their associates may purchase in the conversion shall not exceed twenty-five percent of the total offering of shares.

[1981 c 85 § 13.]

RCW 32.32.075 Prohibition on purchase of shares by officers, directors, and their associates--Exception.

No officer or director, or their associates, may purchase without the prior written approval of the director the capital stock of the converted savings bank except from a broker or a dealer registered with the Securities and Exchange Commission for a period of three years following the conversion. This provision shall not apply to negotiated transactions involving more than one percent of the outstanding capital stock of the converted savings bank.

As used in this section, the term "negotiated transactions" means transactions in which the securities are offered and the terms and arrangements relating to any sale of the securities are arrived at through direct communications between the seller or any person acting on the seller's behalf and the purchaser or the purchaser's investment representative. The term "investment representative" means a professional investment adviser acting as agent for the purchaser and

independent of the seller and not acting on behalf of the seller in connection with the transaction.

[1994 c 92 § 357; 1981 c 85 § 14.]

RCW 32.32.080 Uniform sales price of shares required--Application to specify arrangements on sale of shares not sold in subscription offering.

The sales price of the shares of capital stock to be sold in the conversion shall be a uniform price determined in accordance with RCW 32.32.290, 32.32.305, and 32.32.325. The applicant shall specify in its conversion application the underwriting and/or other marketing arrangements to be made to assure the sale of all shares not sold in the subscription offering.

[1981 c 85 § 15.]

RCW 32.32.085 Savings account holder to receive withdrawable savings account(s)--Amount.

Each savings account holder of the converting savings bank shall receive, without payment, a withdrawable savings account or accounts in the converted savings bank equal in withdrawable amount to the withdrawal value of the account holder's savings account or accounts in the converting savings bank.

[1981 c 85 § 16.]

RCW 32.32.090 Liquidation account--Establishment and maintenance required.

A converting savings bank shall establish and maintain a liquidation account for the benefit of eligible account holders and supplemental eligible account holders in the event of a subsequent complete liquidation of the converted savings bank, in accordance with RCW 32.32.185 through 32.32.205.

[1981 c 85 § 17.]

RCW 32.32.095 Establishment of eligibility record date required.

The applicant shall establish an eligibility record date, which shall not be less than ninety days prior to the date of adoption of the plan by the converting savings bank's board of directors.

[1981 c 85 § 18.]

RCW 32.32.100 Capital stock--Voting rights.

The holders of the capital stock of the converted savings bank shall have exclusive voting rights.

[1981 c 85 § 19.]

RCW 32.32.105 Amendment and termination of plan of conversion.

The plan of conversion adopted by the applicant's board of directors may be amended by the board of directors with the concurrence of the director at any time prior to final approval of the director and may be terminated with the concurrence of the director at any time prior to issuance of the authorization certificate by the director.

[1994 c 92 § 358; 1981 c 85 § 20.]

RCW 32.32.110 Restriction on sale of shares of stock by directors and officers.

All shares of capital stock purchased by directors and officers on original issue in the conversion either directly from the savings bank (by subscription or otherwise) or from an underwriter of the shares shall be subject to the restriction that the shares shall not be sold for a period of not less than three years following the date of purchase, except in the event of death of the director or officer.

[1981 c 85 § 21.]

RCW 32.32.115 Conditions on shares of stock subject to restriction on sale.

In connection with shares of capital stock subject to restriction on sale for a period of time:

(1) Each certificate for the stock shall bear a legend giving appropriate notice of the restriction;

(2) Appropriate instructions shall be issued to the transfer agent for the capital stock with respect to applicable restrictions on transfer of any such restricted stock; and

(3) Any shares issued as a stock dividend, stock split, or otherwise with respect to any such restricted stock shall be subject to the same restrictions as may apply to the restricted stock.

[1985 c 56 § 18; 1981 c 85 § 22.]

RCW 32.32.120 Registration of securities--Marketing of securities--Listing of shares on securities exchange or NASDAQ quotation system.

A converted savings bank or holding company formed under chapter 32.34 RCW shall:

(1) Promptly following its conversion register the securities issued in connection therewith pursuant to the Securities and Exchange Act of 1934 and undertake not to deregister the securities for a period of three years thereafter;

(2) Use its best efforts to encourage and assist a market maker to establish and maintain a market for the securities issued in connection with the conversion; and

(3) Use its best efforts to list those shares issued in connection with the conversion on a national or regional securities exchange or on the NASDAQ quotation system.

[1985 c 56 § 19; 1981 c 85 § 23.]

RCW 32.32.125 Reasonable expenses required.

The expenses incurred in the conversion shall be reasonable.

[1981 c 85 § 24.]

RCW 32.32.130 Plan of conversion--Prohibited provisions.

The plan of conversion shall contain no provision which the director determines to be inequitable or detrimental to the applicant, its savings account holders, or other savings banks or to be contrary to the public interest.

[1994 c 92 § 359; 1981 c 85 § 25.]

RCW 32.32.135 Plan of conversion--Permissible provisions.

The plan of conversion may contain any of the provisions set forth in RCW 32.32.140 through 32.32.170.

[1981 c 85 § 26.]

RCW 32.32.140 Purchase of certain shares of stock by directors, officers, and employees permitted--Conditions.

Directors, officers, and employees of the converting savings bank, as part of the subscription offering, may be entitled to purchase shares of capital stock, to the extent that shares are available after satisfying the subscriptions of eligible account holders and supplemental eligible account holders, subject to the following conditions:

(1) The total number of shares which may be purchased under this section shall not exceed twenty-five percent of the total number of shares to be issued in the case of a converting savings bank with total assets of less than fifty million dollars or fifteen percent in the case of a converting savings bank with total assets of five hundred million dollars or more; in the case of a converting savings bank with total assets of fifty million dollars or more but less than five hundred million dollars, the percentage shall be no more than a correspondingly appropriate number of shares based on total asset size (for example, twenty percent in the case of a converting savings bank with total assets of approximately two hundred seventy five million dollars); and

(2) The shares shall be allocated among directors, officers, and employees on an equitable basis such as by giving weight to period of service, compensation, and position, subject to a reasonable limitation on the amount of shares which may be purchased by any person or associate thereof, or group of affiliated persons or group of persons otherwise acting in concert.

[1981 c 85 § 27.]

RCW 32.32.145 Receipt of certain subscription rights by account holders permitted--Amount--Conditions.

Any account holder receiving rights to purchase stock in the subscription offering may also receive, without payment, nontransferable subscription rights to purchase up to one percent of the total offering of shares of capital stock, to the extent that the shares are available after satisfying the subscription under RCW 32.32.045 and 32.32.055, subject to such conditions as may be provided in the plan of conversion. In the event of an oversubscription for the additional shares, the shares available shall be allocated among the subscribing eligible account holders and supplemental eligible account holders on such equitable basis, related to the amounts of their respective subscriptions, as may be provided in the plan of conversion. Where possible the subscriptions shall be allocated in such a manner that total purchases by eligible account holders and supplemental eligible account holders shall be rounded to the nearest one hundred shares.

[1981 c 85 § 28.]

RCW 32.32.150 Permissible sales of insignificant residue of shares.

Any insignificant residue of shares not sold in the subscription offering or in a public offering referred to in RCW 32.32.060 may be sold in such other manner as provided in the plan with the director's approval.

[1994 c 92 § 360; 1985 c 56 § 20; 1981 c 85 § 29.]

RCW 32.32.155 Limitation on number of shares subscribed in subscription offering permitted.

The number of shares which any person, or group of persons affiliated with each other or otherwise acting in concert, may subscribe for in the subscription offering may be made subject to a limit of not less than one percent of the total offering of shares.

[1981 c 85 § 30.]

RCW 32.32.160 Minimum purchase requirement in exercise of subscription rights permitted.

Any person exercising subscription rights to purchase capital stock may be required to purchase a minimum of up to twenty-five shares to the extent the shares are available (but the aggregate price for any minimum share purchase shall not exceed five hundred dollars).

[1981 c 85 § 31.]

RCW 32.32.165 Stock option plan permitted--Reserved shares.

A stock option plan may be adopted by the board of directors at the meeting at which the plan of conversion is voted upon. The number of shares reserved for the stock option plans

should be limited to ten percent of the number of shares sold in the conversion.

[1981 c 85 § 32.]

RCW 32.32.170 Issuance of securities in lieu of capital stock permitted--References to capital stock.

The converted savings bank may issue and sell, in lieu of shares of its capital stock, units of securities consisting of capital stock or other equity securities, in which event any reference in this chapter to capital stock shall apply to the units of equity securities unless the context otherwise requires.

[1981 c 85 § 33.]

RCW 32.32.175 Approval of other equitable provisions.

The director may approve such other equitable provisions as are necessary to avert imminent injury to the converting savings bank.

[1994 c 92 § 361; 1981 c 85 § 34.]

RCW 32.32.180 Amount of qualifying deposit of eligible account holder or supplemental eligible account holder.

(1) Unless otherwise provided in the plan of conversion, the amount of the qualifying deposit of an eligible account holder or supplemental eligible account holder shall be the total of the deposit balances in the eligible account holder's or supplemental eligible account holder's savings accounts in the converting savings bank as of the close of business on the eligibility record date or supplemental eligibility record date. However, the plan of conversion may provide that any savings accounts with total deposit balances of less than fifty dollars (or any lesser amount) shall not constitute a qualifying deposit.

(2) As used in this section, the term "savings account" includes a predecessor or successor account of a given savings account which is held only in the same right and capacity and on the same terms and conditions as the given savings account. However, the plan of conversion may provide for lesser requirements for consideration as a predecessor or successor account.

[1981 c 85 § 35.]

RCW 32.32.185 Liquidation account--Establishment required--Amount--Function.

Each converted savings bank shall, at the time of conversion, establish a liquidation account in an amount equal to the amount of net worth of the converting savings bank as of the latest practicable date prior to conversion. For the purposes of this section, the savings bank shall use the net worth figure no later than that set forth in its latest statement of financial condition

contained in the final offering circular. The function of the liquidation account is to establish a priority on liquidation and, except as provided in RCW 32.32.215, the existence of the liquidation account shall not operate to restrict the use or application of any of the net worth accounts of the converted savings bank.

[1981 c 85 § 36.]

RCW 32.32.190 Liquidation account--Maintenance required--Subaccounts.

The liquidation account shall be maintained by the converted savings bank for the benefit of eligible account holders and supplemental eligible account holders who maintain their savings accounts in the bank. Each such eligible account holder shall, with respect to each savings account, have a related inchoate interest in a portion of the liquidation account balance ("subaccount").

[1981 c 85 § 37.]

RCW 32.32.195 Liquidation account--Distribution upon complete liquidation.

In the event of a complete liquidation of the converted savings bank (and only in this event), each eligible account holder and supplemental eligible account holder shall be entitled to receive a liquidation distribution from the liquidation account, in the amount of the then current adjusted subaccount balances for savings accounts then held, before any liquidation distribution may be made with respect to capital stock. No merger, consolidation, purchase of bulk assets with assumption of savings accounts and other liabilities, or similar transaction, in which the converted savings bank is not the survivor, is considered to be a complete liquidation for this purpose. In these transactions, the liquidation account shall be assumed by the surviving institution.

[1981 c 85 § 38.]

RCW 32.32.200 Liquidation account--Determination of subaccount balances.

The initial subaccount balance for a savings account held by an eligible account holder and/or supplemental eligible account holder shall be determined by multiplying the opening balance in the liquidation account by a fraction of which the numerator is the amount of qualifying deposits in the savings account on the eligibility record date and/or the supplemental eligibility record date and the denominator is the total amount of qualifying deposits of all eligible account holders and supplemental eligible account holders in the converting savings bank on these dates. For savings accounts in existence at both dates, separate subaccounts shall be determined on the basis of the qualifying deposits in these savings accounts on these record dates. The initial subaccount balances shall not be increased, and it shall be subject to downward adjustment as provided in RCW 32.32.205.

[1981 c 85 § 39.]

RCW 32.32.205 Reduction of subaccount balance.

If the deposit balance in any savings account of an eligible account holder or supplemental eligible account holder at the close of business on any annual closing date subsequent to the respective record dates is less than the lesser of (1) the deposit balance in the savings account at the close of business on any other annual closing date subsequent to the eligibility record date or (2) the amount of qualifying deposit as of the eligibility record date or the supplemental eligibility record date, the subaccount balance for the savings account shall be adjusted by reducing the subaccount balance in an amount proportionate to the reduction in the deposit balance. In the event of such a downward adjustment, the subaccount balance shall not be subsequently increased, notwithstanding any increase in the deposit balance of the related savings account. If any such savings account is closed, the related subaccount balance shall be reduced to zero.

[1981 c 85 § 40.]

RCW 32.32.210 Converted savings bank prohibited from repurchasing its stock without approval.

No converted savings bank may repurchase any of its capital stock from any person unless the repurchase is approved by the director either in advance or at the time of repurchase.

[1994 c 92 § 362; 1985 c 56 § 21; 1981 c 85 § 41.]

RCW 32.32.215 Limitation on cash dividends.

Except as provided in RCW 32.32.222, no converted savings bank may declare or pay a cash dividend unless the declaration or payment of the dividend would be in accordance with the requirements of RCW 30.04.180 and would not have the effect of reducing the net worth of the converted savings bank below (1) the amount required for the liquidation account or (2) the amount required by the director.

[1994 c 92 § 363; 1985 c 56 § 22; 1981 c 85 § 42.]

RCW 32.32.220 Limitation on certain cash dividends within ten years of conversion.

Except as provided in RCW 32.32.222, no converted savings bank may, without the prior approval of the director, for a period of ten years after the date of its conversion, declare or pay a cash dividend on its capital stock in an amount in excess of one-half of the greater of:

(1) The savings bank's net income for the current fiscal year; or

(2) The average of the savings bank's net income for the current fiscal year and not more than two of the immediately preceding fiscal years.

For purposes of this chapter, "net income" shall be determined by generally accepted accounting principles.

[1994 c 92 § 364; 1985 c 56 § 23; 1981 c 85 § 43.]

RCW 32.32.222 Dividends on preferred stock.

A converted mutual savings bank may pay dividends on preferred stock at the rate or rates agreed in connection with the issuance of preferred stock if such issuance has been approved by the director.

[1994 c 92 § 365; 1985 c 56 § 24.]

RCW 32.32.225 Prohibitions on offer, sale, or purchase of securities.

In the offer, sale, or purchase of securities issued incident to its conversion, no savings bank, or any director, officer, attorney, agent, or employee thereof, may (1) employ any device, scheme, or artifice to defraud, or (2) obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or (3) engage in any act, transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a purchaser or seller.

[1981 c 85 § 44.]

RCW 32.32.228 Acquisition of control of a converted savings bank.

(1) As used in this section, the following definitions apply:

(a) "Control" means directly or indirectly alone or in concert with others to own, control, or hold the power to vote twenty-five percent or more of the outstanding stock or voting power of the controlled entity;

(b) "Acquiring party" means the person acquiring control of a bank through the purchase of stock;

(c) "Person" means any individual, corporation, partnership, group acting in concert, association, business trust, or other organization.

(2)(a) It is unlawful for any person to acquire control of a converted savings bank until thirty days after filing with the director a completed application. The application shall be under oath or affirmation, and shall contain substantially all of the following information plus any additional information that the director may prescribe as necessary or appropriate in the particular instance for the protection of bank depositors, borrowers, or shareholders and the public interest:

(i) The identity and banking and business experience of each person by whom or on whose behalf acquisition is to be made;

(ii) The financial and managerial resources and future prospects of each person involved in the acquisition;

(iii) The terms and conditions of any proposed acquisition and the manner in which the

acquisition is to be made;

(iv) The source and amount of the funds or other consideration used or to be used in making the acquisition, and a description of the transaction and the names of the parties if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition;

(v) Any plan or proposal which any person making the acquisition may have to liquidate the bank, to sell its assets, to merge it with any other bank, or to make any other major change in its business or corporate structure or management;

(vi) The identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on its behalf, who makes solicitations or recommendations to shareholders for the purpose of assisting in the acquisition and a brief description of the terms of the employment, retainer, or arrangement for compensation;

(vii) Copies of all invitations for tenders or advertisements making a tender offer to shareholders for the purchase of their stock to be used in connection with the proposed acquisition; and

(viii) Such additional information as shall be necessary to satisfy the director, in the exercise of the director's discretion, that each such person and associate meets the standards of character, responsibility, and general fitness established for incorporators of a savings bank under RCW 32.08.040.

(b) Notwithstanding any other provision of this section, a bank or bank holding company which has been in operation for at least three consecutive years or a converted mutual savings bank or the holding company of a mutual savings bank need only notify the director and the savings bank to be acquired of an intent to acquire control and the date of the proposed acquisition of control at least thirty days before the date of the acquisition of control.

(c) When a person, other than an individual or corporation, is required to file an application under this section, the director may require that the information required by (a) (i), (ii), (vi), and (viii) of this subsection be given with respect to each person, as defined in subsection (1)(c) of this section, who has an interest in or controls a person filing an application under this subsection.

(d) When a corporation is required to file an application under this section, the director may require that information required by (a) (i), (ii), (vi), and (viii) of this subsection be given for the corporation, each officer and director of the corporation, and each person who is directly or indirectly the beneficial owner of twenty-five percent or more of the outstanding voting securities of the corporation.

(e) If any tender offer, request, or invitation for tenders or other agreements to acquire control is proposed to be made by means of a registration statement under the securities act of 1933 (48 Stat. 74, 15 U.S.C. Sec. 77(a)), as amended, or in circumstances requiring the disclosure of similar information under the securities exchange act of 1934 (48 Stat. 881, 15 U.S.C. Sec. 78(a)), as amended, the registration statement or application may be filed with the director in lieu of the requirements of this section.

(f) Any acquiring party shall also deliver a copy of any notice or application required by this section to the savings bank proposed to be acquired within two days after such notice or

application is filed with the director.

(g) Any acquisition of control in violation of this section shall be ineffective and void.

(h) Any person who willfully or intentionally violates this section or any rule adopted under this section is guilty of a gross misdemeanor pursuant to chapter 9A.20 RCW. Each day's violation shall be considered a separate violation, and any person shall upon conviction be fined not more than one thousand dollars for each day the violation continues.

(3) The director may disapprove the acquisition of a savings bank within thirty days after the filing of a complete application pursuant to subsections (1) and (2) of this section or an extended period not exceeding an additional fifteen days if:

(a) The poor financial condition of any acquiring party might jeopardize the financial stability of the savings bank or might prejudice the interest of depositors, borrowers, or shareholders;

(b) The plan or proposal of the acquiring party to liquidate the savings bank, to sell its assets, to merge it with any person, or to make any other major change in its business or corporate structure or management is not fair and reasonable to its depositors, borrowers, or stockholders or is not in public interest;

(c) The banking and business experience and integrity of any acquiring party who would control the operation of the savings bank indicates that approval would not be in the interest of the savings bank's depositors, borrowers, or shareholders;

(d) The information provided by the application is insufficient for the director to make a determination or there has been insufficient time to verify the information provided and conduct an examination of the qualification of the acquiring party; or

(e) The acquisition would not be in the public interest.

An acquisition may be made prior to expiration of the disapproval period if the director issues written notice of intent not to disapprove the action.

The director shall set forth the basis for disapproval of any proposed acquisition in writing and shall provide a copy of such findings and order to the applicants and to the bank involved. Such findings and order shall not be disclosed to any other party and shall not be subject to public disclosure under chapter 42.17 RCW unless the findings and/or order are appealed pursuant to chapter 34.05 RCW.

Whenever such a change in control occurs, each party to the transaction shall report promptly to the director any changes or replacement of its chief executive officer or of any director occurring in the next twelve-month period, including in its report a statement of the past and current business and professional affiliations of the new chief executive officer or directors.

(4)(a) For a period of ten years following the acquisition of control by any person, neither such acquiring party nor any associate shall receive any loan or the use of any of the funds of, nor purchase, lease, or otherwise receive any property from, nor receive any consideration from the sale, lease, or any other conveyance of property to, any savings bank in which the acquiring party has control except as provided in (b) of this subsection.

(b) Upon application by any acquiring party or associate subject to (a) of this subsection, the director may approve a transaction between a converted savings bank and such acquiring party, person, or associate, upon finding that the terms and conditions of the transaction are at

least as advantageous to the savings bank as the savings bank would obtain in a comparable transaction with an unaffiliated person.

(5) Except with the consent of the director, no converted savings bank shall, for the purpose of enabling any person to purchase any or all shares of its capital stock, pledge or otherwise transfer any of its assets as security for a loan to such person or to any associate, or pay any dividend to any such person or associate. Nothing in this section shall prohibit a dividend of stock among shareholders in proportion to their shareholdings. In the event any clause of this section is declared to be unconstitutional or otherwise invalid, all remaining dependent and independent clauses of this section shall remain in full force and effect.

[1994 c 92 § 366; 1989 c 180 § 6; 1985 c 56 § 25.]

RCW 32.32.230 Nonapproval of conversion unless acquisition of control within three years by certain companies prohibited.

(1) No conversion may be approved by the director unless the plan of conversion provides that the converted savings bank shall enter into an agreement with the director, in form satisfactory to the director, which shall provide that for a period of three years following the conversion any company significantly engaged in an unrelated business activity, either directly or through an affiliate thereof, shall not be permitted, regardless of the form of the transaction, to acquire control of the converted savings bank. Any acquisition of a converted savings bank shall also comply with RCW 32.32.228.

(2) As used in this section:

(a) The term "affiliate" means any person or company which controls, is controlled by, or is under common control with, a specified company.

(b) A person or company shall be deemed to have "control" of:

(i) A savings bank if the person directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than twenty-five percent of the voting shares of the savings bank, or controls in any manner the election of a majority of the directors of the bank;

(ii) Any other company if the person directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than twenty-five percent of the voting shares or rights of the other company, or controls in any manner the election or appointment of a majority of the directors or trustees of the other company, or is a general partner in or has contributed more than twenty-five percent of the capital of the other company;

(iii) A trust if the person is a trustee thereof; or

(iv) A savings bank or any other company if the director determines, after reasonable notice and opportunity for hearing, that the person directly or indirectly exercises a controlling influence over the management or policies of the savings bank or other company.

(c) A company shall be deemed to be "significantly engaged" in an unrelated business activity if its unrelated business activities would represent, on either an actual or a pro forma basis, more than fifteen percent of its consolidated net worth at the close of this preceding fiscal

year or of its consolidated net earnings for such fiscal year.

(d) The term "unrelated business activity" means any business activity not authorized for a savings bank or any subsidiary thereof.

[1994 c 92 § 367; 1985 c 56 § 26; 1981 c 85 § 45.]

RCW 32.32.235 Plan of conversion--Charter restrictions permitted.

To the extent permitted by applicable federal or state law, a plan of conversion may provide for a provision in the charter of the converted savings bank containing, in substance, the restriction set forth in RCW 32.32.230. There may also be included a restriction providing that the charter provision may be amended only by a vote of up to seventy-five percent of the votes eligible to be cast at a regular or special meeting of shareholders of the converted savings bank. If the converted savings bank elects to adopt the foregoing optional charter provision, the director shall impose, as a condition to approval of the conversion, a requirement that the converted savings bank fully enforce the charter provision.

[1994 c 92 § 368; 1981 c 85 § 46.]

RCW 32.32.240 Confidentiality of consideration to convert--Remedial measures for breach.

A savings bank which is considering converting pursuant to this chapter and its directors, officers, and employees shall keep this consideration in the strictest confidence and shall only discuss the potential conversion as would be consistent with the need to prepare information for filing an application for conversion. Should this confidence be breached the director may require remedial measures including:

(1) A public statement by the savings bank that its board of directors is currently considering converting pursuant to this chapter;

(2) Providing for an eligibility record date which shall be as of such a date prior to the adoption of the plan by the converting savings bank's board of directors as to assure the equitability of the conversion;

(3) Limitation of the subscription rights of any person violating or aiding the violation of this section to an amount deemed appropriate by the director; and

(4) Any other actions the director may deem appropriate and necessary to assure the fairness and equitability of the conversion.

[1994 c 92 § 369; 1981 c 85 § 47.]

RCW 32.32.245 Public statement authorized.

If it should become essential as a result of rumors prior to the adoption of a plan of conversion by the applicant's board of directors, a public statement limited to that purpose may be made by the applicant.

[1981 c 85 § 48.]

RCW 32.32.250 Adoption of plan of conversion--Notice to and inspection by account holders--Statement and letter--Press release authorized.

Promptly after the adoption of a plan of conversion by not less than two-thirds of its board of directors, the savings bank shall:

(1) Notify its account holders of the action by publishing a statement in a newspaper having general circulation in each community in which an office of the savings bank is located and/or by mailing a letter to each of its account holders; and

(2) Have copies of the adopted plan of conversion available for inspection by its account holders at each office of the savings bank.

The savings bank may also issue a press release with respect to the action. Copies of the proposed statement, letter, and press release are not required to be filed with the director but may be submitted to the director for comment. Copies of the definitive statement, letter, and press release shall be filed with the director as part of the application for conversion.

[1994 c 92 § 370; 1981 c 85 § 49.]

RCW 32.32.255 Statement, letter, and press release--Content permitted.

The statement, letter, and press release of the applicant issued pursuant to RCW 32.32.250, unless otherwise authorized by the director, shall contain only (but need not contain all of) the following:

(1) A statement that the board of directors has adopted a plan to convert the savings bank from a mutual savings bank to a capital stock savings bank;

(2) A statement that the plan of conversion is subject to approval by the director and by the appropriate federal regulatory authority or authorities (naming such an authority or authorities) before the plan can become effective and that account holders of the applicant will have an opportunity to file written comments including objections and materials supporting the objections with the director;

(3) A statement that the plan of conversion is contingent upon obtaining favorable tax rulings from the Internal Revenue Service or an appropriate tax opinion;

(4) A statement that there is no assurance that the approval of the director or the approval of any appropriate federal authority or authorities will be obtained, and also no assurance that the favorable tax rulings or tax opinion will be received;

(5) The proposed record date for determining the eligible account holders entitled to receive nontransferable subscription rights to purchase capital stock of the applicant;

(6) A brief statement describing the circumstances that would require supplemental eligible account holders to receive nontransferable subscription rights to purchase capital stock of the applicant;

(7) A brief description of the plan of conversion;

(8) The par value and approximate number of shares of capital stock to be issued and sold

under the plan of conversion;

(9) A brief statement as to the extent to which directors, officers, and employees will participate in the conversion;

(10) A statement that savings account holders will continue to hold accounts in the converted savings bank identical as to dollar amount, rate of return, and general terms and that their accounts will continue to be insured by the Federal Deposit Insurance Corporation;

(11) A statement that borrowers' loans will be unaffected by conversion and that the amount, rate, maturity, security, and other conditions will remain contractually fixed as they existed prior to conversion;

(12) A statement that the normal business of the savings bank in accepting savings and making loans will continue without interruption; that the converted savings bank will continue after conversion to conduct its present services to savings account holders and borrowers under current policies to be carried on in existing offices and by the present management and staff;

(13) A statement that the plan of conversion may be substantively amended or terminated by the board of directors with the concurrence of the director; and

(14) A statement that questions of account holders may be answered by telephoning or writing to the savings bank.

[1994 c 92 § 371; 1981 c 85 § 50.]

RCW 32.32.260 Statement, letter, and press release--Contents prohibited--Inquiries.

The statement, letter, and press release of the applicant issued pursuant to RCW 32.32.250 shall not include financial statements or describe the benefits of conversion or the value of the capital stock of the savings bank upon conversion. In replying to inquiries, the savings bank should limit its answers to the matters listed in RCW 32.32.255.

[1981 c 85 § 51.]

RCW 32.32.265 Notices of filing of application--Requests for subscription offering circular.

Upon determination that an application for conversion is properly executed and is not materially incomplete, the director shall advise the applicant, in writing, to publish notices of the filing of the application. Promptly after receipt of the advice, the applicant shall furnish a written notice of the filing to each eligible account holder and also publish a notice of the filing in a newspaper printed in the English language and having general circulation in each community in which an office of the applicant is located, as follows:

NOTICE OF FILING OF AN APPLICATION
FOR APPROVAL TO CONVERT TO A
STOCK SAVINGS BANK

Notice is hereby given that, pursuant to chapter 32.32 of the Revised Code of

Washington

. . . . . .

(fill in name of applicant)

has filed an application with the Director of Financial Institutions for approval to convert to the stock form of organization. Copies of the application have been delivered to (address) .

Written comments, including objections to the plan of conversion and materials supporting the objections, from any account holder of the applicant or aggrieved person, will be considered by the director if filed within twenty business days after the date of this notice. Failure to make written comments in objection may preclude the pursuit of any administrative or judicial remedies. Three copies of the comments should be sent to the aforementioned. The proposed plan of conversion and any comments thereon will be available for inspection by any account holder of the applicant at (address) . A copy of the plan may also be inspected at each office of the applicant.

If a significant number of the applicant's account holders speak a language other than English and a newspaper in that language is published in the area served by the applicant, an appropriate translation of the notice shall also be published in that newspaper. A notice sent by mail may be accompanied by the statement that the converting institution will not mail a subscription offering circular to an eligible account holder or a supplemental eligible account holder unless the eligible account holder or the supplemental eligible account holder, prior to the commencement of the subscription offering, requests the subscription offering circular by returning a postcard. The issuer of stock in the conversion shall pay the postage of this postcard and shall inform the eligible account holder or supplemental eligible holder that the postage is paid.

[1994 c 92 § 372; 1985 c 56 § 27; 1981 c 85 § 52.]

RCW 32.32.270 Filing of notice and affidavit of publication required.

Promptly after publication of the notices prescribed in RCW 32.32.265, the applicant shall file with the director the notice and affidavit of publication from each newspaper publisher in the manner the director shall require.

[1994 c 92 § 373; 1981 c 85 § 53.]

RCW 32.32.275 Applications available for public inspection--Confidential information.

Should the applicant desire to submit any information it deems to be of a confidential nature regarding any item or a part of any exhibit included in any application under this chapter, the information pertaining to the item or exhibit shall be separately bound and labeled

"confidential", and a statement shall be submitted therewith briefly setting forth the grounds on which the information should be treated as confidential. Only general reference thereto need be made in that portion of the application which the applicant deems not to be confidential. Applications under this chapter shall be made available for inspection by the public, except for portions which are bound and labeled "confidential" and which the director determines to withhold from public availability under RCW 42.17.250 through 42.17.340. The applicant shall be advised of any decision by the director to make public information designated as "confidential" by the applicant. Even though sections of the application are considered "confidential" as far as public inspection thereof is concerned, to the extent the director deems necessary the director may comment on the confidential submissions in any public statement in connection with the director's decision on the application without prior notice to the applicant.

[1994 c 92 § 374; 1981 c 85 § 54.]

RCW 32.32.280 Offers and sales of securities--Prohibitions.

No offer to sell securities of an applicant pursuant to a plan of conversion may be made prior to approval by the director of the application for conversion. No sale of these securities in the subscription offering may be made except by means of the final offering circular for the subscription offering. No sale of unsubscribed securities may be made except by means of the final offering circular for the public offering or direct community marketing. The offering of shares in the direct community marketing may commence during the subscription offering upon the declaration of effectiveness by the director of the offering circular proposed for the community offering. This section shall not apply to preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are to be in privity of contract with the applicant.

[1994 c 92 § 375; 1981 c 85 § 55.]

RCW 32.32.285 Distribution of offering circulars authorized.

Any preliminary offering circular for the subscription offering, the public offering, or the direct community marketing which has been filed with the director may be distributed to eligible account holders or supplemental eligible account holders and to others in connection with the offering after the director has advised the applicant in writing that the application is properly executed and is not materially incomplete under RCW 32.32.265. No final offering circular may be distributed until the offering circular has been declared effective by the director.

[1994 c 92 § 376; 1981 c 85 § 56.]

RCW 32.32.290 Preliminary offering circular for subscription offering--Estimated subscription price range required.

With respect to the capital stock of the applicant to be sold under the plan of conversion,

any preliminary offering circular for the subscription offering shall set forth the estimated subscription price range. The maximum of the price range should normally be no more than fifteen percent above the average of the minimum and maximum of the price range and the minimum should normally be no more than fifteen percent below this average. The maximum price used in the price range should normally be no more than fifty dollars per share and the minimum no less than five dollars per share.

[1994 c 256 § 106; 1981 c 85 § 57.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 32.32.295 Review of price information by director.

The director shall review the price information required under RCW 32.32.290 in determining whether to give approval to an application for conversion. No representations may be made in any manner that the price information has been approved by the director or that the shares of capital stock sold pursuant to the plan of conversion have been approved or disapproved by the director or that the director has passed upon the accuracy or adequacy of any offering circular covering the shares.

[1994 c 92 § 377; 1981 c 85 § 58.]

RCW 32.32.300 Underwriting commissions.

Underwriting commissions shall not exceed an amount or percentage per share acceptable to the director. No underwriting commission may be allowed or paid with respect to shares of capital stock sold in the subscription offering; however, an underwriter may be reimbursed for accountable expenses in connection with the subscription offering where the public offering is so small that reasonable underwriting commissions thereon would not be sufficient to cover total accountable expenses. The term "underwriting commissions" includes underwriting discounts.

[1994 c 92 § 378; 1981 c 85 § 59.]

RCW 32.32.305 Consideration of pricing information by director--Guidelines.

In considering the pricing information required under RCW 32.32.290, the director shall apply the following guidelines:

(1) The materials shall be prepared by persons independent of the applicant, experienced and expert in the area of corporate appraisal, and acceptable to the director;

(2) The materials shall contain data which are sufficient to support the conclusions reached therein;

(3) The materials shall contain a complete and detailed description of the appraisal methodology employed; and

(4) To the extent that the appraisal is based on a capitalization of the pro forma income of

the converted savings bank, the materials shall indicate the basis for determination of the income to be derived from the proceeds of the sale of stock and demonstrate the appropriateness of the earnings multiple used, including assumptions made as to future earnings growth. To the extent that the appraisal is based on comparison of the capital stock of the applicant with outstanding capital stock of existing stock savings banks or stock savings and loan associations, the materials shall demonstrate the appropriate comparability of the form and substance of the outstanding capital stock and the appropriate comparability of the existing stock savings banks and stock savings and loan associations in terms of such factors as size, market area, competitive conditions, profit history, and expected future earnings.

[1994 c 92 § 379; 1981 c 85 § 60.]

RCW 32.32.310 Submission of information by applicant.

In addition to the information required in RCW 32.32.305, the applicant shall submit information demonstrating to the satisfaction of the director the independence and expertise of any person preparing materials under RCW 32.32.305. However, a person will not be considered as lacking independence for the reason that the person will participate in effecting a sale of capital stock under the plan of conversion or will receive a fee from the applicant for services rendered in connection with the appraisal.

[1994 c 92 § 380; 1981 c 85 § 61.]

RCW 32.32.315 Subscription offering--Distribution of order forms for the purchase of shares.

Promptly after the director has declared the offering circular for the subscription offering effective, the applicant shall distribute order forms for the purchase of shares of capital stock in the subscription offering to all eligible account holders, supplemental eligible account holders (if applicable), and other persons who may subscribe for the shares under the plan of conversion.

[1994 c 92 § 381; 1981 c 85 § 62.]

RCW 32.32.320 Order forms--Final offering circular and detailed instructions.

Each order form distributed pursuant to RCW 32.32.315 shall be accompanied or preceded by the final offering circular for the subscription offering and a set of detailed instructions explaining how to properly complete the order forms.

[1981 c 85 § 63.]

RCW 32.32.325 Subscription price.

The maximum subscription price stated on each order form distributed pursuant to RCW 32.32.315 shall be the amount to be paid when the order form is returned. The maximum

subscription price and the actual subscription price shall be within the subscription price range stated in the director's approval and the offering circular. If either the maximum subscription price or the actual subscription price is not within this subscription price range, the applicant shall obtain an amendment to the director's approval. If appropriate, the director shall condition the giving of amended approval by requiring a resolicitation of order forms. If the actual public offering price is less than the maximum subscription price stated on the order form, the actual subscription price shall be correspondingly reduced and the difference shall be refunded to those who have paid the maximum subscription price.

[1994 c 92 § 382; 1981 c 85 § 64.]

RCW 32.32.330 Order form--Contents.

Each order form distributed pursuant to RCW 32.32.315 shall be prepared so as to indicate to the person receiving it, in as simple, clear, and intelligible a manner as possible, the actions which are required or available to the person with respect to the form and the capital stock offered for purchase thereby. Specifically, each order form shall:

(1) Indicate the maximum number of shares that may be purchased pursuant to the subscription offering;

(2) Indicate the period of time within which the subscription rights must be exercised, which period of time shall not be less than twenty days following the date of the mailing of the order form;

(3) State the maximum subscription price per share of capital stock;

(4) Indicate any requirements as to the minimum number of shares of capital stock which may be purchased;

(5) Provide a specifically designated blank space or spaces for indicating the number of shares of capital stock which the eligible account holder or other person wishes to purchase;

(6) Indicate that payment may be made by cash if delivered in person or by check or by withdrawal from an account holder's savings account. If payment is to be made by withdrawal, a box to check should be provided;

(7) Provide specifically designated blank spaces for dating and signing the order form;

(8) Contain an acknowledgment by the account holder or other person signing the order form that the person has received the final offering circular for the subscription offering prior to signing; and

(9) Indicate the consequences of failing to properly complete and return the order form, including a statement that the subscription rights are nontransferable and will become void at the end of the subscription period. The order form may, and the set of instructions shall, indicate the place or places to which the order forms are to be returned and when the applicant will consider order forms received, such as by date and time of actual receipt in the applicant's offices or by date and time of postmark.

[1981 c 85 § 65.]

RCW 32.32.335 Order form--Additional provision authorized--Payment by withdrawal.

The order form distributed pursuant to RCW 32.32.315 may provide that it may not be modified without the applicant's consent after its receipt by the applicant. If payment is to be made by withdrawal from a savings account the applicant may, but need not, cause the withdrawal to be made upon receipt of the order form. If the withdrawal is made at any time prior to the closing date of the public offering, the applicant shall pay interest to the account holder on the account withdrawn as if the amount had remained in the account from which it was withdrawn until the closing date.

[1981 c 85 § 66.]

RCW 32.32.340 Time period for completion of sale of all shares of capital stock.

The sale of all shares of capital stock of the converting savings bank to be made under the plan of conversion, including any sale in a public offering or direct community marketing, shall be completed as promptly as possible and within forty-five calendar days after the last day of the subscription period, unless extended by the director.

[1994 c 92 § 383; 1981 c 85 § 67.]

RCW 32.32.345 Copies of application for approval to be filed.

An applicant that desires to convert in accordance with this chapter shall file copies of an application for approval in the form and number prescribed by the director.

[1994 c 92 § 384; 1981 c 85 § 68.]

RCW 32.32.350 Nonacceptance and return of applications.

Any application for approval that is improperly executed, or that does not contain copies of a plan of conversion, amendments to the charter of the applicant in the form of new articles of incorporation, and preliminary offering circulars for the subscription offering and for the public offering or direct community marketing shall not be accepted for filing and shall be returned to the applicant. Any application for approval containing a materially incomplete plan of conversion or offering circular may be returned by the director to the applicant.

[1994 c 92 § 385; 1981 c 85 § 69.]

RCW 32.32.355 Continuity of corporate existence.

Upon the filing of the articles of incorporation of a converted savings bank with the secretary of state in accordance with RCW 32.32.485, the corporate existence of the mutual savings bank converting to a stock savings bank pursuant to this chapter shall not terminate but the converted savings bank shall be deemed to be a continuation of the entity of the mutual

savings bank so converted having the same rights and obligations as it had prior to the conversion.

[1981 c 85 § 70.]

RCW 32.32.360 Form of application.

The form of the application shall comply with the requirements of the director.

[1994 c 92 § 386; 1981 c 85 § 71.]

RCW 32.32.365 Representations upon filing of application.

Except as provided in RCW 32.32.370, the filing of any application or amendment thereto under this chapter shall constitute a representation of the applicant by its duly authorized representative, the applicant's principal executive officer, the applicant's principal financial officer, and the applicant's principal accounting officer, and each member of the applicant's board of directors (whether or not the director has signed the application or any amendment thereto) severally that (1) he or she has read the application or amendment, (2) in the opinion of each such person he or she has made such examination and investigation as is necessary to enable him or her to express an informed opinion that the application or amendment complies to the best of his or her knowledge and belief with the applicable requirements of this chapter, and (3) each such person holds this informed opinion.

[1981 c 85 § 72.]

RCW 32.32.370 Representations upon filing of application--Exception.

The representations specified in RCW 32.32.365 shall not be deemed to have been made by any director of the applicant who did not sign the application or any amendment thereto, if, and only to the extent that, the director files with the director within ten business days after the filing of the application or amendment a statement describing those portions of the filing as to which he or she does not so represent.

[1994 c 92 § 387; 1981 c 85 § 73.]

RCW 32.32.375 Application to furnish information.

Every application shall furnish information in accordance with this chapter and with the requirements and forms prescribed by the director.

[1994 c 92 § 388; 1981 c 85 § 74.]

RCW 32.32.380 Application--Additional information required.

In addition to the information expressly required to be included in any application under

this chapter, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

[1981 c 85 § 75.]

RCW 32.32.385 Omission of certain information permitted--Conditions.

Information required need be given only insofar as it is known or reasonably available to the applicant. If any required information is unknown and not reasonably available to the applicant, either because the obtaining thereof would involve unreasonable effort or expense or because it rests peculiarly within the knowledge of another person not affiliated with the applicant, the information may be omitted, subject to the following conditions:

(1) The applicant shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof.

(2) The applicant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to the person for the information.

[1981 c 85 § 76.]

RCW 32.32.390 Offering circular--Certain manner of presentation of required information prohibited.

The information required in an offering circular shall not be set forth in such fashion as to obscure any of the required information or any information necessary to keep the required information from being incomplete or misleading.

[1981 c 85 § 77.]

RCW 32.32.395 Form and contents of filings.

The form and contents of any filing made under this chapter need conform only to the applicable requirements and forms prescribed by the director then in effect, and contain the information, including financial statements, required at the time the filing is made, notwithstanding subsequent changes, except as otherwise provided in any such amendment or in RCW 32.32.400.

[1994 c 92 § 389; 1981 c 85 § 78.]

RCW 32.32.400 Conformance required to order prohibiting the use of any filing.

Whenever the director prohibits by order or otherwise the use of any filing under this chapter, the form and contents of any filing used thereafter shall conform to the requirements of

the order.

[1994 c 92 § 390; 1981 c 85 § 79.]

RCW 32.32.405 Application--Certain named persons--Filing of written consent required.

(1) If any accountant, attorney, investment banker, appraiser, or other persons whose professions give authority to a statement made in any application under this chapter is named as having prepared, reviewed, passed upon, or certified any part thereof, or any report or valuation for use in connection therewith, the written consent of the person shall be filed with the application. If any portion of a report of an expert is quoted or summarized as such in any filing under this chapter, the written consent of the expert shall expressly state that the expert consents to this quotation or summarization.

(2) All written consents filed pursuant to this section shall be dated and signed manually. A list of the consents shall be filed with the application. Where the consent of the expert is contained in the expert's report, a reference shall be made in the list to the report containing the consent.

[1981 c 85 § 80.]

RCW 32.32.410 Offering circular--Certain named persons--Filing of written consent required.

If any person who has not signed an application is named in the offering circular as about to become a director, the written consent of this person shall be filed with the director in the form the director prescribes.

[1994 c 92 § 391; 1981 c 85 § 81.]

RCW 32.32.415 Date of receipt--Date of filing.

The date on which any documents are actually received by the office of the director of financial institutions shall be the date of filing thereof.

[1994 c 92 § 392; 1981 c 85 § 82.]

RCW 32.32.420 Availability for conferences in advance of filing of application--Refusal of prefiling review.

(1) The staff of the director shall be available for conferences with prospective applicants or their representatives in advance of filing an application to convert. These conferences may be held for the purpose of discussing generally the problems confronting an applicant in effecting conversion or to resolve specific problems of an unusual nature.

(2) Prefiling review of an application may be refused by the staff of the director if the

review would delay the examination and processing of material which has already been filed or would favor certain applicants at the expense of others. In any conference under this section, the staff of the director shall not undertake to prepare material for filing but shall limit itself to indicating the kind of information required, leaving the actual drafting to the applicant and its representatives.

[1994 c 92 § 393; 1981 c 85 § 83.]

RCW 32.32.425 Appeal from refusal to approve application.

From the director of financial institutions' refusal to approve an application for conversion, the applicant may, within thirty days from the date of the mailing by the director of financial institutions of notice of refusal to approve, appeal to a board of appeal composed of the governor or the governor's designee, the attorney general, and the director of financial institutions by filing in the office of the director of financial institutions a notice that it appeals to this board from the director of financial institutions' refusal. The procedure upon the appeal shall be such as the board may prescribe, and its determination shall be certified, filed, and recorded in the same manner as the director of financial institutions', and shall be final.

[1994 c 92 § 394; 1981 c 85 § 84.]

RCW 32.32.430 Postconversion reports.

The applicant shall file such postconversion reports concerning its conversion as the director may require.

[1994 c 92 § 395; 1981 c 85 § 85.]

RCW 32.32.435 Definitions.

For purposes of RCW 32.32.440 through 32.32.475, the following definitions shall apply:

(1) The term "offer" includes every offer to buy or acquire, solicitation of an offer to sell, tender offer for, or request or invitation for tenders of, a security or interest in a security for value.

(2) The term "person" means an individual, a group acting in concert, a corporation, a partnership, an association, a joint stock company, a trust, and any unincorporated organization or similar company.

(3) Without limitation on the generality of its meaning, the term "security" includes nontransferable subscription rights issued to a plan of conversion.

[1981 c 85 § 86.]

RCW 32.32.440 Certain agreement to transfer and transfers of ownership in rights or securities prohibited.

Prior to completion of a conversion, no person may transfer or enter into any agreement or understanding to transfer the legal or beneficial ownership of conversion subscription rights, or the underlying securities, to the account of another.

[1981 c 85 § 87.]

RCW 32.32.445 Certain offers and announcements on securities prohibited.

Prior to completion of a conversion, no person may make any offer, or announcement of an offer or intent to make an offer, for any security of a converting savings bank issued or to be issued in connection with the conversion.

[1981 c 85 § 88.]

RCW 32.32.450 Certain offers and acquisitions prohibited.

No person for a period of three years following the date of the conversion may directly or indirectly offer to acquire or acquire the beneficial ownership of more than ten percent of any class of an equity security of any savings bank converted in accordance with this chapter without the prior written approval of the director of financial institutions.

[1994 c 92 § 396; 1981 c 85 § 89.]

RCW 32.32.455 Nonapplicability of RCW 32.32.440 and 32.32.445.

RCW 32.32.440 and 32.32.445 shall not apply to a transfer, agreement or understanding to transfer, offer, or announcement of an offer or intent to make an offer which (1) pertains only to securities to be purchased pursuant to RCW 32.32.060, 32.32.150, or 32.32.175; and (2) has prior written approval of the director.

[1994 c 92 § 397; 1981 c 85 § 90.]

RCW 32.32.460 Nonapplicability of RCW 32.32.445 and 32.32.450.

RCW 32.32.445 and 32.32.450 shall not apply to any offer with a view toward public resale made exclusively to the savings bank or underwriters or selling group acting on its behalf.

[1981 c 85 § 91.]

RCW 32.32.465 Nonapplicability of RCW 32.32.450.

Unless made applicable by the director by prior advice in writing, the prohibition contained in RCW 32.32.450 shall not apply to any offer or announcement of an offer which if consummated would result in acquisition by a person, together with all other acquisitions by the person of the same class of securities during the preceding twelve-month period, of not more than one percent of the same class of securities.

[1994 c 92 § 398; 1981 c 85 § 92.]

RCW 32.32.470 Approval of certain applications prohibited.

The director shall not approve an application involving an offer for, an announcement thereof, or an acquisition of any security of a converted savings bank submitted under RCW 32.32.450 if the director finds that the offer frustrates the purposes of this chapter, is manipulative or deceptive, subverts the fairness of the conversion, is likely to result in injury to the savings bank, is not consistent with savings banking under Title 32 RCW, or is otherwise violative of law or regulation.

[1994 c 92 § 399; 1981 c 85 § 93.]

RCW 32.32.475 Penalty for violations.

For willful violation or assistance of such a violation of any provision of RCW 32.32.440 through 32.32.470, any person who (1) has any connection with the management of a converting or converted savings bank, including any director, officer, employee, attorney, or agent, or (2) controls more than ten percent of the outstanding shares of any class of equity security or voting rights thereto of a converting or converted savings bank shall be subject to a civil penalty of not more than five hundred dollars (which penalty shall be cumulative to any other remedies) for each day that the violation continues, which penalty the director may recover by suit or otherwise for the director's own use. The director in his or her discretion may, at any time before collection of the penalty (whether before or after the bringing of any action or other legal proceedings, the obtaining of any judgment or other recovery, or the issuance or levy of any execution or other legal process thereof), compromise or remit in whole or in part the penalty.

[1994 c 92 § 400; 1981 c 85 § 94.]

RCW 32.32.480 Name of converted savings bank.

A savings bank shall not be forbidden or required to change its corporate name as a result of its conversion pursuant to this chapter.

[1994 c 256 § 107; 1981 c 85 § 95.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 32.32.485 Amendments to charter required in application--Articles of incorporation--Filing of certificate required--Contents--Issuance and filing of authorization certificate.

(1) An application for conversion under this chapter shall include amendments to the charter of the converting savings bank. The charter of the converted savings bank, as amended,

shall be known after the conversion as the articles of incorporation of the converted savings bank. The articles of incorporation may limit or permit the preemptive rights of a shareholder to acquire unissued shares of the converted savings bank and may thereafter by amendment limit, deny, or grant to shareholders of any class of stock or of any series of preferred stock the preemptive right to acquire additional shares of the converted savings bank whether then or thereafter authorized. The articles of incorporation may establish or may specify procedures, in accordance with RCW 30.08.083, for the division of a class of preferred stock into series. In addition to such provisions and the provisions permitted pursuant to RCW 23B.17.030, the articles of incorporation shall contain such other provisions not inconsistent with this chapter as the board of directors of the converting savings bank may determine and as shall be approved by the director of financial institutions.

(2) When all of the stock of a converting savings bank has been subscribed for in accordance with the plan and any amendments thereto, the board of trustees shall thereupon issue the stock and shall cause to be filed with the director of financial institutions, in triplicate, a certificate subscribed by the persons who are to be directors of the converted savings bank, stating:

(a) That all of the stock of the converted mutual savings bank has been issued;

(b) That the attached articles of incorporation have been executed by all of the persons who are to be directors of the converted mutual savings bank;

(c) The place where the bank is to be located and its business transacted, naming the city or town and county, which city or town shall be the same as that where the principal place of business of the mutual savings bank has theretofore been located;

(d) The name, occupation, residence, and post office address of each signer of the certificate; and

(e) The amount of the assets of the mutual savings bank, the amount of its liabilities, and the amount of its guaranty fund and nondivided profits as of the first day of the current calendar month.

(3) Upon the filing of the certificate in triplicate, the director of financial institutions shall, within thirty days thereafter, if satisfied that the corporation has complied with all the provisions of this chapter, issue in triplicate an authorization certificate stating that the corporation has complied with all the requirements of law, and that it has authority to transact at the place designated in its articles of incorporation the business of a converted mutual savings bank. One of the director of financial institutions' certificates of authorization shall be attached to each of the articles of incorporation, and one set of these shall be filed and retained by the director of financial institutions, one set shall be filed in the office of the secretary of state, and one set shall be transmitted to the bank for its files. Upon the receipt from the corporation of the same fees as are required for filing and recording other incorporation certificates or articles the secretary of state shall record the same; whereupon the conversion of the mutual savings bank shall be deemed complete, the requirements of RCW 32.08.010 relating to the incorporation certificate of an unconverted mutual savings bank shall no longer apply, and the signers of the articles of incorporation and their successors shall be a corporation having the powers and being subject to the duties and obligations prescribed by the laws of this state applicable to converted

mutual savings banks, and the time of existence of the corporation shall be perpetual, unless terminated pursuant to law.

[1994 c 256 § 108; 1994 c 92 § 401; 1981 c 85 § 96.]

Notes:

Reviser's note: This section was amended by 1994 c 92 § 401 and by 1994 c 256 § 108, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 32.32.490 Amendments to articles of incorporation.

(1) Amendments to the articles of incorporation of the converted savings bank shall be made only with the approvals of the director, of two-thirds of the directors of the savings bank, and of the holders of a majority of each class of the outstanding shares of capital stock or such greater percentage of these shares as may be specified in the articles of the converted savings bank.

(2) Unless the articles of incorporation provide otherwise, the board of directors of a savings bank may, by majority vote, amend the savings bank's articles of incorporation as provided in this section without shareholder action:

(a) If the savings bank has only one class of shares outstanding, to provide, change, or eliminate any provision with respect to the par value of any class of shares;

(b) To delete the name and address of the initial directors;

(c) If the savings bank has only one class of shares outstanding, solely to change the number of authorized shares to effectuate a split of, or stock dividend in, the savings bank's own shares, or solely to do so and to change the number of authorized shares in proportion thereto;

(d) To change the savings bank's name; or

(e) To make any other change expressly permitted by this title to be made without shareholder action.

[1994 c 256 § 109; 1994 c 92 § 402; 1985 c 56 § 28; 1981 c 85 § 97.]

Notes:

Reviser's note: This section was amended by 1994 c 92 § 402 and by 1994 c 256 § 109, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 32.32.495 Directors--Election--Meetings--Quorum--Oath--Vacancies.

(1) Every converted savings bank shall be managed by not less than five directors, except that a bank having a capital of fifty thousand dollars or less may have only three directors. Directors shall be elected by the stockholders and hold office for one year and until their successors are elected and have qualified. In the first instance the directors shall be those named in the articles of incorporation and afterwards, those elected at the annual meeting of the

stockholders to be held at least once each year on a day to be specified by the converted savings bank's bylaws but not later than May 15th of each year. If for any cause an election is not held at that time, it may be held at an adjourned meeting or at a subsequent meeting called for that purpose in the manner prescribed by the corporation's bylaws. Each director shall be a resident of a state of the United States. The directors shall meet at least nine times each year and whenever required by the director. A majority of the board of directors shall constitute a quorum for the transaction of business. At all stockholders' meetings, each share shall be entitled to one vote, unless the articles of incorporation provide otherwise. Any stockholder may vote in person or by written proxy.

(2) If the board of directors consists of nine or more members, in lieu of electing the entire number of directors annually, the converted savings bank's articles of incorporation or bylaws may provide that the directors be divided into either two or three classes, each class to be as nearly equal in number as possible, the term of office of directors of the first class to expire at the first annual meeting of shareholders after their election, that of the second class to expire at the second annual meeting after their election, and that of the third class, if any, to expire at the third annual meeting after their election. At each annual meeting after such classification, the number of directors equal to the number of the class whose term expires at the time of such meeting shall be elected to hold office until the second succeeding annual meeting, if there are two classes, or until the third succeeding annual meeting, if there are three classes. A classification of directors shall not be effective prior to the first annual meeting of shareholders.

(3) Each director, so far as the duty devolves upon him or her, shall diligently and honestly administer the affairs of the corporation and shall not knowingly violate or willingly permit to be violated any provision of law applicable to the corporation.

(4) A vacancy occurring in the board of directors may be filled by the affirmative vote of a majority of the remaining directors. A director elected to fill a vacancy shall be elected for the unexpired term of the director's predecessor in office. A directorship to be filled by reason of an increase in the number of directors may be filled by the board of directors for a term of office continuing only until the next election of directors by the shareholders.

[1994 c 256 § 110; 1994 c 92 § 403; 1985 c 56 § 29; 1983 c 44 § 3; 1981 c 85 § 98.]

Notes:

Reviser's note: This section was amended by 1994 c 92 § 403 and by 1994 c 256 § 110, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 32.32.497 Conversions incident to acquisition by savings bank holding company or merger or consolidation with savings bank holding company subsidiary--Application of RCW 32.32.110 and 32.32.115.

(1) In a conversion of an unconverted mutual savings bank that is in the process of acquisition by a savings bank holding company or in the process of merger or consolidation with a subsidiary of a savings bank holding company, the restrictions imposed by RCW 32.32.110 on

resale of stock apply to shares of the holding company purchased on original issue by any director or officer of the converting savings bank that is in the process of acquisition, merger, or consolidation, and the restrictions imposed by this chapter apply to the ownership of capital stock in the holding company with the same force and effect as they would apply to the ownership of capital stock of the unconverted mutual savings bank if shares of this savings bank were offered to depositors or the public pursuant to this chapter.

(2) The tender of shares by directors and officers of a converted savings bank in exchange for shares of another converted savings bank, or for shares of a holding company, do not constitute a sale for purposes of RCW 32.32.110. However, the restrictions of RCW 32.32.110 and 32.32.115 apply to the resale of the shares they receive in such an exchange with the same force and effect as to the shares of the converted savings bank they purchased on original issue for a period of three years following the date of such purchase on original issue.

[1985 c 56 § 30.]

RCW 32.32.500 Merger, consolidation, conversion, etc.--Approval--Concentration limits.

(1) A savings bank may merge with, consolidate with, convert into, acquire a branch or branches of, or sell its branch or branches to any depository institutions as defined in 12 U.S.C. Sec. 461 or financial institution chartered or authorized to do business under the laws of any state, territory, province, or other jurisdiction of the United States or another nation, or to a holding company or subsidiary thereof, subject to the approval of (a) the director of financial institutions if the surviving institution is one chartered under Title 30, 31, 32, or 33 RCW, or (b) if the surviving institution is to be a bank, savings bank, savings and loan association, or other depository institution that is federally chartered under the laws of the United States, the federal regulatory authority having jurisdiction over the transaction under the applicable laws, or (c) if the surviving institution is to be a bank, savings bank, savings and loan association, or other depository or financial institution that is chartered under the laws of another state or territory of the United States, the regulatory authority having jurisdiction over that transaction under the applicable laws, or (d) if the surviving institution is to be a bank, savings bank, savings and loan association, or other depository or financial institution that is chartered under the laws of a nation other than the United States or of a state, territory, province, or other jurisdiction of such nation, the director of financial institutions, or (e) if the surviving institution is to be a bank holding company, the Federal Reserve Board or its successor under 12 U.S.C. Sec. 1842 (a) and (d).

(2) In the case of a liquidation, acquisition, merger, consolidation, or conversion of a converted savings bank, chapter 32.34 RCW shall apply.

(3) The concentration limits applicable to these transactions, pursuant to 12 U.S.C. Sec. 1831u(b)(2)(C) with respect to interstate transactions, shall be those imposed pursuant to 12 U.S.C. Sec. 1828(c)(5), as applied by the federal regulatory authority having jurisdiction over that transaction under the applicable law, in lieu of the concentration limits of 12 U.S.C. Sec. 1831u(b)(2)(B).

[1999 c 14 § 30; 1996 c 2 § 28. Prior: 1994 c 256 § 111; 1994 c 92 § 404; 1985 c 56 § 31; 1981 c 85 § 99.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.
Severability--1996 c 2: See RCW 30.38.900.
Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 32.32.505 Intent--References in the Revised Code of Washington.

(1) It is the intention of the legislature to grant, by this chapter, authority to permit conversions by mutual savings banks to capital stock form, and the rights, powers, restrictions, limitations, and requirements of Title 32 RCW shall apply to a converted mutual savings bank except that, in the event of conflict between the provisions of this chapter and other provisions of Title 32 RCW, the other provisions shall be construed in favor of the accomplishment of the purposes of this chapter.

(2) References in the Revised Code of Washington as of the most recent effective date of any amendment, to mutual savings banks shall refer also to stock savings banks. References in the Revised Code of Washington to the board of trustees of a mutual savings bank shall refer also to the board of directors of a stock savings bank. The provisions of Title 30 RCW shall not apply to a converted savings bank except insofar as the provisions would apply to a mutual savings bank.

[1994 c 256 § 112; 1985 c 56 § 32; 1981 c 85 § 100.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 32.32.515 Guaranty fund.

The guaranty fund of a mutual savings bank converted under this chapter shall become surplus of the converted savings bank, but shall not be available after conversion for purposes other than those purposes for which a guaranty fund may be used by a mutual savings bank under Title 32 RCW. No contribution need be made to the guaranty fund by the converted savings bank after conversion. When any provision of any other chapter of this title refers to the amount of the guaranty fund for the purpose of determining the extent of the authority of a savings bank, and not for purposes of prescribing the use of funds in or contributions to the guaranty fund, such provision shall be deemed to refer to an amount including capital surplus and paid-in capital of a stock savings bank.

[1994 c 256 § 113; 1981 c 85 § 102.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 32.32.520 "Funds" defined.

The "funds" of a converted savings bank, as the term is used in Title 32 RCW, shall mean deposits, sums credited to the liquidation account, capital stock, the principal balance of any outstanding capital notes, capital debentures, borrowings, undivided profits and income derived from the foregoing or the proceeds of the foregoing as listed in this section.

[1999 c 14 § 31; 1981 c 85 § 103.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.

RCW 32.32.525 Prohibition on certain securities and purchases--Exception.

After July 26, 1981, no converted savings bank may make any loan or discount on the security of its own capital stock, nor be the purchaser or holder of any such shares, unless the security or purchase is necessary to prevent loss upon a debt previously contracted in good faith, in which case the stocks so purchased or acquired shall be sold at public or private sale, or otherwise disposed of, within six months from the time of its purchase or acquisition. The prohibitions of this section do not apply to a purchase of shares approved by the director pursuant to RCW 32.32.210.

[1994 c 92 § 405; 1983 c 44 § 4; 1981 c 85 § 104.]

RCW 32.32.900 Severability--1981 c 85.

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

[1981 c 85 § 107.]

Chapter 32.34 RCW
MERGER, CONSOLIDATION, CONVERSION, ETC.

(Formerly: Conversion between domestic and federal savings bank)

Sections

32.34.010 Conversion of domestic savings bank--Rights, powers, etc., of successor institution.
32.34.020 Conversion of federal savings bank, national bank, or state commercial bank to domestic savings bank.
32.34.025 Conversion of stock savings bank to savings bank without capital stock.
32.34.030 Savings banks converted to stock form--Voluntary liquidation, transfer of assets, merger, consolidation, etc.--Approval of directors and shareholders.
32.34.040 Savings bank holding companies--Savings bank subsidiaries.
32.34.050 Business trusts for the benefit of depositors.
32.34.060 Voluntary liquidation, conversion, acquisition, merger, and consolidation--Right of dissenting shareholder to receive value of shares--Determination.

RCW 32.34.010 Conversion of domestic savings bank--Rights, powers, etc., of successor institution.

(1) A domestic savings bank formed or converted under this title may convert itself into a state or federal credit union or a federal mutual or stock savings bank, national bank or, within the meaning of chapter 30.49 RCW, a resulting state bank. The conversion shall be effected, notwithstanding any restrictions, limitations, and requirements of law:

(a) In the case of the conversion of a mutual savings bank without capital stock to a state or federal credit union or a federal mutual savings bank, by the vote of two-thirds of the trustees at a regular or special meeting of the trustees called for such purpose;

(b) In the case of the conversion of a stock savings bank to a federal stock savings bank, national bank or, within the meaning of chapter 30.49 RCW, a resulting state bank, by the vote of a majority of the stockholders present, in person or by proxy, at a regular or special meeting of the stockholders called for such purpose;

(c) In the case of the conversion of a savings bank to a federal credit union, federal savings bank, or national bank, in compliance with the procedure, if any, prescribed by the laws of the United States.

(2) Notice of the meeting, stating the purpose thereof, shall be given the director at least thirty days prior to the meeting. If the conversion is authorized by the trustees or stockholders at the meeting, the trustees or stockholders are authorized and shall effect such action, and the officers of the savings bank shall execute all proper conveyances, documents, and other papers necessary or proper thereunto. If conversion is authorized, a copy of the minutes of the meeting shall be filed forthwith with the director.

(3) Upon consummation of the conversion, the successor credit union, federal savings bank, national bank, or resulting state bank shall succeed to all right, title, and interest of the mutual or stock bank, respectively, in and to its assets and to its liabilities to the creditors of the savings bank. Upon the conversion, after the execution and delivery of all instruments of transfer, conveyance, and assignment, the domestic savings bank shall be deemed dissolved.

(4) Every federal savings bank, the home office of which is located in this state, and the savings accounts therein, have all the rights, powers, and privileges and are entitled to the same immunities and exemptions as pertain to savings banks organized under the laws of this state.

[1999 c 14 § 32; 1994 c 92 § 406; 1983 c 45 § 1.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.

RCW 32.34.020 Conversion of federal savings bank, national bank, or state commercial bank to domestic savings bank.

(1) A federal savings bank, the home office of which is located in this state, a national

bank, the head office of which is located in this state, or a state commercial bank incorporated under chapter 30.08 RCW or resulting under chapter 30.49 RCW may convert itself into a domestic savings bank under this title upon approval by the director. For any such conversion, the federal savings bank, national bank, or state commercial bank shall proceed as provided in this chapter for the conversion of a domestic savings bank into a federal savings bank, national bank, or resulting bank under chapter 30.49 RCW. The conversion shall be effected by the vote of a majority of the members or stockholders present, in person or by proxy, at a regular or special meeting of the members or stockholders called for such purpose.

(2) Upon consummation of the conversion, the successor domestic savings bank shall succeed to all right, title, and interest of the federal savings bank in and to its assets, and to its liabilities to the creditors of such federal savings bank, national bank, or a state bank.

[1999 c 14 § 33; 1994 c 92 § 407; 1983 c 45 § 2.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.

RCW 32.34.025 Conversion of stock savings bank to savings bank without capital stock.

(1) The conversion of a stock savings bank to a savings bank without capital stock requires the affirmative vote or written consent of two-thirds of the directors of the savings bank and requires the affirmative vote of two-thirds of the outstanding stock of the savings bank. The conversion shall proceed as prescribed in chapter 32.32 RCW subject to the authority of the director under RCW 32.32.010 and is complete upon the payment into the guaranty fund of the resulting savings bank without capital stock of any surplus remaining after satisfaction of all debts and liabilities of the savings bank, including but not limited to liabilities to dissenting shareholders under RCW 32.34.060.

(2) Any stock savings bank may provide in its articles of incorporation for a higher percentage of affirmative shareholder votes to approve a conversion to a savings bank without capital stock.

[1999 c 14 § 34.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.

RCW 32.34.030 Savings banks converted to stock form--Voluntary liquidation, transfer of assets, merger, consolidation, etc.--Approval of directors and shareholders.

(1) The voluntary liquidation of a mutual savings bank converted to the stock form requires the affirmative vote or written consent of two-thirds of the directors of the converted savings bank, requires the affirmative vote of two-thirds of the outstanding stock of the savings bank, shall proceed as prescribed in chapter 32.24 RCW, and shall be complete upon the payment of any surplus remaining, after satisfaction of all debts and liabilities of the savings

bank, to shareholders in accordance with their legal rights to such surplus.

(2) A savings bank which has converted to the stock form may sell all its assets and transfer all its liabilities upon the affirmative vote or with the written consent of two-thirds of its directors, and upon the affirmative vote of the holders of two-thirds of the outstanding voting shares in each class entitled to vote.

(3) Any merger or consolidation involving a mutual savings bank converted to stock form requires approval by two-thirds of the directors and by the holders of a majority of the outstanding voting shares in each class except that a merger or consolidation approved by two-thirds of the outstanding voting shares in each class requires approval by only a majority of the directors of the converted savings bank, and except as provided in subsection (4) of this section.

(4) A savings bank that has converted to the stock form may engage in a consolidation or merger upon the affirmative vote of two-thirds of its directors, if (a) the transaction is with a wholly-owned subsidiary of the converted savings bank, or (b)(i) the transaction is incident to the establishment of a holding company pursuant to RCW 32.34.040 or 12 U.S.C. Sec. 1467a, (ii) each shareholder will, immediately after the effective date of such transaction, hold the same number of shares of the holding company, with substantially the same designations, preferences, limitations, and rights, as the shares of the converted savings bank that the shareholder held immediately before the effective date, and (iii) the number of authorized shares of the holding company will, immediately after the effective date, be the same as the number of authorized shares of the converted savings bank immediately before the effective date, or (c)(i) the total assets of the converted savings bank, immediately prior to the effective date of the transaction, exceed two-thirds of the assets of the institution that would result from the transaction and (ii) the converted savings bank will survive the transaction without its shareholders surrendering their shares of stock in the converted savings bank.

(5) Any converted savings bank may provide in its articles of incorporation for a higher percentage of affirmative shareholder votes to approve any liquidation, sale of assets, merger, or consolidation.

[1994 c 256 § 115; 1985 c 56 § 33.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 32.34.040 Savings bank holding companies--Savings bank subsidiaries.

(1) No savings bank having capital stock may establish a holding company to own all its stock without the approval of the director. Upon tender of their shares of the converted savings bank, the shareholders of the savings bank shall receive all the shares of the holding company which are outstanding at the time of this tender.

(2) Any company owning more than twenty-five percent of the outstanding voting stock of a savings bank doing business under this Title 32 RCW shall, in addition to the restrictions of RCW 32.32.228, be subject to regulation as a savings bank holding company. Any savings bank holding company which is not subject to regulation by the federal reserve board or the federal

home loan bank board, and all holding company subsidiaries engaging in businesses which are not subject to regulation or licensing by the federal home loan bank board, the director, the commissioner of insurance, or the administrator authorized to regulate loan companies doing business under Title 31 RCW, will be subject to such regulation of accounting practices and of the qualifications of directors and officers, and such inspection and visitation by the director as the director shall deem appropriate, subject to the limitations imposed on regulation, inspection, and visitation of a savings bank under this title. In addition, any savings bank holding company and all holding company subsidiaries will be subject to visitation by the director as such shall deem appropriate, subject to the limitations imposed on visitation of a savings bank under this Title 32 RCW and under the supremacy clause of the Constitution of the United States. The savings bank subsidiary of this holding corporation may engage in subsequent mergers, consolidations, acquisitions, and conversions, only to the extent authorized by RCW 32.32.500, and only upon complying with the applicable requirements in RCW 32.34.030 and this chapter.

(3) In the event a savings bank forms a subsidiary to carry out any of the powers of savings banks under this title, any institution with which this subsidiary merges shall continue to be subject to regulation, inspection, and visitation by the director if the subsidiary is authorized to do business by Title 33 RCW.

[1994 c 92 § 408; 1985 c 56 § 34.]

RCW 32.34.050 Business trusts for the benefit of depositors.

A savings bank not having capital stock may establish a business trust for the benefit of its depositors, with the approval of the director and subject to such rules as the director may adopt. The director may permit this business trust to become a mutual holding company owning all shares of an interim stock savings bank, the sole purpose of which shall be to merge into the mutual savings bank that formed the business trust. The depositors in an unconverted savings bank which has merged with the subsidiary of such a mutual holding company, in the event of a later conversion of this mutual holding company to the stock form, shall retain all their rights to their deposits in the savings bank, and shall also receive, without payment, nontransferrable rights to subscribe for the stock of the holding company, and rights to a liquidation account maintained by the holding company in proportion to their deposits in the savings bank, to the same extent that they would receive these rights in a stock conversion of the savings bank as prescribed in chapter 32.32 RCW.

[1994 c 92 § 409; 1985 c 56 § 35.]

RCW 32.34.060 Voluntary liquidation, conversion, acquisition, merger, and consolidation--Right of dissenting shareholder to receive value of shares--Determination.

(1) Any holder of shares of a savings bank shall be entitled to receive the value of these shares, as specified in subsection (2) of this section, if (a) the savings bank is voluntarily liquidating, converting to a savings bank without capital stock, being acquired, merging, or consolidating, (b) the shareholder voted, in person or by proxy, against the liquidation,

conversion, acquisition, merger, or consolidation, at a meeting of shareholders called for the purpose of voting on such transaction, and (c) the shareholder delivers a written demand for payment, with the stock certificates, to the savings bank within thirty days after such meeting of shareholders. The value of shares shall be paid in cash, within ten days after the later of the effective date of the transaction or the completion of the appraisal as specified in subsection (2) of this section.

(2) The value of such shares shall be determined as of the close of business on the business day before the shareholders' meeting at which the shareholder dissented, by three appraisers, one to be selected by the owners of two-thirds of the dissenting shares, one by the board of directors of the institution that will survive the transaction, and the third by the two so chosen. The valuation agreed upon by any two appraisers shall govern. If such appraisal is not completed by the later of the effective date of the transaction or the thirty-fifth day after receipt of the written demand and stock certificates, the director shall cause an appraisal to be made.

(3) The dissenting shareholders shall bear, on a pro rata basis based on the number of dissenting shares owned, the cost of their appraisal and one-half of the cost of a third appraisal, and the surviving institution shall bear the cost of its appraisal and one-half the cost of the third appraisal. If the director causes an appraisal to be made, the cost of that appraisal shall be borne equally by the dissenting shareholders and the surviving institution, with the dissenting shareholders sharing their half of the cost on a pro rata basis based on the number of dissenting shares owned.

The institution that is to survive the transaction may fix an amount which it considers to be not more than the fair market value of the shares of a savings bank at the time of the stockholder's meeting approving the transaction, which it will pay dissenting shareholders entitled to payment in cash. The amount due under such accepted offer or under the appraisal shall constitute a debt of the surviving institution.

[1999 c 14 § 35; 1994 c 256 § 116; 1985 c 56 § 36.]

Notes:

Severability--1999 c 14: See RCW 32.35.900.

Findings--Construction--1994 c 256: See RCW 43.320.007.

Chapter 32.35 RCW
STOCK SAVINGS BANKS

Sections

32.35.010 Incorporators--Paid-in capital stock, surplus, and undivided profits--Requirements.
32.35.020 Notice of intention to organize--Proposed articles of incorporation--Contents.
32.35.030 Investigation.
32.35.040 Notice to file articles--Articles approved or refused--Hearing.
32.35.050 Approved articles to be filed and recorded--Organization complete.
32.35.055 Amending articles--Filing with director--Contents.
32.35.060 Certificate of authority--Issuance--Contents.
32.35.070 Failure to commence business--Effect--Extension of time.
32.35.080 Extension of existence--Application--Investigation--Certificate--Appeal--Winding up for failure

to continue existence.
32.35.090 Shares--Certificates not required.
32.35.900 Severability--1999 c 14.

RCW 32.35.010 Incorporators--Paid-in capital stock, surplus, and undivided profits--Requirements.

When authorized by the director, one or more natural persons, citizens of the United States, may incorporate a stock savings bank in the manner prescribed under this chapter. No stock savings bank may incorporate for less amount nor commence business unless it has a paid-in capital stock, surplus and undivided profits in the amount as may be determined by the director after consideration of the proposed location, management, and the population and economic characteristics for the area, the nature of the proposed activities and operation of the stock savings bank, and other factors deemed pertinent by the director. Before commencing business, each stock savings bank shall have subscribed and paid into it in the same manner as is required for capital stock, an amount equal to at least ten percent of the capital stock required, that shall be carried in the undivided profit account and may be used to defray organization and operating expenses of the company. Any sum not so used shall be transferred to the surplus fund of the company before any dividend shall be declared to the stockholders.

[1999 c 14 § 1.]

RCW 32.35.020 Notice of intention to organize--Proposed articles of incorporation--Contents.

Persons desiring to incorporate a stock savings bank shall file with the director a notice of their intention to organize a stock savings bank in such form and containing such information as the director shall require, together with proposed articles of incorporation, which shall be submitted for examination to the director at his or her office.

The proposed articles of incorporation shall state:

(1) The name of the stock savings bank;

(2) The city, village, or locality and county where the head office of the corporation is to be located;

(3) The nature of its business, that of a stock savings bank;

(4) The amount of its capital stock, which shall be divided into shares of a par or no par value as may be provided in the articles of incorporation;

(5) The names and places of residence and mailing addresses of the persons who as directors are to manage the corporation until the first annual meeting of its stockholders;

(6) If there is to be preferred or special classes of stock, a statement of preferences, voting rights, if any, limitations and relative rights in respect of the shares of each class; or a statement that the shares of each class shall have the attributes as shall be determined by the stock savings bank's board of directors from time to time with the approval of the director;

(7) Any provision granting the shareholders the preemptive right to acquire additional shares of the stock savings bank and any provision granting shareholders the right to cumulate their votes;

(8) Any provision, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the affairs of the corporation, including any provision restricting the transfer of shares, any provision which under this title is required or permitted to be set forth in the bylaws, and any provision permitted by RCW 23B.17.030;

(9) Any provision the incorporators elect to so set forth, not inconsistent with law or the purposes for which the stock savings bank is organized, or any provision limiting any of the powers granted in this title.

It is not necessary to set forth in the articles of incorporation any of the corporate powers granted in this title. The articles of incorporation shall be signed by all of the incorporators.

[1999 c 14 § 2.]

RCW 32.35.030 Investigation.

When the notice of intention to organize and proposed articles of incorporation complying with RCW 32.35.020 have been received by the director, together with the fees required by law, the director shall ascertain from the best source of information at his or her command and by such investigation as he or she may deem necessary, whether the character, responsibility and general fitness of the persons named in the articles are such as to command confidence and warrant belief that the business of the proposed stock savings bank will be honestly and efficiently conducted in accordance with the intent and purpose of this title, whether the resources in the neighborhood of such place and in the surrounding country afford a reasonable promise of adequate support for the proposed stock savings bank, and whether the proposed stock savings bank is being formed for other than the legitimate objects covered by this title.

[1999 c 14 § 3.]

RCW 32.35.040 Notice to file articles--Articles approved or refused--Hearing.

After the director is satisfied of the *above facts, and, within six months of the date the notice of intention to organize has been received in his or her office, the director shall notify the incorporators to file executed articles of incorporation with the director in triplicate. Unless the director otherwise consents in writing, such articles shall be in the same form and shall contain the same information as the proposed articles and shall be filed with the director within ten days of such notice. Within thirty days after the receipt of such articles of incorporation, the director shall endorse upon each of the copies, over his or her official signature, the word "approved," or the word "refused," with the date of such endorsement. In case of refusal the director shall immediately return one of the copies, so endorsed, together with a statement explaining the reason for refusal to the person from whom the articles were received, which refusal shall be conclusive, unless the incorporators, within ten days of the issuance of such notice of refusal,

shall request a hearing pursuant to the administrative procedure act, chapter 34.05 RCW.

[1999 c 14 § 4.]

Notes:

***Reviser's note:** The term "above facts" apparently refers to the investigation required under RCW 32.35.030.

RCW 32.35.050 Approved articles to be filed and recorded--Organization complete.

In case of approval the director shall immediately give notice to the proposed incorporators and file one of the copies of the articles of incorporation in his or her own office, and shall transmit another copy to the secretary of state, and the last to the incorporators. Upon receipt from the proposed incorporators of the fees as are required for filing and recording other articles of incorporation, the secretary of state shall file and record the articles. Upon the filing of articles of incorporation approved by the director with the secretary of state, all persons named in the articles and their successors shall become and be a corporation, which shall have the powers and be subject to the duties and obligations prescribed by this title, and whose existence shall continue from the date of the filing of such articles until terminated pursuant to law; but such corporation shall not transact any business except as is necessarily preliminary to its organization until it has received a certificate of authority.

[1999 c 14 § 5.]

RCW 32.35.055 Amending articles--Filing with director--Contents.

A stock savings bank amending its articles of incorporation shall deliver articles of amendment to the director for filing as required for articles of incorporation. The articles of amendment shall set forth:

(1) The name of the stock savings bank;

(2) The text of each amendment adopted;

(3) The date of each amendment's adoption;

(4) If the amendment was adopted by the incorporators or board of directors without shareholder action, a statement to that effect and that shareholder action was not required; and

(5) If shareholder action was required, a statement that the amendment was duly approved by the shareholders in accordance with the provisions of RCW 32.32.490.

[1999 c 14 § 6.]

RCW 32.35.060 Certificate of authority--Issuance--Contents.

Before any stock savings bank is authorized to do business, and within ninety days after approval of the articles of incorporation or such other time as the director may allow, it shall furnish proof satisfactory to the director that such corporation has a paid-in capital in the amount determined by the director, that the requisite surplus or reserve fund has been accumulated or paid in cash, and that it has in good faith complied with all the requirements of law and fulfilled

all the conditions precedent to commencing business imposed by this title. If so satisfied, and within thirty days after receipt of such proof, the director shall issue under his or her hand and official seal, in triplicate, a certificate of authority for such corporation. The certificate shall state that the named corporation has complied with the requirements of law and that it is authorized to transact the business of a stock savings bank. However, the director may make his or her issuance of the certificate to a stock savings bank authorized to accept deposits, conditional upon the granting of deposit insurance by the federal deposit insurance corporation, and in such event, shall set out such condition in a written notice which shall be delivered to the corporation.

One of the triplicate certificates shall be transmitted by the director to the corporation and one of the other two shall be filed by the director in the office of the secretary of state and shall be attached to the articles of incorporation. However, if the issuance of the certificate is made conditional upon the granting of deposit insurance by the federal deposit insurance corporation, the director shall not transmit or file the certificate until such condition is satisfied.

[1999 c 14 § 7.]

RCW 32.35.070 Failure to commence business--Effect--Extension of time.

Every corporation authorized by the laws of this state to do business as a stock savings bank, which corporation shall have failed to organize and commence business within six months after certificate of authority to commence business has been issued by the director, shall forfeit its rights and privileges as such corporation, which fact the director shall certify to the secretary of state, and such certificate of forfeiture shall be filed and recorded in the office of the secretary of state in the same manner as the certificate of authority. However, the director may, upon showing of cause satisfactory to him or her, issue an order under his or her hand and seal extending for not more than three months the time within which such organization may be effected and business commenced, such order to be transmitted to the office of the secretary of state and filed and recorded.

[1999 c 14 § 8.]

RCW 32.35.080 Extension of existence--Application--Investigation--Certificate--Appeal--Winding up for failure to continue existence.

At any time not less than one year prior to the expiration of the time of the existence of any mutual savings bank or stock savings bank, it may by written application to the director, signed and verified by a majority of its directors and approved in writing by the owners of not less than two-thirds of its capital stock, apply to the director for leave to file amended articles of incorporation, extending its time of existence. Prior to acting upon such application, the director shall make such investigation of the applicant as he or she deems necessary. If the director determines that the applicant is in sound condition, that it is conducting its business in a safe manner and in compliance with law and that no reason exists why it should not be permitted to continue, he or she shall issue to the applicant a certificate authorizing it to file amended articles

of incorporation extending the time of its existence until such time as it be dissolved by the act of its shareholders owning not less than two-thirds of its stock, or until its certificate of authority becomes revoked or forfeited by reason of violation of law, or until its affairs be taken over by the director for legal cause and finally wound up by him or her. Otherwise the director shall notify the applicant that he or she refuses to grant such certificate. The applicant may appeal from such refusal in the same manner as in the case of a refusal to grant an original certificate of authority. Otherwise the determination of the director shall be conclusive.

Upon receiving a certificate, as hereinabove provided, the applicant may file amended articles of incorporation, extending the time of its existence for the term authorized, to which shall be attached a copy of the certificate of the director. Such articles shall be filed in the same manner and upon payment of the same fees as for original articles of incorporation.

Should any mutual savings bank or stock savings bank fail to continue its existence in the manner provided and be not previously dissolved, the director shall at the end of its original term of existence immediately take possession of the corporation and wind up its affairs in the same manner as in the case of insolvency.

[1999 c 14 § 9.]

RCW 32.35.090 Shares--Certificates not required.

(1) Shares of a stock savings bank may, but need not be, represented by certificates. Unless this title expressly provides otherwise, the rights and obligations of shareholders are identical whether or not their shares are represented by certificates. At a minimum, each share certificate must state the information required to be stated and must be signed as provided in RCW 23B.06.250 and/or 23B.06.270 for corporations.

(2) Unless the articles of incorporation or bylaws provide otherwise, the board of directors of a stock savings bank may authorize the issue of some or all of the shares of any or all of its classes or series without certificates. The authorization does not affect shares already represented by certificates until they are surrendered to the stock savings bank.

(3) Within a reasonable time after the issue or transfer of shares without certificates, the stock savings bank shall send the shareholder a written statement of the information required to be stated on certificates under subsection (1) of this section.

[1999 c 14 § 10.]

RCW 32.35.900 Severability--1999 c 14.

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

[1999 c 14 § 38.]

Chapter 32.40 RCW
COMMUNITY CREDIT NEEDS

Sections

32.40.010	Examinations--Investigation and assessment of performance record in meeting community credit needs.
32.40.020	Approval and disapproval of applications--Consideration of performance record in meeting community credit needs.
32.40.030	Adoption of rules.
32.40.900	Severability--1985 c 329.
32.40.901	Effective date--1985 c 329.

RCW 32.40.010 Examinations--Investigation and assessment of performance record in meeting community credit needs.

(1) In conducting an examination of a savings bank chartered under Title 32 RCW, the director shall investigate and assess the record of performance of the savings bank in meeting the credit needs of the savings bank's entire community, including low and moderate-income neighborhoods. The director shall accept, in lieu of an investigation or part of an investigation required by this section, any report or document that the savings bank is required to prepare or file with one or more federal agencies by the act of Congress entitled the "Community Reinvestment Act of 1977" and the regulations promulgated in accordance with that act, to the extent such reports or documents assist the director in making an assessment based upon the factors outlined in subsection (2) of this section.

(2) In making an investigation required under subsection (1) of this section, the director shall consider, independent of any federal determination, the following factors in assessing the savings bank's record of performance:

(a) Activities conducted by the institution to ascertain credit needs of its community, including the extent of the institution's efforts to communicate with members of its community regarding the credit services being provided by the institution;

(b) The extent of the institution's marketing and special credit related programs to make members of the community aware of the credit services offered by the institution;

(c) The extent of participation by the institution's board of directors or board of trustees in formulating the institution's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act of 1977;

(d) Any practices intended to discourage applications for types of credit set forth in the institution's community reinvestment act statement(s);

(e) The geographic distribution of the institution's credit extensions, credit applications, and credit denials;

(f) Evidence of prohibited discriminatory or other illegal credit practices;

(g) The institution's record of opening and closing offices and providing services at

offices;

(h) The institution's participation, including investments, in local community development projects;

(i) The institution's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans and small business or small farm loans within its community, or the purchase of such loans originated in its community;

(j) The institution's participation in governmentally insured, guaranteed, or subsidized loan programs for housing, small businesses, or small farms;

(k) The institution's ability to meet various community credit needs based on its financial condition, size, legal impediments, local economic condition, and other factors;

(l) Other factors that, in the judgment of the director, reasonably bear upon the extent to which an institution is helping to meet the credit needs of its entire community.

(3) The director shall include as part of the examination report, a summary of the results of the assessment required under subsection (1) of this section and shall assign annually to each savings bank a numerical community reinvestment rating based on a one through five scoring system. Such numerical scores shall represent performance assessments as follows:

(a) Excellent performance:	1	
(b) Good performance:		2
(c) Satisfactory performance:	3	
(d) Inadequate performance:	4	
(e) Poor performance:		5

[1994 c 92 § 410; 1985 c 329 § 8.]

Notes:

Legislative intent--1985 c 329: See note following RCW 30.60.010.

RCW 32.40.020 Approval and disapproval of applications--Consideration of performance record in meeting community credit needs.

Whenever the director must approve or disapprove of an application for a new branch or satellite facility; for a purchase of assets, a merger, an acquisition or a conversion not required for solvency reasons; or for authority to engage in a business activity, the director shall consider, among other factors, the record of performance of the applicant in helping to meet the credit needs of the applicant's entire community, including low and moderate-income neighborhoods. Assessment of an applicant's record of performance may be the basis for denying an application.

[1994 c 92 § 411; 1985 c 329 § 9.]

Notes:

Legislative intent--1985 c 329: See note following RCW 30.60.010.

RCW 32.40.030 Adoption of rules.

The director shall adopt all rules necessary to implement RCW 32.40.010 and 32.40.020 by January 1, 1986.

[1994 c 92 § 412; 1985 c 329 § 10.]

Notes:

Legislative intent--1985 c 329: See note following RCW 30.60.010.

RCW 32.40.900 Severability--1985 c 329.

See RCW 30.60.900.

RCW 32.40.901 Effective date--1985 c 329.

See RCW 30.60.901.

Chapter 32.98 RCW
CONSTRUCTION

Sections

32.98.010 Continuation of existing law.
32.98.020 Title, chapter, section headings not part of law.
32.98.030 Invalidity of part of title not to affect remainder.
32.98.031 Severability--1963 c 176.
32.98.050 Repeals and saving.
32.98.060 Emergency--1955 c 13.

RCW 32.98.010 Continuation of existing law.

The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments.

[1955 c 13 § 32.98.010.]

RCW 32.98.020 Title, chapter, section headings not part of law.

Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law.

[1955 c 13 § 32.98.020.]

RCW 32.98.030 Invalidity of part of title not to affect remainder.

If any provision of this title, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected.

[1955 c 13 § 32.98.030.]

RCW 32.98.031 Severability--1963 c 176.

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

[1963 c 176 § 20.]

RCW 32.98.050 Repeals and saving.

See 1955 c 13 § 32.98.050.

RCW 32.98.060 Emergency--1955 c 13.

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

[1955 c 13 § 32.98.060.]

Title 33 RCW
SAVINGS AND LOAN ASSOCIATIONS

Chapters

33.04 General provisions.
33.08 Organization--Articles--Bylaws.
33.12 Powers and restrictions.
33.16 Directors, officers and employees.
33.20 Members--Savings.
33.24 Loans and investments.
33.28 Fees and taxes.
33.32 Foreign associations.
33.36 Prohibited acts--Penalties.
33.40 Insolvency, liquidation, merger.
33.43 Conversion to and from federal association.
33.44 Conversion to mutual savings bank.
33.46 Conversion of savings bank or commercial bank to association.
33.48 Stock associations.
33.54 Satellite facilities.

Notes:
Age of majority: Chapter 26.28 RCW.

Assignment for benefit of creditors: Chapter 7.08 RCW.
Bonds and notes of federal agencies as investment and collateral: Chapter 39.60 RCW.
Corporate seals, effect of absence from instrument: RCW 64.04.105.
Corporation fees, in general: Chapter 23B.01 RCW.
Corporations: Titles 23B, 24 RCW.
Credit life insurance and credit accident and health insurance: Chapter 48.34 RCW.
Department of financial institutions: Chapter 43.320 RCW.
Fairness in lending act: RCW 30.04.500 through 30.04.515.
False representations: Chapter 9.38 RCW.
Home loan bank
as depositary: RCW 30.32.040.
may borrow from: RCW 30.32.030.
Husband and wife, rights, liabilities: Chapter 26.16 RCW.
Indemnification of officers, directors, employees, etc., by corporation, insurance: RCW 23B.08.320, 23B.08.500 through 23B.08.580, 23B.08.600, and 23B.17.030.
Interest and usury in general: Chapter 19.52 RCW.
Investment
in federal home loan bank stock or bonds authorized: RCW 30.32.020.
of county funds not required for immediate expenditures, service fee: RCW 36.29.020.
of funds of school districts--Service fee: RCW 28A.320.320.
Joint tenants, simultaneous death: RCW 11.05.030.
Master license system exemption: RCW 19.02.800.
Mortgages: Title 61 RCW.
Powers of appointment: Chapter 11.95 RCW.
Real property and conveyances: Title 64 RCW.
Retail installment sales of goods and services: Chapter 63.14 RCW.
Safe deposit companies: Chapter 22.28 RCW.
Uniform unclaimed property act: Chapter 63.29 RCW.
Washington Principal and Income Act: Chapter 11.104 RCW.

Chapter 33.04 RCW
GENERAL PROVISIONS

Sections

33.04.002 Legislative declaration, intent--Purpose.
33.04.005 Definitions.
33.04.011 "Mortgage" includes deed of trust and real estate contract.
33.04.020 Director--Powers and duties.
33.04.025 Rules.
33.04.030 Compelling attendance of witnesses.
33.04.042 Cease and desist order--Notice of charges--Grounds--Hearing on--Issuance of order, when--Contents--Effective, when.
33.04.044 Temporary cease and desist order--Issued, when--Effective, when--Duration.
33.04.046 Temporary cease and desist order--Injunction against order on application of association--Jurisdiction.
33.04.048 Temporary cease and desist order--Injunction to enforce--Jurisdiction.

33.04.052 Cease and desist order--Administrative hearing--Procedure--Modification, termination, or setting aside of order--Review of order, procedure--Manner of service of notice or order.
33.04.054 Cease and desist order--Enforcement--Jurisdiction.
33.04.060 Appellate review.
33.04.070 Appointment and qualifications of supervisor.
33.04.090 Saturday closing authorized.
33.04.110 Examination reports and information--Confidential and privileged--Exceptions, limitations and procedure--Penalty.
33.04.120 Automated teller machines and night depositories security.

RCW 33.04.002 Legislative declaration, intent--Purpose.

The legislature finds that the statutory law relating to savings and loan associations has not been generally updated or modernized since 1945; and, as a result, many changes to Title 33 RCW should now be made with respect to the powers and duties of the director; to the provisions relating to the organization, management and conversion of savings and loan associations; and to the powers and restrictions placed upon savings and loan associations to make investments. While it is the intent of the legislature to grant permissive investment powers to state-chartered savings and loan associations, it does not intend these associations to abandon the residential financing market in Washington. It, therefore, finds that the powers granted in chapter 3, Laws of 1982 are for the purpose of updating and modernizing the law relating to savings and loan associations, thereby creating a more secure and responsive financial environment in which the residential home buyer will continue to obtain financing.

[1994 c 92 § 413; 1982 c 3 § 1.]

Notes:

Severability--1982 c 3: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 3 § 118.]

RCW 33.04.005 Definitions.

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

(1) "Branch" means an established manned place of business or a manned mobile facility or other manned facility of an association, other than the principal office, at which deposits may be taken.

(2) "Depositor" means a person who deposits money in an association.

(3) "Domestic association" means a savings and loan association which is incorporated under the laws of this state.

(4) "Federal association" means a savings and loan association which is incorporated under federal law.

(5) "Foreign association" means a savings and loan association organized under the laws

of another state.

(6)(a) "Member," in a mutual association, means a depositor or any other person who is a member of a class of persons granted membership rights by the articles of incorporation or bylaws.

(b) "Member," in a stock association, means a stockholder or any other person who is a member of a class of persons granted membership rights by the articles of incorporation or bylaws.

(7) "Mutual association" means an association formed without authority to issue stock.

(8) "Savings and loan association," "savings association" or "association," unless otherwise restricted, means a domestic or foreign association and includes a stock or a mutual association.

(9) "Stock association" means an association formed with the authority to issue stock.

(10) "Department" means department of financial institutions.

(11) "Director" means director of financial institutions.

[1994 c 92 § 414; 1982 c 3 § 2.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.04.011 "Mortgage" includes deed of trust and real estate contract.

See RCW 33.24.005.

RCW 33.04.020 Director--Powers and duties.

The director:

(1) Shall be charged with the administration and enforcement of this title and shall have and exercise all powers necessary or convenient thereunto;

(2) Shall issue to each association doing business hereunder, when it shall have paid its annual license fee and be duly qualified otherwise, a certificate of authority authorizing it to transact business;

(3) Shall require of each association an annual statement and such other reports and statements as the director deems desirable, on forms to be furnished by the director;

(4) Shall require each association to conduct its business in compliance with the provisions of this title;

(5) Shall visit and examine into the affairs of every association, at least once in each biennium; may appraise and revalue its investments and securities; and shall have full access to all the books, records, papers, securities, correspondence, bank accounts, and other papers of such association for such purposes. The director may accept in lieu of an examination the report of the examining division of the federal home loan bank board, or the report of the savings and loan department of another state, which has made and submitted a report of the condition of the affairs of the association, and if approved, the report shall have the same force and effect as though the examination were made by the director or one of his or her appointees;

(6) May accept or exchange any information or reports with the examining division of the federal home loan bank board or other like agency which may insure the accounts in an association or to which an association may belong or with the savings and loan department of another state which has authority to examine any association doing business in this state;

(7) May visit and examine into the affairs of any nonpublicly-held corporation in which the association has a material investment and any publicly-held corporation the capital stock of which is controlled by the association; may appraise and revalue its investments and securities; and shall have full access to all the books, records, papers, securities, correspondence, bank accounts, and other papers of such corporation for such purposes;

(8) May, in the director's discretion, administer oaths to and to examine any person under oath concerning the affairs of any association or nonpublicly-held corporation in which the association has a material investment and any publicly-held corporation the capital stock of which is controlled by an association and, in connection therewith, to issue subpoenas and require the attendance and testimony of any person or persons at any place within this state, and to require witnesses to produce any books, papers, documents, or other things under their control material to such examination; and

(9) Shall have power to commence and prosecute actions and proceedings to enforce the provisions of this title, to enjoin violations thereof, and to collect sums due to the state of Washington from any association.

[1994 c 92 § 416; 1982 c 3 § 4; 1979 c 113 § 1; 1973 c 130 § 22; 1945 c 235 § 95; Rem. Supp. 1945 § 3717-214. Prior: 1933 c 183 §§ 79, 94, 95; 1919 c 169 § 12; 1913 c 110 § 19; 1890 p 56 § 19.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

Severability--1979 c 113: "If any provision of this 1979 act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 c 113 § 17.]

Severability--1973 c 130: See note following RCW 33.24.350.

RCW 33.04.025 Rules.

The director shall adopt uniform rules in accordance with the administrative procedure act, chapter 34.05 RCW, to govern examinations and reports of associations and the form in which they shall report their assets, liabilities, and reserves, charge off bad debts and otherwise keep their records and accounts, and otherwise to govern the administration of this title. The director shall mail a copy of the rules to each savings and loan association at its principal place of business. The person doing the mailing shall make and file his or her affidavit thereof in the office of the director.

[1994 c 92 § 417; 1982 c 3 § 5; 1973 c 130 § 20.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

Severability--1973 c 130: See note following RCW 33.24.350.

RCW 33.04.030 Compelling attendance of witnesses.

In event any person shall refuse to appear in compliance with any subpoena issued by the director or shall refuse to testify thereunder, the superior court of the state of Washington for the county in which such witness was required by said subpoena to appear, upon application of the director, shall have jurisdiction to compel such witness to attend and testify and to punish for contempt any witness not complying with the order of the court.

[1994 c 92 § 418; 1945 c 235 § 96; Rem. Supp. 1945 § 3717-215. Prior: 1933 c 183 §§ 94, 95; 1919 c 169 § 12; 1913 c 110 § 19.]

RCW 33.04.042 Cease and desist order--Notice of charges--Grounds--Hearing on--Issuance of order, when--Contents--Effective, when.

(1) The director may issue and serve upon an association a notice of charges if in the opinion of the director the association:

(a) Is engaging or has engaged in an unsafe or unsound practice in conducting the business of the association;

(b) Is violating or has violated a material provision of any law, rule, or any condition imposed in writing by the director in connection with the granting of any application or other request by the association or any written agreement made with the director; or

(c) Is about to do the acts prohibited in (a) or (b) of this subsection if the opinion that the threat exists is based upon reasonable cause.

(2) The notice shall contain a statement of the facts constituting the alleged violation or violations or the practice or practices and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the association. The hearing shall be set not earlier than ten days nor later than thirty days after service of the notice unless a later date is set by the director at the request of the association.

Unless the association appears at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the cease and desist order. In the event of this consent or if upon the record made at the hearing the director finds that any violation or practice specified in the notice of charges has been established, the director may issue and serve upon the association an order to cease and desist from the violation or practice. The order may require the association and its directors, officers, employees, and agents to cease and desist from the violation or practice and may require the association to take affirmative action to correct the conditions resulting from the violation or practice.

(3) A cease and desist order shall become effective at the expiration of ten days after the service of the order upon the association concerned except that a cease and desist order issued upon consent shall become effective at the time specified in the order and shall remain effective as provided therein unless it is stayed, modified, terminated, or set aside by action of the director or a reviewing court.

[1994 c 92 § 419; 1982 c 3 § 7.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.04.044 Temporary cease and desist order--Issued, when--Effective, when--Duration.

Whenever the director determines that the acts specified in RCW 33.04.042 or their continuation is likely to cause insolvency or substantial dissipation of assets or earnings of the association or to otherwise seriously prejudice the interests of its depositors, the director may also issue a temporary order requiring the association to cease and desist from the violation or practice. The order shall become effective upon service on the association and shall remain effective unless set aside, limited, or suspended by a court in proceedings under RCW 33.04.046 pending the completion of the administrative proceedings under the notice and until such time as the director shall dismiss the charges specified in the notice or until the effective date of a cease and desist order issued against the association under RCW 33.04.042.

[1994 c 92 § 420; 1982 c 3 § 8.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.04.046 Temporary cease and desist order--Injunction against order on application of association--Jurisdiction.

Within ten days after an association has been served with a temporary cease and desist order, the association may apply to the superior court in the county of its principal place of business for an injunction setting aside, limiting, or suspending the order pending the completion of the administrative proceedings pursuant to the notice served under RCW 33.04.044.

The superior court shall have jurisdiction to issue the injunction.

[1982 c 3 § 9.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.04.048 Temporary cease and desist order--Injunction to enforce--Jurisdiction.

In the case of a violation or threatened violation of a temporary cease and desist order issued under RCW 33.04.044, the director may apply to the superior court of the county of the principal place of business of the association for an injunction to enforce the order, and the court shall issue an injunction if it determines that there has been a violation or threatened violation.

[1994 c 92 § 421; 1982 c 3 § 10.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.04.052 Cease and desist order--Administrative hearing--Procedure--Modification, termination, or setting aside of order--Review of order, procedure--Manner of service of notice or order.

(1) Any administrative hearing provided in RCW 33.04.042 may be held at such place as is designated by the director and shall be conducted in accordance with chapter 34.05 RCW. The hearing shall be private unless the director determines that a public hearing is necessary to protect the public interest after fully considering the views of the party afforded the hearing.

Within sixty days after the hearing, the director shall render a decision which shall include findings of fact upon which the decision is based and the director shall issue and serve upon each party to the proceeding an order or orders consistent with RCW 33.04.042.

Unless a petition for review is timely filed in the superior court of the county of the principal place of business of the affected association under subsection (2) of this section and until the record in the proceeding has been filed as therein provided, the director may at any time modify, terminate, or set aside any order upon such notice and in such manner as the director deems proper. Upon filing the record, the director may modify, terminate, or set aside any order only with permission of the court.

The judicial review provided in this section for an order shall be exclusive.

(2) Any party to the proceeding or any person required by an order issued under RCW 33.04.042, 33.04.044 or 33.04.048 to refrain from any of the violations or practices stated therein may obtain a review of any order served under subsection (1) of this section other than one issued upon consent by filing in the superior court of the county of the principal place of business of the affected association within ten days after the date of service of the order a written petition praying that the order of the director be modified, terminated, or set aside. A copy of the petition shall be immediately served upon the director and the director shall then file in the court the record of the proceeding. The court shall have jurisdiction upon the filing of the petition, which jurisdiction shall become exclusive upon the filing of the record to affirm, modify, terminate, or set aside in whole or in part the order of the director except that the director may modify, terminate, or set aside an order with the permission of the court. The judgment and decree of the court shall be final, except that it is subject to appellate review under the rules of court.

(3) The commencement of proceedings for judicial review under subsection (2) of this section shall not operate as a stay of any order issued by the director unless specifically ordered by the court.

(4) Service of any notice or order required to be served under RCW 33.04.042 or 33.04.044 shall be accomplished in the same manner as required for the service of process in civil actions in superior courts of this state.

[1994 c 92 § 422; 1982 c 3 § 11.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.04.054 Cease and desist order--Enforcement--Jurisdiction.

The director may apply to the superior court of the county of the principal place of business of the association affected for the enforcement of any effective and outstanding order issued under RCW 33.04.042, 33.04.044, or 33.04.048, and the court shall have jurisdiction to order compliance therewith.

No court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any order or to review, modify, suspend, terminate, or set aside any order except as provided in RCW 33.04.046 and 33.04.052.

[1994 c 92 § 423; 1982 c 3 § 12.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.04.060 Appellate review.

An association may petition the superior court of the state of Washington for Thurston county for the review of any decision, ruling, requirement or other action or determination of the director, by filing its complaint, duly verified, with the clerk of the court and serving a copy thereof upon the director. Upon the filing of the complaint, the clerk of the court shall docket the same as a cause pending therein.

The director may answer the complaint and the petitioner reply thereto, and the cause shall be heard before the court as in other civil actions. Both the petitioner and the director may seek appellate review of the decision of the court to the supreme court or the court of appeals of the state of Washington.

[1994 c 92 § 424; 1988 c 202 § 32; 1971 c 81 § 84; 1945 c 235 § 115; Rem. Supp. 1945 § 3717-234. Prior: 1933 c 183 § 95.]

Notes:

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 33.04.070 Appointment and qualifications of supervisor.

See RCW 43.19.100.

RCW 33.04.090 Saturday closing authorized.

See RCW 30.04.330.

RCW 33.04.110 Examination reports and information--Confidential and privileged--Exceptions, limitations and procedure--Penalty.

(1) Except as otherwise provided in this section, all examination reports and all information obtained by the director and the director's staff in conducting examinations of associations are confidential and privileged information and shall not be made public or otherwise disclosed to any person, firm, corporation, agency, association, governmental body, or other entity.

(2) Subsection (1) of this section notwithstanding, the director may furnish in whole or in part examination reports prepared by the director's office to federal agencies empowered to examine state associations, to savings and loan supervisory agencies of other states which have authority to examine associations doing business in this state, to the attorney general in his or her role as legal advisor to the director, to the examined association as provided in subsection (4) of this section, and to officials empowered to investigate criminal charges. If the director furnishes any examination report to officials empowered to investigate criminal charges, the director may only furnish that part of the report which is necessary and pertinent to the investigation, and the director may do this only after notifying the affected savings and loan association and any customer of the savings and loan association who is named in that part of the report of the order to furnish the part of the examination report unless the officials requesting the report first obtain a waiver of the notice requirement from a court of competent jurisdiction for good cause. The director may also furnish in whole or in part examination reports concerning any association in danger of insolvency to the directors or officers of a potential acquiring party when, in the director's opinion, it is necessary to do so in order to protect the interests of members, depositors, or borrowers of the examined association.

(3) All examination reports furnished under subsection (2) of this section shall remain the property of the department of financial institutions and, except as provided in subsection (4) of this section, no person, agency, or authority to whom reports are furnished or any officer, director, or employee thereof shall disclose or make public any of the reports or any information contained therein except in published statistical material that does not disclose the affairs of any individual or corporation: PROVIDED, That nothing herein shall prevent the use in a criminal prosecution of reports furnished under subsection (2) of this section.

(4) The examination report made by the department of financial institutions is designed for use in the supervision of the association, and the director may furnish a copy of the report to the savings and loan association examined. The report shall remain the property of the director and will be furnished to the association solely for its confidential use. Neither the association nor any of its directors, officers, or employees may disclose or make public in any manner the report or any portion thereof without permission of the board of directors of the examined association. The permission shall be entered in the minutes of the board.

(5) Examination reports and information obtained by the director and the director's staff in conducting examinations shall not be subject to public disclosure under chapter 42.17 RCW.

(6) In any civil action in which the reports are sought to be discovered or used as evidence, any party may, upon notice to the director, petition the court for an in camera review of the report. The court may permit discovery and introduction of only those portions of the report which are relevant and otherwise unobtainable by the requesting party. This subsection shall not apply to an action brought or defended by the director.

(7) This section shall not apply to investigation reports prepared by the director and the director's staff concerning an application for a new association or an application for a branch of an association. The director may adopt rules making confidential portions of such reports if in the director's opinion the public disclosure of the portions of the report would impair the ability to obtain the information which the director considers necessary to fully evaluate the application.

(8) Every person who intentionally violates any provision of this section is guilty of a gross misdemeanor.

[1994 c 92 § 425; 1982 c 3 § 6; 1977 ex.s. c 245 § 3.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

Severability--1977 ex.s. c 245: See note following RCW 30.04.075.

Examination reports and information from financial institutions exempt: RCW 42.17.31911.

RCW 33.04.120 Automated teller machines and night depositories security.

Chapter 19.174 RCW applies to automated teller machines and night depositories regulated under this title.

[1993 c 324 § 13.]

Notes:

Effective date--1993 c 324: See RCW 19.174.900.

Chapter 33.08 RCW
ORGANIZATION--ARTICLES--BYLAWS

Sections

33.08.010 Compliance required--Use of words in name or advertising--Penalty--Saving.
33.08.020 Who may form association.
33.08.030 Domestic association as stock or mutual association--Articles of incorporation.
33.08.040 Bylaws.
33.08.050 Articles and bylaws to director.
33.08.055 Certificate of incorporation--Application, contents--Filing fee.
33.08.060 Investigation--Fee.
33.08.070 Approval or refusal--Appellate review.
33.08.080 Articles and bylaws filed--Certificate of incorporation issued--Revocation of right to engage in business, when.
33.08.090 Amendment of articles.
33.08.100 Amendment of bylaws.
33.08.110 Branch association--Authorized--Procedure--Limitations--Discontinuance of branch, procedure.

RCW 33.08.010 Compliance required--Use of words in name or advertising--Penalty--Saving.

No person, firm, company, association, fiduciary, co-partnership, or corporation, either foreign or domestic, shall organize as, carry on or conduct the business of an association except in conformity with the terms and provisions of this title or unless incorporated as a savings and loan association under the laws of the United States or use in name or advertising any of the following:

Any collocation employing either or both of the words "building" or "loan" with one or more of the words "saving", "savings", "thrift", or words of similar import except in conformity with this title;

Any collocation employing one or more of the words "saving", "savings", "thrift" or words of similar import, with one or more of the words "association", "institution", "society", "company", "corporation", or words of similar import, or abbreviations thereof except in conformity with this title or unless authorized to do business under the laws of this state or of the United States relating to savings and loan associations, banks, or mutual savings banks; nor shall the word "federal" be used as a part of such name unless the user is incorporated as a savings and loan association under the laws of the United States.

Neither shall the words "saving", or "savings", be used in any name or advertising or to represent in any manner to indicate that the business is of the character or kind of business carried on or transacted by an association or which is calculated to lead any person to believe that the business is that of an association unless authorized to do business under the laws of this state or of the United States relating to savings and loan associations, banks, or mutual savings banks.

Every person who, and every director and officer of every corporation which, to the knowledge of such director or officer, violates any provision of this section, shall be guilty of a gross misdemeanor. Such conduct shall also be deemed a nuisance and subject to abatement in the manner prescribed by law at the instance of the director of financial institutions or any other public body or officer authorized to do so.

The provisions of this section shall have no application to use of any word or collocation of words or to any representation or advertising which had been adopted and lawfully used by any person, firm, company, association, fiduciary, co-partnership or corporation lawfully engaged in business on March 24, 1959.

[1994 c 92 § 426; 1959 c 280 § 1; 1945 c 235 § 2; Rem. Supp. 1945 § 3717-121. Prior: 1933 c 183 §§ 84, 100; 1919 c 169 § 1; 1913 c 110 §§ 2, 25; 1890 p 56 §§ 2, 22, 37.]

RCW 33.08.020 Who may form association.

Any individuals desiring to transact a business of an association may, by complying with this chapter, become a body corporate for that purpose.

[1982 c 3 § 13; 1945 c 235 § 3; Rem. Supp. 1945 § 3717-122. Prior: 1933 c 183 § 3; 1925 ex.s. c 144 § 1; 1913 c 110 § 1; 1903 c 116 § 1; 1890 p 56 § 1.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.08.030 Domestic association as stock or mutual association--Articles of incorporation.

A domestic association shall be incorporated either as a stock or a mutual association. The articles of incorporation shall specifically state:

(1) The name of the association, which shall include the words:

(a) "Savings association";

(b) "Savings and loan association"; or

(c) "Savings bank";

(2) The city or town and county in which it is to have its principal place of business;

(3) The name, occupation, and place of residence of all incorporators, the majority of whom shall be Washington residents;

(4) Its purposes;

(5) Its duration, which may be for a stated number of years or perpetual;

(6) The amount of paid-in savings with which the association will commence business;

(7) The names, occupations, and addresses of the first directors;

(8) Whether the association is organized as a stock or mutual association and who has membership rights and the relative rights of different classes of members of the association; and

(9) Any provision the incorporators elect to so set forth which is permitted by RCW 23B.17.030.

The articles of incorporation may contain any other provisions consistent with the laws of this state and the provisions of this title pertaining to the association's business or the conduct of its affairs.

[1994 c 256 § 117; 1983 c 42 § 1; 1982 c 3 § 14; 1949 c 20 § 1; 1945 c 235 § 4; Rem. Supp. 1949 § 3717-123. Prior: 1933 c 183 § 4; 1925 ex.s. c 144 § 1; 1919 c 169 § 5; 1913 c 110 §§ 1, 6; 1903 c 116 § 1; 1890 p 56 § 1.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.08.040 Bylaws.

The incorporators shall prepare bylaws for the government of the association, which shall include:

(1) The offices of the association and the respective duties assigned to them;

(2) Policies and procedures for the conduct of the business of the association;

(3) Any other matters deemed necessary or expedient.

Such bylaws must conform in all respects to the provisions of this title and the laws of this state.

[1982 c 3 § 15; 1945 c 235 § 5; Rem. Supp. 1945 § 3717-124. Prior: 1933 c 183 § 5; 1919 c 169 § 1; 1913 c 110 § 2; 1890 p 56 § 3.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.08.050 Articles and bylaws to director.

The incorporators shall deliver to the director triplicate originals of the articles of incorporation and duplicate copies of its proposed bylaws.

[1994 c 92 § 427; 1982 c 3 § 16; 1981 c 302 § 30; 1945 c 235 § 6; Rem. Supp. 1945 § 3717-125. Prior: 1933 c 183 § 6; 1890 p 56 § 3.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

Severability--1981 c 302: See note following RCW 19.76.100.

RCW 33.08.055 Certificate of incorporation--Application, contents--Filing fee.

When the incorporators of a domestic association deliver the articles of incorporation and bylaws to the director, the incorporators shall submit an application for a certificate of incorporation, signed and verified by the incorporators, together with the filing fee. The application shall set forth:

(1) The names and addresses of the incorporators and proposed directors and officers of the association;

(2) A statement of the character, financial responsibility, experience, and fitness of the directors and officers to engage in the association business;

(3) Statements of estimated receipts, expenditures, earnings, and financial condition of the association for the first two years or such longer period as the director may require;

(4) A showing that the association will have a reasonable chance to succeed in the market area in which it proposes to operate;

(5) A showing that the public convenience and advantage will be promoted by the formation of the proposed association; and

(6) Any other matters the director may require.

[1994 c 92 § 428; 1982 c 3 § 17.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.08.060 Investigation--Fee.

Upon receipt of the articles of incorporation and bylaws, the director shall proceed to determine, from all sources of information and by such investigation as he or she may deem necessary, whether:

(1) The proposed articles and bylaws comply with all requirements of law;

(2) The incorporators and directors possess the qualifications required by this title;

(3) The incorporators have available for the operation of the business at the specified location sufficient cash assets;

(4) The general fitness of the persons named in the articles of incorporation are such as to command confidence and warrant belief that the business of the proposed association will be honestly and efficiently conducted in accordance with the intent and purposes of this title;

(5) The public convenience and advantage will be promoted by allowing such association to be incorporated and engage in business in the market area indicated; and

(6) The population and industry of the market area afford reasonable promise of adequate support for the proposed association.

For the purpose of this investigation and determination, the incorporators, when delivering the articles and bylaws to the director, shall pay to the director an investigation fee, the amount of which shall be established by rule of the director.

[1994 c 92 § 429; 1982 c 3 § 18; 1969 c 107 § 1; 1963 c 246 § 1; 1945 c 235 § 7; Rem. Supp. 1945 § 3717-126. Prior: 1933 c 183 § 6; 1925 ex.s. c 144 § 2; 1919 c 169 § 2; 1913 c 110 § 3; 1890 p 56 § 3.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.08.070 Approval or refusal--Appellate review.

The director, not later than six months after receipt of the proposed articles and bylaws shall endorse upon each copy thereof the word "approved" or "refused" and the date thereof. In case of refusal, he or she shall forthwith return one copy of the articles and bylaws to the incorporators, and the refusal shall be final unless the incorporators, or a majority of them, within thirty days after the refusal, appeal to the superior court of Thurston county. The appeal may be accomplished by the incorporators preparing a notice of appeal, serving a copy of it upon the director, and filing the notice with the clerk of the court, whereupon the clerk, under the direction of the judge, shall give notice to the appellants and to the director of a date for the hearing of the appeal. The appeal shall be tried de novo by the court. At the hearing a record shall be kept of the evidence adduced, and the decision of the court shall be final unless appellate review is sought as in other cases.

[1994 c 92 § 430; 1988 c 202 § 33; 1971 c 81 § 85; 1953 c 71 § 1; 1945 c 235 § 8; Rem. Supp. 1945 § 3717-127. Prior: 1933 c 183 § 7; 1925 ex.s. c 144 § 2; 1919 c 169 § 2; 1913 c 110 § 3; 1890 p 56 § 3.]

Notes:

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 33.08.080 Articles and bylaws filed--Certificate of incorporation issued--Revocation of right to engage in business, when.

If the director approves the incorporation of the proposed association, the director shall forthwith return two copies of the articles of incorporation and one copy of the bylaws to the incorporators, retaining the others as a part of the files of the director's office. The incorporators,

thereupon, shall file one set of the articles with the secretary of state and retain the other set of the articles of incorporation and the bylaws as a part of its minute records, paying to the secretary of state such fees and charges as are required by law. Upon receiving an original set of the approved articles of incorporation, duly endorsed by the director as herein provided, together with the required fees, the secretary of state shall issue the secretary of state's certificate of incorporation and deliver the same to the incorporators, whereupon the corporate existence of the association shall begin. Unless an association whose articles of incorporation and bylaws have been approved by the director shall engage in business within two years from the date of such approval, its right to engage in business shall be deemed revoked and of no effect. In the director's discretion, the two-year period in which the association must commence business may be extended for a reasonable period of time, which shall not exceed one additional year.

[1994 c 92 § 431; 1982 c 3 § 19; 1981 c 302 § 31; 1945 c 235 § 9; Rem. Supp. 1945 § 3717-128. Prior: 1933 c 183 § 8; 1925 ex.s. c 144 § 2; 1919 c 169 § 2; 1913 c 110 § 3; 1890 p 56 § 1.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.
Severability--1981 c 302: See note following RCW 19.76.100.

RCW 33.08.090 Amendment of articles.

The members, at any meeting called for the purpose, may amend the articles of incorporation of the association by a majority vote of the members present, in person or in proxy. The amended articles shall be filed with the director and be subject to the same procedure of approval, refusal, appeal, and filing with the secretary of state as provided for the original articles of incorporation. Proposed amendments of the articles of incorporation shall be submitted to the director at least thirty days prior to the meeting of the members.

If the amendments include a change in the association's corporate name, the association shall give notice by mail to each association doing business within this state at its principal place of business of the filing of the amended articles. Persons interested in protesting an amendment changing the association's corporate name may contact the director in person or by writing prior to a date which shall be given in the notice.

[1994 c 92 § 432; 1982 c 3 § 20; 1981 c 302 § 32; 1979 c 113 § 2; 1945 c 235 § 10; Rem. Supp. 1945 § 3717-129. Prior: 1933 c 183 §§ 9, 10; 1925 ex.s. c 144 § 1; 1913 c 110 § 1; 1903 c 116 § 1; 1890 p 56 §§ 16, 17.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.
Severability--1981 c 302: See note following RCW 19.76.100.
Severability--1979 c 113: See note following RCW 33.04.020.

RCW 33.08.100 Amendment of bylaws.

The bylaws adopted by the incorporators and approved by the director shall be the bylaws of the association. The members, at any meeting called for the purpose, may amend the bylaws of the association on a majority vote of the members present, in person or by proxy, or

the directors at any regular or special meeting called under the provisions of RCW 33.16.090 may amend the bylaws of the association on a two-thirds majority vote of the directors. Amendments of the bylaws shall become effective after being adopted by the board or the members.

[1994 c 256 § 118; 1994 c 92 § 433; 1967 c 49 § 1; 1945 c 235 § 11; Rem. Supp. 1945 § 3717-130. Prior: 1933 c 183 §§ 9, 10; 1890 p 56 § 3.]

Notes:

Reviser's note: This section was amended by 1994 c 92 § 433 and by 1994 c 256 § 118, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

RCW 33.08.110 Branch association--Authorized--Procedure--Limitations--Discontinuance of branch, procedure.

An association with the written approval of the director, may establish and operate branches in any place within the state.

An association desiring to establish a branch shall file a written application therefor with the director, who shall approve or disapprove the application within four months after receipt.

The director's approval shall be conditioned on a finding that the resources in the market area of the proposed location offer a reasonable promise of adequate support for the proposed branch and that the proposed branch is not being formed for other than the legitimate purposes under this title. A branch shall not be established or permitted if the contingent fund, loss reserves and guaranty stock are less than the aggregate paid-in capital which would be required by law as a prerequisite to the establishment and operation of an equal number of branches in like locations by a commercial bank. If the application for a branch is not approved, the association shall have the right to appeal in the same manner and within the same time as provided by RCW 33.08.070 as now or hereafter amended. The association when delivering the application to the director shall transmit to the director a check in an amount established by rule to cover the expense of the investigation. An association shall not move any office more than two miles from its existing location without prior approval of the director.

The board of directors of an association, after notice to the director, may discontinue the operation of a branch. The association shall keep the director informed in the matter and shall notify the director of the date operation of the branch is discontinued.

[1994 c 92 § 434; 1982 c 3 § 21; 1974 ex.s. c 98 § 1; 1969 c 107 § 2; 1959 c 280 § 7.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

Chapter 33.12 RCW
POWERS AND RESTRICTIONS

Sections

33.12.010	Powers in general.
33.12.012	Powers conferred upon federal savings and loan association as of December 31, 1993.
33.12.014	Powers conferred upon federal savings and loan association--Reserve or other requirements--Authority of director to adopt by rule--Conditions.
33.12.015	Safe deposit companies.
33.12.060	Dealings with directors, officers, agents, employees prohibited--Exception.
33.12.140	Expense and contingent funds.
33.12.150	Contingent fund as reserve--Members' rights to fund limited.
33.12.170	May borrow from home loan bank.
33.12.180	Trustee of retirement plan established under federal act entitled "Self-Employed Individuals Tax Retirement Act of 1962."

RCW 33.12.010 Powers in general.

An association shall have the same capacity to act as possessed by natural persons. An association has authority to perform such acts as are necessary or proper to accomplish its purposes.

In addition to any other power an association may have, an association has authority:

(1) To have and alter a corporate seal;

(2) To continue as an association for the time limited in its articles of incorporation or, if no such time limit is specified, then perpetually;

(3) To sue or be sued in its corporate name;

(4) To acquire, hold, sell, dispose of, pledge, mortgage, or encumber property, as its interests and purposes may require;

(5) To conduct business in this state and elsewhere as may be permitted by law and, to this end, to comply with any law, regulation, or other requirements incident thereto;

(6) To acquire capital in the form of deposits, shares, or other accounts for fixed, minimum or indefinite periods of time as are authorized by its bylaws, and may issue such passbooks, statements, time certificates of deposit, or other evidence of accounts;

(7) To pay interest;

(8) To charge reasonable service fees for services provided as part of its business;

(9) To borrow money and to pledge, mortgage, or hypothecate its properties and securities in connection therewith;

(10) To collect or protest promissory notes or bills of exchange owned or held as collateral by the association;

(11) To let vaults, safes, boxes, or other receptacles for the safekeeping or storage of personal property, subject to the laws and regulations applicable to and with the powers possessed by safe deposit companies; and to act as escrow holder;

(12) To act as fiscal agent for the United States of America; to purchase, own, vote, or sell stock in, or act as fiscal agent for any federal home loan bank, the federal housing administration, home owners' loan corporation, or other state or federal agency, organized under the authority of the United States or of the state of Washington and authorized to loan to or act as

fiscal agent for associations or to insure savings accounts or mortgages; and in the exercise of these powers, to comply with any requirements of law or rules or orders promulgated by such federal or state agency and to execute any contracts and pay any charges in connection therewith;

(13) To procure insurance of its mortgages and of its accounts from any state or federal corporation or agency authorized to write such insurance and, in the exercise of these powers, to comply with any requirements of law or rules or orders promulgated and to execute any contracts and pay any premiums required in connection therewith;

(14) To loan money and to sell any of its notes or other evidences of indebtedness, together with the collateral securing the same;

(15) To make, adopt, and amend bylaws for the management of its property and the conduct of its business;

(16) To deposit moneys and securities in any other association or any bank or savings bank or other like depository;

(17) To dissolve and wind up its business;

(18) To collect or compromise debts due to it and, in so doing, to apply to the indebtedness the accounts of the debtors, and to receive, as collateral or otherwise, other securities, property or property rights of any kind or nature;

(19) To become a member of, deal with, or make reasonable payments or contribution to any organization to the extent that such organization assists in furthering or facilitating the association's purposes, powers or community responsibilities, and to comply with any reasonable conditions of eligibility;

(20) To sell money orders, travelers checks and similar instruments as agent for any organization empowered to sell such instruments through agents within this state and to receive money for transmission through a federal home loan bank;

(21) To service loans and investments for others;

(22) To sell and to purchase mortgages or other loans, including participating interests therein;

(23) To use abbreviations, words or symbols in connection with any document of any nature and on checks, proxies, notices and other instruments which abbreviations, words, or symbols shall have the same force and legal effect as though the respective words and phrases for which they stand were set forth in full for the purposes of all statutes of the state and all other purposes;

(24) To conduct a trust business under rules adopted by the director pursuant to chapter 34.05 RCW; and

(25) To exercise, by and through its board of directors and duly authorized officers and agents, all such incidental powers as may be necessary to carry on the business of the association.

The powers granted in this section shall not be construed as limiting or enlarging any grant of authority made elsewhere by this title.

[1994 c 92 § 435; 1982 c 3 § 22; 1969 c 107 § 3; 1963 c 246 § 2; 1945 c 235 § 29; Rem. Supp. 1945 § 3717-148.

Prior: 1939 c 98 §§ 6, 7; 1935 c 171 § 1; 1933 c 183 §§ 47, 48, 55, 59.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.12.012 Powers conferred upon federal savings and loan association as of December 31, 1993.

Notwithstanding any other provision of law, in addition to all powers and authorities, express or implied, that an association has under this title, an association may exercise any of the powers or authorities conferred as of December 31, 1993, upon a federal savings and loan association doing business in this state. As used in this section, "powers and authorities" include without limitation powers and authorities in corporate governance matters.

The restrictions, limitations and requirements applicable to specific powers or authorities of federal savings and loan associations shall apply to associations exercising those powers or authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to exercising the powers or authorities granted associations solely by this section.

[1994 c 256 § 119; 1982 c 3 § 23; 1981 c 87 § 1.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.12.014 Powers conferred upon federal savings and loan association--Reserve or other requirements--Authority of director to adopt by rule--Conditions.

Notwithstanding any other provision of law, in addition to all powers and authorities, express or implied, that an association has under this title, the director may make reasonable rules authorizing an association to exercise any of the powers and authorities conferred at the time of the adoption of the rules upon a federal savings and loan association doing business in this state, or may modify or reduce reserve or other requirements if an association is insured by the federal savings and loan insurance corporation, if the director finds that the exercise of the power or authorities:

(1) Serves the convenience and advantage of depositors and borrowers; and

(2) Maintains the fairness of competition and parity between state-chartered savings and loan associations and federally-chartered savings and loan associations.

As used in this section, "powers and authorities" include without limitation powers and authorities in corporate governance matters.

The restrictions, limitations and requirements applicable to specific powers or authorities of federal savings and loan associations shall apply to associations exercising those powers or authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to exercising the powers or authorities granted associations solely by this section.

[1994 c 256 § 120; 1994 c 92 § 436; 1982 c 3 § 24; 1981 c 87 § 2.]

Notes:

Reviser's note: This section was amended by 1994 c 92 § 436 and by 1994 c 256 § 120, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.12.015 Safe deposit companies.

See chapter 22.28 RCW.

RCW 33.12.060 Dealings with directors, officers, agents, employees prohibited--Exception.

An association shall make no loan to or sell to or purchase any real property or securities from any director, officer, agent, or employee of an association except to the extent permitted to or from a director, officer, agent, or employee of a federal savings association.

[1994 c 256 § 121; 1994 c 92 § 437; 1985 c 239 § 1; 1982 c 3 § 25; 1979 c 113 § 3; 1953 c 71 § 2; 1947 c 257 § 3; 1945 c 235 § 35; Rem. Supp. 1947 § 3717-154. Prior: 1939 c 98 § 10; 1933 c 183 §§ 51, 53.]

Notes:

Reviser's note: This section was amended by 1994 c 92 § 437 and by 1994 c 256 § 121, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Construction--1994 c 256: See RCW 43.320.007.

Severability--1982 c 3: See note following RCW 33.04.002.

Severability--1979 c 113: See note following RCW 33.04.020.

RCW 33.12.140 Expense and contingent funds.

Before any association is authorized to receive deposits or transact any business, its incorporators shall create an expense fund, in such amount as the director may determine, from which the expense of organizing the association and its operating expenses may be paid until such time as its earnings are sufficient to pay its operating expenses, and the incorporators shall enter into an undertaking with the director to make such further contributions to the expense fund as may be necessary to pay its operating expenses until such time as it can pay them from its earnings.

Before any mutual association is authorized to receive deposits or transact any business, its incorporators shall create a contingent fund for the protection of its members against investment losses, in an amount to be determined by the director.

The contingent fund shall consist of payments in cash made by the incorporators as provided in this section and of all sums credited thereto from the earnings of the association as hereinafter required.

Prior to the liquidation of any mutual association the contingent fund shall not be encroached upon in any manner except for losses and for the repayment of contributions made by the incorporators.

No repayment of the contribution of incorporators to the contingent fund shall be made until the net balance credited to the contingent fund from earnings of the association, after such repayment, equals five percent of the amount due members.

The incorporators may receive interest upon the amount of their contributions to the contingent fund at the same rate as is paid, from time to time, to savings members.

The amounts contributed to the contingent fund by the incorporators shall not constitute a liability of the association except as hereinafter provided, and any loss sustained by the association in excess of that portion of the contingent fund created from earnings may be charged against such contributions pro rata.

[1994 c 92 § 438; 1982 c 3 § 26; 1945 c 235 § 13; Rem. Supp. 1945 § 3717-132. Prior: 1933 c 183 § 77; 1925 ex.s. c 144 § 7; 1919 c 169 § 8; 1913 c 110 §§ 13, 14; 1903 c 106 §§ 3, 5; 1890 p 56 §§ 6, 15, 31.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.12.150 Contingent fund as reserve--Members' rights to fund limited.

The contingent fund shall constitute a reserve for the absorption of losses of a mutual association.

Members do not have, individually or collectively, any right or claim to the contingent fund except upon dissolution of the association.

[1982 c 3 § 27; 1981 c 84 § 3; 1963 c 246 § 4; 1961 c 222 § 2; 1945 c 235 § 51; Rem. Supp. 1945 § 3717-170. Prior: 1933 c 183 §§ 63, 67; 1925 ex.s. c 144 § 7; 1919 c 169 § 8; 1913 c 110 §§ 13, 14; 1903 c 116 § 5; 1890 p 56 § 31.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.12.170 May borrow from home loan bank.

See RCW 30.32.030.

Notes:

Home loan bank as depositary: RCW 30.32.040.

Investment in federal home loan bank stock or bonds authorized: RCW 30.32.020.

RCW 33.12.180 Trustee of retirement plan established under federal act entitled "Self-Employed Individuals Tax Retirement Act of 1962."

A savings and loan association shall have the power to act as trustee under:

A retirement plan established pursuant to the provisions of the act of congress entitled "Self-Employed Individuals Tax Retirement Act of 1962" (76 Stat. 809, 26 U.S.C. Sec. 37), as

now constituted or hereafter amended. If a retirement plan, which in the judgment of the savings and loan association, constituted a qualified plan under the provisions of that act at the time accepted by the savings and loan association, is subsequently determined not to be a qualified plan or subsequently ceases to be a qualified plan in whole or in part, the savings and loan association may, nevertheless, continue to act as trustee of any deposits theretofore made under the plan and to dispose of the same in accordance with the directions of the trustor and the beneficiaries thereof.

[1973 1st ex.s. c 93 § 1.]

Chapter 33.16 RCW
DIRECTORS, OFFICERS AND EMPLOYEES

Sections

33.16.010 Directors--Number--Vacancies.
33.16.020 Directors--Qualifications--Eligibility.
33.16.030 Directors--Prohibited acts.
33.16.040 Removal of director, officer or employee on objection of director of financial institutions--Procedure.
33.16.050 Removal of director for cause--When--Procedure.
33.16.060 Fiduciary relationship of directors and officers.
33.16.080 Officers--Election--Service.
33.16.090 Board meetings--Notice--Quorum.
33.16.120 Statement of assets and liabilities--Reports.
33.16.130 Bonds of officers and employees.
33.16.150 Pensions, retirement plans and other benefits.
33.16.170 Federal home loan bank as depositary.

Notes:

Indemnification of directors, officers, employees, etc., by corporation, insurance: RCW 23B.08.320, 23B.08.500 through 23B.08.580, 23B.08.600, and 23B.17.030.

RCW 33.16.010 Directors--Number--Vacancies.

The business and affairs of every association shall be managed and controlled by a board of not less than seven nor more than fifteen directors, a majority of which shall not be officers or employees of the association. The persons designated in the articles of incorporation shall be the first directors.

Vacancies in the board of directors shall be filled by vote of the members at the annual meetings or at a special meeting called for the purpose. The board of directors may fill vacancies occurring on the board, such appointees to serve until the next annual meeting of the members.

[1947 c 257 § 1; 1945 c 235 § 14; Rem. Supp. 1947 § 3717-133. Prior: 1933 c 183 § 11; 1925 ex.s. c 144 § 3; 1919 c 169 § 3; 1913 c 110 § 4; 1890 p 56 § 32.]

RCW 33.16.020 Directors--Qualifications--Eligibility.

The board of directors shall be elected at the annual meeting, unless the bylaws of the association otherwise provide.

A person shall not be a director of an association if the person has been adjudicated bankrupt or has taken the benefit of any assignment for the benefit of creditors or has suffered a judgment recovered against him for a sum of money to remain unsatisfied of record or unsuperseded on appeal for a period of more than three months.

To be eligible to hold the position of director of an association, a person must have savings or stock or a combination thereof in the sum or the aggregate sum of at least one thousand dollars. Such minimum amount shall not be reduced either by withdrawal or by pledge for a loan or in any other manner, so long as he remains a director of the association.

[1982 c 3 § 28; 1963 c 246 § 5; 1945 c 235 § 15; Rem. Supp. 1945 § 3717-134. Prior: 1933 c 183 §§ 12, 14; 1925 ex.s. c 144 § 3; 1919 c 169 § 3; 1913 c 110 § 4.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.16.030 Directors--Prohibited acts.

A director of a savings and loan association shall not, except to the extent permitted for a director of a federal savings and loan association:

(1) Have any interest, direct or indirect, in the gains or profits of the association, except to receive dividends, or interest upon his or her contribution to the contingent fund or upon his or her deposit accounts. However, nothing in this subsection shall prevent an officer from receiving his or her authorized compensation nor from participating in a benefit program under RCW 33.16.150, nor prevent a director from receiving an authorized director's fee;

Receive and retain, directly or indirectly, for his or her own use any commission on any loan, or purchase of real property or securities, made by the association;

(2) Become an endorser, surety, or guarantor, or in any manner an obligor, for any loan made by the association;

(3) For himself or herself or as agent, partner, stockholder, or officer of another, directly or indirectly, borrow from the association, except as hereinafter provided.

[1994 c 256 § 122; 1982 c 3 § 29; 1945 c 235 § 16; Rem. Supp. 1945 § 3717-135. Prior: 1933 c 183 §§ 21, 62.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.16.040 Removal of director, officer or employee on objection of director of financial institutions--Procedure.

If the director shall notify the board of directors of any association in writing, that he or

she has information that any director, officer, or employee of such association is dishonest, reckless, or incompetent or is failing to perform any duty of his or her office, the board shall meet and consider such matter forthwith and the director shall have notice of the time and place of such meeting. If the board shall find the director's objection to be well founded, such director, officer, or employee shall be removed immediately. If the board does not remove the director, officer, or employee against whom the objections have been filed, or if the board fails to meet, consider or act upon the objections within twenty days after receiving the same, the director may forthwith or within twenty days thereafter, remove such individual by complying with the administrative procedure act, chapter 34.05 RCW. If the director feels that the public interest or safety of the association requires the immediate removal of such individual, the director may petition the superior court for a temporary injunction suspending the performance of the individual as a director pending the administrative procedure hearing.

[1994 c 92 § 439; 1982 c 3 § 30; 1973 c 130 § 21; 1945 c 235 § 17; Rem. Supp. 1945 § 3717-136. Prior: 1933 c 183 § 18.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

Severability--1973 c 130: See note following RCW 33.24.350.

Appointment of provisional officers and directors: RCW 33.40.150.

RCW 33.16.050 Removal of director for cause--When--Procedure.

If a director becomes ineligible or if the director's conduct or habits are such as to reflect discredit upon the association or if other good cause exists, the director may be removed from office by an affirmative vote of two-thirds of the members of the board of directors at any regular meeting of the board or at any special meeting called for that purpose. No such vote upon removal of a director shall be taken until the director has been advised of the reasons therefor and has had opportunity to submit to the board of directors a statement relative thereto, either oral or written. If the director affected is present at the meeting, he shall leave the place where the meeting is being held after his statement has been submitted and prior to the vote upon the matter of his removal.

[1982 c 3 § 31; 1945 c 235 § 19; Rem. Supp. 1945 § 3717-138. Prior: 1933 c 183 § 17; 1925 ex.s. c 144 § 3; 1919 c 169 § 3; 1913 c 110 § 4.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.16.060 Fiduciary relationship of directors and officers.

Directors and officers of an association shall be deemed to stand in a fiduciary relation to the association and shall discharge the duties of their respective positions in good faith and with that diligence, care, and skill which ordinary, prudent persons would exercise under similar circumstances in like position.

[1982 c 3 § 32; 1945 c 235 § 20; Rem. Supp. 1945 § 3717-139. Prior: 1933 c 183 § 15; 1925 ex.s. c 144 § 3; 1919 c 169 § 3; 1913 c 110 § 4.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.16.080 Officers--Election--Service.

The board of directors of the association shall elect the officers named in the bylaws of the association, which officers shall serve at the pleasure of the board.

[1982 c 3 § 33; 1945 c 235 § 22; Rem. Supp. 1945 § 3717-141. Prior: 1939 c 98 § 2; 1933 c 183 §§ 19, 20.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.16.090 Board meetings--Notice--Quorum.

The board of directors of each association shall hold a regular meeting at least once each quarter and whenever required by the director, at a time to be designated by it. Special meetings of the board of directors may be held upon notice to each director sufficient to permit his or her attendance.

At any meeting of the board of directors, a majority of the members shall constitute a quorum for the transaction of business.

The president of the association or chairman of the board or any three members of the board may call a meeting of the board by giving notice to all of the directors.

[1994 c 256 § 123; 1982 c 3 § 34; 1945 c 235 § 23; Rem. Supp. 1945 § 3717-142. Prior: 1933 c 183 § 19.]

Notes:

Findings--Construction--1994 c 256: See RCW 43.320.007.

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.16.120 Statement of assets and liabilities--Reports.

The board of directors shall cause to be prepared, from the books of the association, a statement of assets and of liabilities, at the end of the association's fiscal year.

The board shall also cause to be prepared, certified, and filed with the director, upon blanks to be furnished by the director, such reports and statements as the director, from time to time, may require.

[1994 c 92 § 440; 1982 c 3 § 35; 1973 c 130 § 23; 1945 c 235 § 27; Rem. Supp. 1945 § 3717-146. Prior: 1933 c 183 § 79; 1919 c 169 §§ 11, 12; 1913 c 110 §§ 18, 19; 1890 p 56 §§ 18, 36.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

Severability--1973 c 130: See note following RCW 33.24.350.

RCW 33.16.130 Bonds of officers and employees.

The board of directors of every association shall procure a bond or bonds, covering all of its active officers, agents, and employees, whether or not they draw salary or compensation, with duly qualified corporate surety authorized to do business in the state of Washington, conditioned that the surety will indemnify and save harmless the association against any and all loss or losses arising through the larceny, theft, embezzlement, or other fraudulent or dishonest act or acts of any such officer, agent, or employee. Such bond coverage may provide for a deductible amount from any loss which otherwise would be recoverable from the corporate surety. A deductible amount may be applied separately to one or more bonding agreements. The bond shall not provide for more than one deductible amount from all losses caused by the same person or caused by the same persons acting in collusion or combination in cases in which such losses result from dishonesty of employees (as defined in the bond).

Such bond or bonds shall be in such amount, as to each of said officers or employees, as the directors shall deem advisable, and said bond or bonds shall be subject to the approval of the director and shall be filed with him or her. The board shall review such bond, or bonds, at its regular meeting in January of each year, and by resolution determine such bond coverage for the ensuing year.

[1994 c 92 § 441; 1979 c 113 § 4; 1945 c 235 § 28; Rem. Supp. 1945 § 3717-147. Prior: 1939 c 98 § 2; 1933 c 183 § 20; 1925 ex.s. c 144 § 3; 1919 c 169 § 3; 1913 c 110 § 4; 1890 p 56 § 21.]

Notes:

Severability--1979 c 113: See note following RCW 33.04.020.

RCW 33.16.150 Pensions, retirement plans and other benefits.

An association may provide for pensions, retirement plans and other benefits for its officers and employees, and may contribute to the cost thereof in accordance with the plan adopted by its board of directors. Any officer or employee of the association who is also a director or any director who has been an officer or employee is eligible for and may receive such pension, retirement plan, or other benefit to the extent that the officer or employee regularly participates or the director while an officer or employee regularly participated in the operation of the association.

[1982 c 3 § 36; 1945 c 235 § 38; Rem. Supp. 1945 § 3717-157.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.16.170 Federal home loan bank as depositary.

See RCW 30.32.040.

Chapter 33.20 RCW
MEMBERS--SAVINGS

Sections

33.20.005 Deposits by individuals governed by chapter 30.22 RCW.
33.20.010 Mutual association member's interest in assets--Meetings--Voting--Proxies.
33.20.040 Minors as members.
33.20.060 State, political subdivisions, fiduciaries as depositors.
33.20.125 Record of member deposits--As in lieu of passbook, statement, or certificate of deposit.
33.20.130 Dormant accounts.
33.20.150 Deposits with interest to be repaid on request--Postponement of withdrawals--Procedure.
33.20.170 Withdrawals may be limited--Conditions.
33.20.180 Classification of depositors--Regulation of earnings according to class.
33.20.190 Withdrawal by association draft or negotiable or transferable order or authorization--Interest eligibility.

RCW 33.20.005 Deposits by individuals governed by chapter 30.22 RCW.

Deposits made by individuals in an association are governed by chapter 30.22 RCW.

[1981 c 192 § 29.]

Notes:

Effective date--1981 c 192: See RCW 30.22.900.

RCW 33.20.010 Mutual association member's interest in assets--Meetings--Voting--Proxies.

Each member having deposits in a mutual association shall have a proportionate proprietary interest in its assets or net earnings subordinate to the claims of its other creditors. At any meeting of the members of a mutual association, each member shall be entitled to at least one vote. A mutual association, by its bylaws, may provide that each member shall be entitled to one vote for each one hundred dollars of the member's deposit account. At any meeting of the members, voting may be in person or by proxy. Proxies shall be in writing and signed by the member and, when filed with the secretary, shall continue in force until revoked or superseded by subsequent proxies. Written notice of the time and place of the holding of special meetings (other than the regular annual meeting) shall be mailed to each member at his last known address not more than thirty days, nor less than ten days prior to the meeting. The regular annual meeting of the mutual association shall be announced by publication of a notice thereof in a newspaper published in the city or town, or, if the association is not in a city or town, in the county in which the association is located at least ten days prior to the date of such meeting, or by ten days' written notice to the members mailed to the last known address of each member.

[1982 c 3 § 37; 1969 c 107 § 4; 1949 c 20 § 2; 1945 c 235 § 12; Rem. Supp. 1949 § 3717-131. Prior: 1933 c 183 §§ 13, 39; 1919 c 169 § 4; 1913 c 110 § 5; 1903 c 116 § 6; 1890 p 56 § 39.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.20.040 Minors as members.

Subject to chapter 30.22 RCW, minors may become depositors or members of an association and all contracts entered into between a minor and an association, with respect to his membership or his deposits therein, shall be valid and enforceable, and a minor may not disaffirm, because of his minority, any such membership or agreement in connection therewith.

[1982 c 3 § 38; 1981 c 192 § 30; 1945 c 235 § 41; Rem. Supp. 1945 § 3717-160. Prior: 1933 c 183 §§ 24, 40; 1919 c 169 § 5; 1913 c 110 § 6.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

Effective date--1981 c 192: See RCW 30.22.900.

RCW 33.20.060 State, political subdivisions, fiduciaries as depositors.

The state of Washington and the political subdivisions thereof, and trustees, administrators, executors, guardians, and other fiduciaries, either individual or corporate, in their fiduciary capacity, may be depositors in associations.

[1982 c 3 § 39; 1945 c 235 § 44; Rem. Supp. 1945 § 3717-163.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.20.125 Record of member deposits--As in lieu of passbook, statement, or certificate of deposit.

An association shall maintain a record of all deposits received from its members. The issuance of a passbook, statement, or certificate may be omitted for any account if a record thereof is maintained in lieu of a passbook, statement, or certificate of deposit, on which shall be entered deposits, withdrawals, and interest credited.

[1982 c 3 § 40.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.20.130 Dormant accounts.

When any savings member shall have neither paid in nor withdrawn any funds from his or her savings account in the association for seven consecutive years, and his or her whereabouts is unknown to the association and he or she shall not respond to a letter from the association inquiring as to his or her whereabouts, sent by registered mail to his or her last known address, the association may transfer his or her account to a "Dormant Accounts" fund. Any savings

account in the "Dormant Accounts" fund shall not participate in the earnings of the association except by permissive action of the directors of the association. The member, or his or her or its executor, administrator, successors or assigns, may claim the amount so transferred from his or her account to the dormant accounts fund at any time after such transfer. Should the association be placed in liquidation while any savings account shall remain credited in the dormant accounts fund and before any valid claim shall have been made thereto, as hereinabove provided, such savings account so credited, upon order of the director and without any other escheat proceedings, shall escheat to the state of Washington.

[1994 c 92 § 442; 1945 c 235 § 53; Rem. Supp. 1945 § 3717-172. Prior: 1933 c 183 § 38.]

Notes:
Escheats: Chapter 11.08 RCW.
Uniform unclaimed property act: Chapter 63.29 RCW.

RCW 33.20.150 Deposits with interest to be repaid on request--Postponement of withdrawals--Procedure.

The deposits paid into an association, together with any interest credited thereon, shall be repaid to the depositors thereof respectively, or to their legal representatives, upon request.

If, in the judgment of the board, circumstances warrant deferment of the payment of withdrawals from savings accounts to a later date, thereafter withdrawals shall be paid proportionately, on a percentage basis, to all depositors requesting withdrawal until full withdrawal requests are paid to all depositors. A board resolution of deferment shall not affect the payments of withdrawals from federal tax and loan accounts.

The board shall, however, have the right in its discretion, where need is shown, to pay not exceeding one hundred dollars to any account holder in one month.

If, upon examination, the director finds that further postponement of withdrawals is unwarranted, the director may order the association to resume full payment of withdrawals and cancel all written withdrawal requests. Such order shall be in writing.

The association's failure, during a period of postponement, to pay withdrawal requests shall not authorize the director to take charge of or liquidate the association.

[1994 c 92 § 443; 1982 c 3 § 41; 1979 c 113 § 5; 1953 c 71 § 5; 1945 c 235 § 54; Rem. Supp. 1945 § 3717-173. Prior: 1939 c 98 § 5; 1933 c 183 §§ 29, 30, 31, 32, 33, 34, 37; 1919 c 169 § 10; 1913 c 110 § 16; 1890 p 56 § 27.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

Severability--1979 c 113: See note following RCW 33.04.020.

RCW 33.20.170 Withdrawals may be limited--Conditions.

The director further is empowered, if in his or her judgment the circumstances warrant it, to issue in writing a declaration that an acute business depression, state of panic, or economic emergency exists, in which event the directors of any association, state or federal, within the

state may limit withdrawals by resolution, subject to the following conditions; that incoming funds shall be applied:

First, to the payment of operating expenses, indebtedness, taxes, insurance, and to the necessary charges for the protection of the association and its investments;

Second, to the payment to members of emergency withdrawals not exceeding twenty-five dollars per month to any member. The board of directors of any association, with the prior written approval of the director, by resolution may authorize the payment of emergency withdrawals not exceeding one hundred dollars per month to any member;

Third, to the payment of dividends on the savings of its members;

Fourth, three-fourths of all remaining receipts of the association, except interest payments, shall be applied to the payment of withdrawals, until all withdrawal requests have been paid.

All such withdrawal payments shall be made to members having withdrawal requests on file in proportion to the amount of such withdrawal requests.

[1994 c 92 § 444; 1945 c 235 § 99; Rem. Supp. 1945 § 3717-218. Prior: 1939 c 98 § 5; 1933 c 183 §§ 29, 30, 31, 32, 33, 34; 1919 c 169 § 10; 1913 c 110 § 16; 1890 p 56 § 27.]

RCW 33.20.180 Classification of depositors--Regulation of earnings according to class.

An association may classify its depositors according to the character, amount, frequency or duration of their dealings with the association and may regulate the earnings in such manner that each depositor receives the same rate of interest as all others of the depositor's class.

[1982 c 3 § 42; 1969 c 107 § 9.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.20.190 Withdrawal by association draft or negotiable or transferable order or authorization--Interest eligibility.

An association may, on instruction from a depositor, effect withdrawals from the depositor's account by the association's drafts payable to parties and on terms as so instructed. An association may allow a depositor to effect withdrawals or transfers from the depositor's account upon negotiable or transferable order or authorization to the association. To the extent of the subjection of accounts to such withdrawal instructions or orders, such accounts may be specifically classified under RCW 33.20.180 and ineligible to receive interest or eligible only for limited interest.

[1982 c 3 § 43; 1980 c 54 § 1; 1969 c 107 § 10.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

Contingent effective date--1980 c 54: "The provisions of this 1980 amendatory act shall take effect on the effective date of a law enacted by the United States Congress enabling depository institutions in the state of

Washington to allow the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties." [1980 c 54 § 3.] Section 303 of the Consumer Checking Account Equity Act of 1980, 94 Stat. 145, authorizes the above-mentioned withdrawals. Section 303 has an effective date of December 31, 1980.

Chapter 33.24 RCW
LOANS AND INVESTMENTS

Sections

33.24.005 "Mortgage" includes deed of trust and real estate contract.
33.24.007 "Real property" defined.
33.24.010 Loans to any one person--Limitation.
33.24.015 Loans generally--Limitation.
33.24.020 Obligations of United States or Canada.
33.24.025 Investment in investment trusts or companies.
33.24.030 Obligations of this state.
33.24.040 Obligations of other states.
33.24.050 Obligations of municipal corporations in this state.
33.24.060 Obligations of municipal corporations in any state.
33.24.065 Obligations issued or guaranteed by multilateral development bank.
33.24.070 City or district light, water, and sewer revenue bonds.
33.24.080 Local improvement district bonds.
33.24.090 Obligations of federal and state agencies--Investment in other associations.
33.24.100 Loans or other obligations secured by real property.
33.24.115 Forming, incorporating with, or investing in other entities--Limitation.
33.24.160 Investment in office equipment and real property interests used in doing business.
33.24.200 Personal liability on unlawful loans.
33.24.210 Revenue bonds of public utility districts.
33.24.220 Stock or bonds of federal home loan bank.
33.24.270 Stock in small business investment companies.
33.24.295 Loans for nonbusiness family purposes--Limitation.
33.24.345 Acquisition of control of association--Authorized.
33.24.350 Acquisition of control of association--Definitions.
33.24.360 Acquisition of control of association--Unlawful, when--Application--Contents--Notice to other associations.
33.24.370 Acquisition of control of association--Action or proceeding to prevent--Grounds.
33.24.375 Acquisition of control of association--Application to foreign association branches.
33.24.380 Acquisition of control of association--Penalty.

Notes:
Federal bonds and notes as investment or collateral: Chapter 39.60 RCW.
Interest and usury in general: Chapter 19.52 RCW.
Mortgages: Title 61 RCW.
Real property and conveyances: Title 64 RCW.

RCW 33.24.005 "Mortgage" includes deed of trust and real estate contract.

The word "mortgage" as used in this title includes deed of trust and real estate contract.

[1982 c 3 § 44; 1973 c 130 § 28.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.
Severability--1973 c 130: See note following RCW 33.24.350.

RCW 33.24.007 "Real property" defined.

Unless the context clearly requires otherwise, "real property" means improved or unimproved real estate and includes leasehold interests in improved or unimproved real estate and includes manufactured housing whether temporarily, semipermanently, or permanently attached to land and mobile homes and manufactured homes whose title has been eliminated under chapter 65.20 RCW.

[1989 c 343 § 23; 1982 c 3 § 49.]

Notes:

Severability--Effective date--1989 c 343: See RCW 65.20.940 and 65.20.950.
Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.24.010 Loans to any one person--Limitation.

An association may invest its funds only as provided in this chapter.

It shall not invest more than two and a half percent of its assets in any loan or obligation to any one person, except with the written approval of the director.

[1994 c 92 § 445; 1982 c 3 § 45; 1979 c 113 § 6; 1963 c 246 § 7; 1953 c 71 § 6; 1947 c 257 § 5; 1945 c 235 § 58; Rem. Supp. 1947 § 3717-177. Prior: 1939 c 98 § 11; 1933 c 183 §§ 39, 52, 56, 58; 1925 ex.s. c 144 § 5; 1913 c 110 §§ 8, 9; 1903 c 116 § 2; 1890 p 56 §§ 4, 30.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.
Severability--1979 c 113: See note following RCW 33.04.020.

RCW 33.24.015 Loans generally--Limitation.

An association may invest not more than twenty percent of its assets in loans on such terms as it deems appropriate.

[1982 c 3 § 51.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.24.020 Obligations of United States or Canada.

An association may invest its funds in loans upon or purchases of the bonds or

obligations of or bonds or obligations guaranteed by the United States of America, including bonds of the District of Columbia, of the Dominion of Canada, or those for which the faith of the United States or the Dominion of Canada is pledged to provide for the payment of interest and principal: PROVIDED, That, in the case of bonds of the Dominion of Canada or those for which its faith is pledged, the interest and principal shall be payable in the United States or with exchange to a city in the United States and in lawful money of the United States or its equivalent.

[1947 c 257 § 6; 1945 c 235 § 59; Rem. Supp. 1947 § 3717-178. Prior: 1939 c 98 § 11; 1935 c 9 §§ 1, 2, 3; 1933 c 183 § 56.]

RCW 33.24.025 Investment in investment trusts or companies.

Except as may be limited by the director by rule, an association may invest its funds in obligations of the United States, as authorized by RCW 33.24.020, either directly or in the form of securities of, or other interests in, an open-end or closed-end management type investment company or investment trust registered under the federal investment company act of 1940, as now or hereafter amended, if both of the following conditions are met:

(1) The portfolio of the investment company or investment trust is limited to obligations of the United States and to repurchase agreements fully collateralized by such obligations; and

(2) The investment company or investment trust takes delivery of the collateral for any repurchase agreement either directly or through an authorized custodian.

[1994 c 92 § 446; 1989 c 97 § 3.]

RCW 33.24.030 Obligations of this state.

An association may invest its funds in the bonds or interest bearing obligations of this state or any agency thereof.

[1955 c 126 § 1; 1945 c 235 § 60; Rem. Supp. 1945 § 3717-179. Prior: 1939 c 98 § 11; 1933 c 183 § 56.]

RCW 33.24.040 Obligations of other states.

An association may invest its funds in the bonds or interest bearing obligations of any other state of the United States upon which there is no existing default and upon which there has been no default for more than ninety days within ten years immediately preceding the investment: PROVIDED, That such state has not been in default for more than ninety days, within said ten years, in the payment of any part of the principal or interest of any debt contracted by it or for which the faith of such state was pledged.

[1945 c 235 § 61; Rem. Supp. 1945 § 3717-180. Prior: 1939 c 98 § 11; 1933 c 183 § 56.]

RCW 33.24.050 Obligations of municipal corporations in this state.

An association may invest its funds in the valid warrants or bonds of any city, town,

county, school district, port district, or other municipal corporation in the state of Washington which are issued pursuant to law and for the payment of which the faith and credit of such municipal corporations is pledged and taxes are leviable upon all taxable property within its limits. The aggregate of the investments of an association in any issue of such warrants or bonds shall at no time exceed five percent of the amount of its savings accounts.

[1945 c 235 § 62; Rem. Supp. 1945 § 3717-181. Prior: 1939 c 98 § 11; 1933 c 183 § 56.]

RCW 33.24.060 Obligations of municipal corporations in any state.

An association may invest its funds in the valid warrants or bonds of any city, county, school district, port district, or other municipal corporation in the United States having a population of not less than fifty thousand inhabitants as determined by the last federal census, which municipal corporation has not defaulted in the payment of interest or principal upon any general obligation, including those for which its credit was pledged, within ten years last past, and for the payment of which the faith and credit of such municipal corporation is pledged and taxes are leviable upon all taxable property within its limits. No such investment shall be made unless the warrants or bonds for purchase are rated not less than BAA by Moody's Investors' Service, or have equivalent rating of another standard rating bureau, and the aggregate of the investments of an association in any issue of such warrants or bonds shall at no time exceed five percent of the amount of its savings accounts.

[1945 c 235 § 63; Rem. Supp. 1945 § 3717-182. Prior: 1939 c 98 § 11; 1933 c 183 § 56.]

RCW 33.24.065 Obligations issued or guaranteed by multilateral development bank.

An association may invest in obligations issued or guaranteed by any multilateral development bank in which the United States government formally participates. Such investment in any one multilateral development bank shall not exceed five percent of the association's assets.

[1985 c 301 § 3.]

RCW 33.24.070 City or district light, water, and sewer revenue bonds.

An association may invest its funds in the revenue bonds of any city, town, district, or political subdivision of this state for the payment of which revenue of the city, town, district or political subdivision utility or revenue producing facility is irrevocably pledged.

It may invest its funds in the light, water, or sewer revenue bonds of any city or other municipal corporation in the United States having a population of not less than fifty thousand inhabitants as determined by the last federal census, which has not defaulted in the payment of interest or principal upon this or any like obligation, including those for which its credit was pledged, within ten years last past, for the payment of which the entire revenue of the city's or other municipal corporation's light, water, or sewer system, less maintenance and operating

costs, is irrevocably pledged.

The aggregate of the investments of an association in any issue of such revenue bonds shall at no time exceed five percent of the amount of its savings accounts.

[1955 c 126 § 2; 1945 c 235 § 64; Rem. Supp. 1945 § 3717-183. Prior: 1939 c 98 § 11; 1933 c 183 § 56.]

RCW 33.24.080 Local improvement district bonds.

An association may invest its funds in the bonds of any local improvement district of any city of this state (except bonds issued for an improvement consisting of grading only), the ultimate payment of which is guaranteed by the municipality under the provisions of guaranty laws of this state: PROVIDED, That one-half of the lots in the district are improved with revenue producing houses or other improvements and that local improvement district bonds falling within the twenty-five percent, in amount of any issue, last callable for payment shall neither be acquired nor taken as security. The aggregate of the investments of an association in any issue of such bonds shall at no time exceed three percent of the amount of its savings accounts, and it may not have invested, at any one time, more than one hundred thousand dollars in the bonds of any such district.

[1953 c 71 § 7; 1945 c 235 § 65; Rem. Supp. 1945 § 3717-184. Prior: 1939 c 98 § 11; 1933 c 183 § 56.]

RCW 33.24.090 Obligations of federal and state agencies--Investment in other associations.

An association may invest its funds in stock or notes, bonds, debentures, or other such obligations of any federal home loan bank, the Home Owners' Loan Corporation, any federal land bank, the Federal Savings and Loan Insurance Corporation, the Federal Housing Administration, the Federal National Mortgage Association, or any other instrumentality of the federal government, or any state or federal agency organized under the laws of the United States or of the state of Washington authorized to loan to or act as a fiscal agency for, or insurer of, a savings and loan association.

An association may become a member of and invest its funds in other savings and loan associations organized under either federal or state law, which have an authorized office in this state: PROVIDED, That the investment in any such other savings and loan association shall not exceed the amount which is insured by the Federal Savings and Loan Insurance Corporation.

[1959 c 280 § 3; 1953 c 71 § 8; 1945 c 235 § 66; Rem. Supp. 1945 § 3717-185. Prior: 1939 c 98 § 11; 1935 c 9 §§ 1, 2, 3; 1933 c 183 § 56.]

RCW 33.24.100 Loans or other obligations secured by real property.

An association may invest its funds in loans, mortgages, or other obligations secured by real property.

[1982 c 3 § 46; 1979 c 113 § 7; 1969 c 107 § 5; 1949 c 20 § 6; 1945 c 235 § 67; Rem. Supp. 1949 § 3717-186.

Prior: 1939 c 98 § 11; 1935 c 9 §§ 1, 2, 3; 1933 c 183 §§ 56, 58; 1925 ex.s. c 144 § 5; 1913 c 110 §§ 8, 9; 1903 c 116 § 2; 1890 p 56 § 4.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

Severability--1979 c 113: See note following RCW 33.04.020.

RCW 33.24.115 Forming, incorporating with, or investing in other entities--Limitation.

An association, alone or in conjunction with other entities, may form, incorporate, or invest in corporations or other entities, whether or not such other corporation or entity is related to the association's business. The aggregate amount of funds invested or used in the formation of corporations or other entities under this section shall not exceed ten percent of the assets of the association.

[1982 c 3 § 50.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.24.160 Investment in office equipment and real property interests used in doing business.

An association may invest its funds in the acquisition of furniture, fixtures and office equipment convenient and necessary for the carrying on of its business.

An association may invest its funds in real property or leasehold interests therein for use in the transaction of its business.

[1982 c 3 § 47; 1945 c 235 § 73; Rem. Supp. 1945 § 3717-192. Prior: 1939 c 98 § 11; 1933 c 183 § 56.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.24.200 Personal liability on unlawful loans.

Every director, officer, agent, or employee of an association who shall borrow or who shall knowingly permit any person to borrow any of its funds in violation of the provisions of this title shall be personally liable for any loss or damage which the association may sustain in consequence thereof.

[1945 c 235 § 94; Rem. Supp. 1945 § 3717-213.]

RCW 33.24.210 Revenue bonds of public utility districts.

See RCW 54.24.120.

RCW 33.24.220 Stock or bonds of federal home loan bank.

See RCW 30.32.020.

Notes:
Home loan bank as depositary: RCW 30.32.040.
May borrow from home loan bank: RCW 30.32.030.

RCW 33.24.270 Stock in small business investment companies.

A savings and loan association may purchase and hold for its own investment accounts stock in small business investment companies licensed and regulated by the United States as authorized by the small business act, Public Law 85-536, as amended and now in force, in an amount not to exceed one percent of its assets.

[1973 c 130 § 30; 1969 c 107 § 13.]

Notes:
Severability--1973 c 130: See note following RCW 33.24.350.
Definitions--1973 c 130: See RCW 33.24.350.

RCW 33.24.295 Loans for nonbusiness family purposes--Limitation.

An association may invest not to exceed twenty percent of its assets in loans for any nonbusiness family purposes.

[1982 c 3 § 48; 1979 c 113 § 12; 1973 c 130 § 27.]

Notes:
Severability--1982 c 3: See note following RCW 33.04.002.
Severability--1979 c 113: See note following RCW 33.04.020.
Severability--1973 c 130: See note following RCW 33.24.350.

RCW 33.24.345 Acquisition of control of association--Authorized.

A person or other entity, including an association, organized under the laws of this state or authorized to transact business in this state, may acquire any or all of the assets or shares of stock of any association authorized to transact business under this title.

[1982 c 3 § 52.]

Notes:
Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.24.350 Acquisition of control of association--Definitions.

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

(1) "Subsidiary" of a person or other entity means any person or other entity which is controlled by such person or other entity.

(2) "Control" means directly or indirectly or acting in concert with one or more other persons or entities, or through one or more subsidiaries, owning, controlling, or holding with the power to vote twenty-five percent or more of the voting rights of an association.

(3) "Acquiring party" means the person or other entity acquiring control of a savings and loan association.

[1982 c 3 § 53; 1973 c 130 § 1.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

Severability--1973 c 130: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 130 § 32.]

RCW 33.24.360 Acquisition of control of association--Unlawful, when--Application--Contents--Notice to other associations.

(1) It is unlawful for any acquiring party to acquire control of an association until thirty days after the date of filing with the director an application containing substantially all of the following information and any additional information that the director may prescribe as necessary or appropriate in the public interest or for the protection of deposit account holders, borrowers or stockholders:

(a) The identity, character, and experience of each acquiring party by whom or on whose behalf acquisition is to be made;

(b) The financial and managerial resources and future prospects of each acquiring party involved in the acquisition;

(c) The terms and conditions of any proposed acquisition and the manner in which such acquisition is to be made;

(d) The source and amount of the funds or other consideration used or to be used in making the acquisition and, if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction and the names of the parties. However, where a source of funds is a loan made in the lender's ordinary course of business, if the person filing the statement so requests, the director shall not disclose the name of the lender to the public;

(e) Any plans or proposals which any acquiring party making the acquisition may have to liquidate the association to sell its assets, to merge it with any company, or to make any other major changes in its business or corporate structure or management;

(f) The identification of any persons employed, retained or to be compensated by the acquiring party, or by any person on his or her behalf, who makes solicitations or recommendations to stockholders for the purpose of assisting in the acquisition, and brief description of the terms of such employment, retainer, or arrangements for compensation;

(g) Copies of all invitations for tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition.

When an unincorporated company is required to file the statements under (1)(a), (b), and

(f) of this section, the director may require that the information be given with respect to each partner of a partnership or limited partnership, by each member of a syndicate or group, and by each person who controls a partner or member. When an incorporated company is required to file the statements under (1)(a), (b), and (f) of this section, the director may require that the information be given for the corporation and for each officer and director of the corporation and for each person who is directly or indirectly the beneficial owner of twenty-five percent or more of the outstanding voting securities of the corporation. If any tender offer, request or invitation for tenders or other agreement to acquire control is proposed to be made by means of a registration statement under the federal securities act of 1933 (48 Stat. 74, 15 U.S.C. Sec. 77a), as amended, or in circumstances requiring the disclosure of similar information under the federal securities exchange act of 1934 (48 Stat. 881; 15 U.S.C. Sec. 77b), as amended, or in an application filed with the federal home loan bank board requiring similar disclosure, such registration statement or application may be filed with the director in lieu of the requirements of this section.

(2) The director shall give notice by mail to all associations doing business within the state of the filing of an application to acquire control of an association. The association shall transmit a check to the director for two hundred dollars when filing the application to cover the expense of notification. Persons interested in protesting the application may contact the director in person or by writing prior to a date which shall be given in the notice.

[1994 c 92 § 447; 1982 c 3 § 54; 1979 c 113 § 13; 1973 c 130 § 2.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.
Severability--1979 c 113: See note following RCW 33.04.020.
Severability--1973 c 130: See note following RCW 33.24.350.

RCW 33.24.370 Acquisition of control of association--Action or proceeding to prevent--Grounds.

The director may within thirty days after the date of filing of the application under RCW 33.24.360, file an action or proceeding in superior court to prevent the pending acquisition of control if the director finds any of the following:

(1) The acquisition would substantially lessen competition or would in any manner be in restraint of trade or would result in a monopoly, or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the savings and loan business in any part of the state of Washington, unless the director also finds that the anticompetitive effects of the proposed acquisition are clearly outweighed in the public interest by the probable effect of the acquisition in meeting the convenience and needs of the community to be served;

(2) The poor financial condition of any acquiring party might jeopardize the financial stability of the association being acquired or might prejudice the interests of the depositors, borrowers, or stockholders of the association or is not in the public interest;

(3) The plan or proposal under which the acquiring party intends to liquidate the association, to sell its assets, or to merge it with any person or company, or to make any other

major change in its business or corporate structure or management, is not fair and reasonable to the association's depositors, borrowers, or stockholders or is not in the public interest; or

(4) The competence, experience and integrity of any acquiring party who would control the operation of the association indicates that approval would not be in the interest of the association's depositors, borrowers, or stockholders nor in the public interest.

[1994 c 92 § 448; 1982 c 3 § 55; 1973 c 130 § 3.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.
Severability--1973 c 130: See note following RCW 33.24.350.

RCW 33.24.375 Acquisition of control of association--Application to foreign association branches.

RCW 33.24.345, 33.24.350, 33.24.360, and 33.24.370 do not apply to foreign associations doing business in this state, except when an acquiring party intends to acquire only one or more branches of a foreign association which are located in this state.

[1982 c 3 § 56.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.24.380 Acquisition of control of association--Penalty.

Any person who wilfully violates any provision of RCW 33.24.360, or any regulation or order thereunder, is guilty of a misdemeanor and shall upon conviction be fined not more than one thousand dollars for each day during which the violation continues.

[1973 c 130 § 4.]

Notes:

Severability--1973 c 130: See note following RCW 33.24.350.
Definitions--1973 c 130: See RCW 33.24.350.

Chapter 33.28 RCW
FEES AND TAXES

Sections

33.28.010 Filing and copy fees.
33.28.020 Fee for examination and supervision costs.
33.28.040 Taxation of associations.

RCW 33.28.010 Filing and copy fees.

The secretary of state shall collect fees of twenty dollars in advance for filing articles of incorporation. The secretary of state shall establish by rule, fees for amendments to articles of incorporation, other certificates required to be filed in his or her office, and for furnishing copies of papers filed in his or her office.

Every association shall also pay to the secretary of state, for filing any instrument with him or her, the same fees as are required of general corporations for filing similar papers.

[1993 c 269 § 13; 1981 c 302 § 33; 1945 c 235 § 76; Rem. Supp. 1945 § 3717-195.]

Notes:

Effective date--1993 c 269: See note following RCW 23.86.070.

Severability--1981 c 302: See note following RCW 19.76.100.

Corporations, fees in general: Chapter 23B.01 RCW.

RCW 33.28.020 Fee for examination and supervision costs.

The director shall collect from each association a fee, the amount of which shall be set by rule, to cover the actual cost of examinations and supervision.

[1994 c 92 § 449; 1982 c 3 § 57; 1974 ex.s. c 22 § 1; 1969 c 107 § 6; 1961 c 222 § 4; 1945 c 235 § 77; Rem. Supp. 1945 § 3717-196. Prior: 1933 c 183 § 82; 1919 c 169 § 11; 1913 c 110 § 18.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.28.040 Taxation of associations.

The fees provided for in this title shall be in lieu of all other corporation fees, licenses, or excises for the privilege of doing business, except for business and occupation taxes imposed pursuant to chapter 82.04 RCW, and except for license fees or taxes imposed by a city or town under RCW 82.14A.010, notwithstanding any other provisions of this section.

Neither an association nor its members shall be taxed upon its deposit accounts as property, nor shall a domestic association be taxed upon its real and tangible personal property at a rate greater than any federal association doing business in this state.

An association is an institution for deposits and neither it nor its property shall be taxed under any law which shall exempt banks or other savings institutions, state or federal, from taxation.

For all purposes of taxation, the assets represented by the contingent fund, guaranty fund, and other reserves (other than reserves for expenses and specific losses) of an association shall be deemed its only permanent capital and, in computing any tax, whether property, income, or excise, appropriate adjustments shall be made to give effect to the nature of such association.

[1982 c 3 § 58; 1972 ex.s. c 134 § 4; 1970 ex.s. c 101 § 1; 1945 c 235 § 79; Rem. Supp. 1945 § 3717-198. Prior: 1933 c 183 § 86; 1913 c 110 § 17; 1890 p 56 §§ 35, 38.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

Effective date--1972 ex.s. c 134: See RCW 82.14A.900.

Severability--1970 ex.s. c 101: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 101 § 5.]

Effective date--1970 ex.s. c 101: "This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect March 1, 1970." [1970 ex.s. c 101 § 6.]

City or town license fees or taxes on financial institutions: Chapter 82.14A RCW.

Chapter 33.32 RCW
FOREIGN ASSOCIATIONS

Sections

33.32.020 Examinations and reports.
33.32.030 Subject to state regulations and laws.
33.32.050 Power of attorney for service of process.
33.32.060 Reciprocity.
33.32.070 Failure to comply with title as disqualifying act.
33.32.080 Nonadmitted foreign associations--Powers relative to secured interests.

RCW 33.32.020 Examinations and reports.

Unless prohibited by the laws of the state in which it is incorporated, a foreign association or like corporation authorized to do business in this state which, by the laws of the state in which it is incorporated, is required to be examined or to make reports to officers of such state, after each such examination or on the making of each such report, shall furnish to the director a copy of such examination or report, certified by the officer of the state making such examination or receiving the report.

[1994 c 92 § 450; 1982 c 3 § 59; 1945 c 235 § 81; Rem. Supp. 1945 § 3717-200. Prior: 1933 c 183 § 87; 1913 c 110 § 21; 1890 p 56 §§ 14, 37.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.32.030 Subject to state regulations and laws.

Except as to those matters relating strictly to its internal management which are governed by provisions of the law of the state of its incorporation inconsistent with this title, a foreign association or like corporation authorized to transact business in this state shall conduct its business in conformance with the provisions of this title and all requirements of the director.

All agreements made by any foreign association or like corporation doing business in this state with any resident of this state shall be deemed and construed to be made within this state.

[1994 c 92 § 451; 1982 c 3 § 60; 1945 c 235 § 82; Rem. Supp. 1945 § 3717-201. Prior: 1933 c 183 § 87; 1913 c

110 § 21; 1890 p 56 §§ 9, 14.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.32.050 Power of attorney for service of process.

No foreign savings and loan association or like corporation shall do business in this state until it shall file with the director a written irrevocable power of attorney providing that service upon the director of any process issued against it by any court in this state shall constitute valid service of such process upon it. Such service shall be had by serving upon the director two copies of such summons or other process, together with the sum of two dollars. The director, upon receipt of any such summons or other process, shall forthwith transmit, by registered mail, one copy thereof to the principal office of such foreign association or corporation.

[1994 c 92 § 452; 1945 c 235 § 84; Rem. Supp. 1945 § 3717-203. Prior: 1933 c 183 § 87; 1890 p 56 §§ 9, 10, 12.]

RCW 33.32.060 Reciprocity.

No foreign savings and loan association shall be permitted to do business in this state on more favorable terms and conditions than the associations organized under the laws of this state are permitted to do business in the state in which such foreign association or corporation is organized.

[1945 c 235 § 85; Rem. Supp. 1945 § 3717-204. Prior: 1933 c 183 § 88; 1890 p 56 § 13.]

RCW 33.32.070 Failure to comply with title as disqualifying act.

Any foreign savings and loan association or like corporation doing business in this state which fails to comply with any provision of this title as required shall not thereafter transact any business within this state.

[1982 c 3 § 61; 1945 c 235 § 86; Rem. Supp. 1945 § 3717-205. Prior: 1933 c 183 § 89; 1913 c 110 § 21; 1890 p 56 §§ 14, 20.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.32.080 Nonadmitted foreign associations--Powers relative to secured interests.

See chapter 23B.18 RCW.

Chapter 33.36 RCW
PROHIBITED ACTS--PENALTIES

Sections

33.36.010 Illegal loans or investments.
33.36.020 Purchase at discount of accounts or certificates.
33.36.030 Preference in case of insolvency.
33.36.040 Falsification of books--Exhibiting false document--Making false statement of assets or liabilities.
33.36.050 False statement affecting financial standing.
33.36.060 Suppressing, secreting, or destroying evidence or records.

Notes:
Assignment for benefit of creditors: Chapter 7.08 RCW.
False representations: Chapter 9.38 RCW.

RCW 33.36.010 Illegal loans or investments.

Any director, officer, agent, or employee of an association who, on behalf of such association, shall knowingly and wilfully make or participate in making or consent to any loan or investment contrary to the provisions of this title shall be guilty of a gross misdemeanor.

[1945 c 235 § 87; Rem. Supp. 1945 § 3717-206. Prior: 1933 c 183 §§ 53, 62, 102, 111; 1919 c 169 § 16; 1913 c 110 § 27.]

RCW 33.36.020 Purchase at discount of accounts or certificates.

Any director, officer, agent, attorney, or employee of an association who, directly or indirectly, shall purchase at a discount any savings account in the association or any certificate or debenture of any segregation corporation holding assets formerly held by the association shall be guilty of a gross misdemeanor.

[1945 c 235 § 88; Rem. Supp. 1945 § 3717-207. Prior: 1933 c 183 §§ 62, 101.]

RCW 33.36.030 Preference in case of insolvency.

Every transfer of its property and assets by any association in this state, made in contemplation of insolvency, or after it becomes insolvent, with a view to the preference of one creditor or member over another, or to prevent the proper distribution of its property and assets among its creditors and members, shall be void.

Every director, officer, agent, or employee making such transfer or assisting therein is guilty of a class C felony as provided in chapter 9A.20 RCW.

[1982 c 3 § 62; 1945 c 235 § 89; Rem. Supp. 1945 § 3717-208.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.36.040 Falsification of books--Exhibiting false document--Making false

statement of assets or liabilities.

Every person who subscribes to or knowingly makes or causes to be made any false statement or false entry in the books of any association, or knowingly subscribes to or exhibits any false or fictitious security, document, or paper, with intent to deceive any person authorized to examine into the affairs of any association, or knowingly makes or publishes any false statement of the amount of the assets or liabilities of the association, is guilty of a class C felony as provided in chapter 9A.20 RCW.

[1982 c 3 § 63; 1945 c 235 § 90; Rem. Supp. 1945 § 3717-209. Prior: 1933 c 183 § 101; 1919 c 169 §§ 12, 18; 1913 c 110 § 19.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.36.050 False statement affecting financial standing.

Any person who wilfully instigates, makes, circulates, or transmits to another or others any statement which the person knows to be false concerning the financial condition or affecting the financial standing of any association doing business in this state, or who wilfully counsels, aids, procures or induces another to start, transmit, or circulate any such statement which the person knows to be false, is guilty of a gross misdemeanor.

[1982 c 3 § 64; 1945 c 235 § 92; Rem. Supp. 1945 § 3717-211. Prior: 1933 c 183 § 110.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.36.060 Suppressing, secreting, or destroying evidence or records.

Any person who, for the purpose of concealing any material fact, suppresses any evidence or abstract, removes, mutilates, destroys, or secretes any book, paper or record of an association, or of the director, or of anyone connected with the association or the office of the director, is guilty of a class C felony as provided in chapter 9A.20 RCW.

[1994 c 92 § 453; 1982 c 3 § 65; 1945 c 235 § 91; Rem. Supp. 1945 § 3717-210. Prior: 1933 c 183 § 106; 1919 c 169 § 19.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

Chapter 33.40 RCW
INSOLVENCY, LIQUIDATION, MERGER

Sections

33.40.010 Voluntary liquidation, merger, etc., authorized--Procedure.
33.40.020 Director may take possession of domestic association on notice for delinquency.

33.40.030 Possession without notice.
33.40.040 Procedure on taking possession.
33.40.050 Involuntary liquidation--Procedure--Federal insurance corporation as liquidator.
33.40.060 Procedure to be as in receivership.
33.40.070 Liquidator's powers.
33.40.075 Investment of liquidation funds--Use of income.
33.40.080 Disposition of records.
33.40.110 Voluntary liquidation--Disposition of unclaimed dividends and records.
33.40.120 Removal of liquidator--Appellate review.
33.40.130 Payment of deposits accepted during economic emergency, preference.
33.40.150 Appointment of provisional officers and directors.

RCW 33.40.010 Voluntary liquidation, merger, etc., authorized--Procedure.

Any domestic association may determine to enter upon voluntary liquidation, to transfer its assets and liabilities to another association, to merge with another association, to segregate its assets into classes, to charge off its losses in excess of its reserves.

Any such liquidation, transfer, merger, segregation, or charge-off shall be effected by the vote of a majority in amount of the members present, in person or by proxy, at any regular or special meeting of the members called for such purpose. Notice of such meeting, stating the purpose thereof, shall be given the director at least thirty days prior to the meeting and to the members pursuant to the provisions contained in RCW 33.20.010.

If such liquidation, transfer, merger, segregation, or charge-off be authorized by the members at the meeting, the directors of the association are authorized and shall effect such action, and the officers of the association shall execute all proper conveyances, documents, and other papers necessary or proper thereunto.

[1994 c 92 § 454; 1949 c 20 § 9; 1945 c 235 § 102; Rem. Supp. 1949 § 3717-221. Prior: 1935 c 171 § 4; 1933 c 183 §§ 60, 78; 1919 c 169 § 17.]

RCW 33.40.020 Director may take possession of domestic association on notice for delinquency.

Whenever it appears to the director that any domestic association is in an unsound condition or is conducting its business in an unsafe manner or is refusing to submit its books, papers, or concerns to lawful inspection, or that any director or officer thereof refuses to submit to examination on oath touching its concerns and affairs or that it has failed to carry out any authorized order or direction of the director, the director may give notice to the association so offending or delinquent or whose director or officer is thus offending or delinquent to correct such offense or delinquency and, if such association or such director or officer fails to correct the condition, offense, or delinquency within a reasonable time, as determined by the director, the director may take possession of the association.

[1994 c 92 § 455; 1982 c 3 § 66; 1945 c 235 § 103; Rem. Supp. 1945 § 3717-222. Prior: 1933 c 183 §§ 68, 71.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.40.030 Possession without notice.

Whenever it shall appear to the director that any association is in an unsound or unsafe condition to continue business or is insolvent, the director may take possession thereof without notice.

[1994 c 92 § 456; 1945 c 235 § 104; Rem. Supp. 1945 § 3717-223. Prior: 1933 c 183 §§ 68, 71.]

RCW 33.40.040 Procedure on taking possession.

Upon the director taking possession of any domestic association, the director shall proceed to liquidate the association unless, in the director's discretion, the director shall determine to call a meeting of the members to consider either a proportionate charge-off against the deposit accounts to permit the association thereafter to continue in business, or whether the association should proceed to voluntary liquidation under the management of its board of directors. In such event, if the director approves the decision of a majority in amount of the members present and voting, the director shall order such action to be taken.

During any period of voluntary liquidation, the director may take possession of the association and its assets and complete the liquidation whenever, in the director's discretion, this seems advisable.

[1994 c 92 § 457; 1982 c 3 § 67; 1945 c 235 § 105; Rem. Supp. 1945 § 3717-224. Prior: 1935 c 171 § 4; 1933 c 183 §§ 70, 72, 78; 1919 c 169 § 13; 1913 c 110 § 20.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.40.050 Involuntary liquidation--Procedure--Federal insurance corporation as liquidator.

Whenever the director determines to liquidate the affairs of a domestic association, the director shall cause the attorney general to present to the superior court of the county in which the association has its principal place of business a written petition setting forth the date of the taking of possession, the reasons therefor, and other material facts concerning the affairs of the association and, if the court determines that the association should be liquidated, it shall appoint the director, or other responsible person as recommended by the director, as the liquidator of the association and fix and require a bond to be given by the liquidator conditioned for the faithful performance of the duties as such liquidator, but if the association has the insurance protection provided by Title IV of the National Housing Act, as now or hereafter amended, the court upon the request of the director may tender to the federal savings and loan insurance corporation the appointment as liquidator.

Upon the filing with and approval by the court of the bond, the director or other person appointed shall enter upon the duties as liquidator of the affairs of the association, and, under the direction of the court, shall administer and liquidate the assets thereof and apply the same to the payment of the expenses of liquidation and the debts of the association, and distribute the remainder to the deposit accounts proportionately.

If the court tenders the appointment as liquidator to the federal savings and loan insurance corporation, and if the insurance corporation accepts the appointment, it shall have and possess all the powers and privileges provided by the laws of this state with respect to a liquidator of an association, its depositors and other creditors, and be subject to all the duties of such liquidator, except insofar as such powers, privileges, or duties are in conflict with the provisions of Title IV of the National Housing Act, as now or hereafter amended. In any liquidation proceeding in which the insurance corporation is the liquidator, it may proceed to liquidate without being subject to the control of the court and without bond.

[1994 c 92 § 458; 1982 c 3 § 68; 1973 c 130 § 29; 1945 c 235 § 106; Rem. Supp. 1945 § 3717-225. Prior: 1935 c 171 § 4; 1933 c 183 §§ 70, 72, 73, 74, 76, 77, 78; 1919 c 169 § 13; 1913 c 110 § 20.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

Severability--1973 c 130: See note following RCW 33.24.350.

RCW 33.40.060 Procedure to be as in receivership.

In any such liquidation proceeding, the court, except as otherwise in this title expressly provided, shall have the powers and proceed as in receivership proceedings.

[1945 c 235 § 107; Rem. Supp. 1945 § 3717-226. Prior: 1935 c 171 § 4; 1933 c 183 §§ 70, 72, 73, 75, 76, 77, 78; 1919 c 169 § 13; 1913 c 110 § 20.]

RCW 33.40.070 Liquidator's powers.

The liquidator, upon the approval of the court, may sell, discount, or compromise debts of the association and claims against its debtors. The liquidator, with the approval of the court, may lease, operate, repair, exchange, or sell, either for cash or upon terms, the real and personal property of the association.

The liquidator, with the approval of the court, when funds are available, may pay savings members whose balances amount to not more than five dollars, the full amount of the balances.

Checks issued or payments held by the liquidator which remain undelivered for six months following the final liquidation dividend shall be deposited with the director, after which the liquidator shall be discharged by the court. During ten years thereafter, the director shall deliver the checks or payments, or the director's own checks in lieu thereof, to the payee, or his or her legal representative, upon receipt of satisfactory evidence of the payee's right thereto. After the ten years, the director shall cancel all such checks or payments remaining in the director's possession and issue a check against the account for the amount thereof, payable to the state treasurer, and deliver it to the state treasurer. Such payment shall escheat to the state,

without further legal proceedings.

[1994 c 92 § 459; 1982 c 3 § 69; 1953 c 71 § 10; 1945 c 235 § 108; Rem. Supp. 1945 § 3717-227. Prior: 1935 c 171 § 4; 1933 c 183 §§ 70, 73, 74, 78.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.40.075 Investment of liquidation funds--Use of income.

All funds received by the director from liquidations may be invested by the director. The earnings from the moneys so held may be applied toward defraying the expenses incurred in the liquidations.

[1994 c 92 § 460; 1982 c 3 § 70; 1951 c 105 § 1.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.40.080 Disposition of records.

Upon the termination of any liquidation proceeding, any files, records, documents, books of account, or other papers in the possession of the liquidator shall be surrendered into the possession of the director, who, in his or her discretion at any time after the expiration of one year, may destroy any of such files, records, documents, books of account or other papers which appear to him or her to be obsolete or unnecessary for future reference.

[1994 c 92 § 461; 1945 c 235 § 109; Rem. Supp. 1945 § 3717-228.]

RCW 33.40.110 Voluntary liquidation--Disposition of unclaimed dividends and records.

In a voluntary liquidation of a domestic association, checks issued in the liquidation or funds representing liquidating dividends or otherwise which remain undelivered for six months following the final liquidating dividend, shall be deposited with the director, together with any files, records, documents, books of account, or other papers of the association. The director, at any time after one year from delivery, may destroy any of such files, records, documents, books of account, or other papers which appear to the director to be obsolete or unnecessary for future reference. During ten years thereafter, the director shall deliver such checks, or the director's own checks in lieu thereof, or portions of such funds to the payee, or the payee's legal representative, upon receipt of satisfactory evidence of the payee's right thereto. After the ten years, the director shall cancel all such checks remaining in the director's possession and issue a check payable to the state treasurer for the amount thereof together with any other liquidating funds, and deliver them to the state treasurer. Such payment shall escheat to the state without further legal proceedings.

[1994 c 92 § 462; 1982 c 3 § 71; 1953 c 71 § 11; 1945 c 235 § 112; Rem. Supp. 1945 § 3717-231.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

Uniform unclaimed property act: Chapter 63.29 RCW.

RCW 33.40.120 Removal of liquidator--Appellate review.

The court, upon notice and hearing, may remove the liquidator for cause. Appellate review of the order of removal may be sought as in other civil cases.

During the pendency of any appeal, the director of financial institutions shall act as liquidator of the association, without giving any additional bond for the performance of the duties as such liquidator.

If such order of removal shall be affirmed, the director of financial institutions shall name another liquidator for the association, which nominee, upon qualifying as required for receivers generally, shall succeed to the position of liquidator of the association.

[1994 c 92 § 463; 1988 c 202 § 34; 1982 c 3 § 72; 1971 c 81 § 86; 1945 c 235 § 113; Rem. Supp. 1945 § 3717-232.]

Notes:

Rules of court: *Appeal procedures superseded by RAP 2.1, 2.2, 18.22.*

Severability--1988 c 202: See note following RCW 2.24.050.

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.40.130 Payment of deposits accepted during economic emergency, preference.

Savings deposits received by an association, during a period or periods of postponement of payment of withdrawals or of acute business depression, panic or economic emergency under authorization or declaration of the director as hereinbefore provided, shall be repaid to the depositors paying in such savings before any liquidation dividends shall be declared or paid if, during such period or periods or at the expiration thereof, the director takes charge of the association for liquidation, as provided in this title.

[1994 c 92 § 464; 1982 c 3 § 73; 1945 c 235 § 100; Rem. Supp. 1945 § 3717-219.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.40.150 Appointment of provisional officers and directors.

(1) The director of financial institutions, after exercising the authority granted in RCW 33.16.040, may appoint provisional officers and directors, in whole or in part, of an association.

(2) Notice of the appointment shall be served upon the association, and the appointment shall take effect immediately and shall remain in effect until a successor is chosen in accordance with the association's bylaws.

[1994 c 92 § 465; 1985 c 239 § 2.]

Chapter 33.43 RCW
CONVERSION TO AND FROM FEDERAL ASSOCIATION

Sections

33.43.010 Conversion of domestic association to federal association.
33.43.020 Federal association--Powers.
33.43.030 Conversion of federal association to domestic association.

RCW 33.43.010 Conversion of domestic association to federal association.

Any domestic association may convert itself into a federal mutual or stock savings and loan association. Any such conversion shall be effected by the vote of a majority in amount of the members present, in person or by proxy, at any regular or special meeting of the members called for such purpose. Notice of such meeting, stating the purpose thereof, shall be given the director at least thirty days prior to the meeting and to the members pursuant to the provisions contained in RCW 33.20.010.

If such conversion be authorized by the members at the meeting, the directors of the association are authorized and shall effect such action, and the officers of the association shall execute all proper conveyances, documents, and other papers necessary or proper thereunto.

If conversion be authorized, a copy of the minutes of the meeting shall be filed forthwith with the director.

Upon consummation of such conversion, the successor federal savings and loan association shall succeed to all right, title, and interest of the domestic association in and to its assets, and to its liabilities to the creditors and members of the association. Upon such conversion, after the execution and delivery of all instruments of transfer, conveyance and assignment, the domestic association shall be deemed dissolved.

[1994 c 92 § 466; 1982 c 3 § 74; 1949 c 20 § 10; 1945 c 235 § 116; Rem. Supp. 1949 § 3717-235. Prior: 1933 ex.s. c 15 §§ 1 through 6. Formerly RCW 33.44.100.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.43.020 Federal association--Powers.

Every federal savings and loan association, the home office of which is located in this state, and the savings accounts therein shall have all the rights, powers and privileges and be entitled to the same immunities and exemptions as pertain to savings and loan associations organized under the laws of this state.

[1945 c 235 § 117; Rem. Supp. 1945 § 3717-236. Prior: 1939 c 98 § 9; 1933 c 183 § 50. Formerly RCW 33.44.110.]

RCW 33.43.030 Conversion of federal association to domestic association.

Any federal savings and loan association the home office of which is located in this state may convert itself into a domestic savings and loan association of this state. For any such conversion, such federal association shall proceed as provided in this title for the conversion of a domestic association into a federal association.

Upon consummation of such conversion, the successor domestic association shall succeed to all right, title, and interest of the federal association in and to its assets, and to its liabilities to the creditors and members of such federal association.

[1945 c 235 § 118; Rem. Supp. 1945 § 3717-237. Prior: 1939 c 98 § 1. Formerly RCW 33.44.120.]

Chapter 33.44 RCW
CONVERSION TO MUTUAL SAVINGS BANK

Sections

33.44.020 Conversion to a savings bank or commercial bank--Procedure.
33.44.080 Depositor's interest upon conversion.
33.44.090 Transfer of securities upon conversion.
33.44.125 Waiver of chapter requirements.
33.44.130 Rules implementing chapter--Standard.

RCW 33.44.020 Conversion to a savings bank or commercial bank--Procedure.

Any association organized under the laws of this state, or under the laws of the United States, may, if it has obtained the approval, required by law or regulation, of any federal agencies, including the federal home loan bank board and the federal savings and loan insurance corporation, be converted into a savings bank or commercial bank in the following manner:

(1) The board of directors of such association shall pass a resolution declaring its intention to convert the association into a savings bank or commercial bank and shall apply to the director of financial institutions for leave to submit to the members of the association the question whether the association shall be converted into a savings bank or a commercial bank. A duplicate of the application to the director of financial institutions shall be filed with the director of financial institutions, except that no such filing shall be required in the case of an association organized under the laws of the United States. The application shall include a proposal which sets forth the method by and extent to which membership or stockholder interests, as the case may be, in the association are to be converted into membership or stockholder interests, as the case may be, in the savings bank or commercial bank, and the proposal shall allow for any member or stockholder to withdraw the value of his or her interest at any time within sixty days

of the completion of the conversion. The proposal shall be subject to the approval of the director of financial institutions and shall conform to all applicable regulations of the federal home loan bank board, the federal savings and loan insurance corporation, the federal deposit insurance corporation, or other federal regulatory agency.

(2) Thereupon the director of financial institutions shall make the same investigation and determine the same questions as would be required by law to make and determine in case of the submission to the director of financial institutions of a certificate of incorporation of a proposed new savings bank or commercial bank, and the director of financial institutions shall also determine whether by the proposed conversion the business needs and conveniences of the members of the association would be served with facility and safety, except that no such conference shall be pertinent to such investigation or determination in the case of an association organized under the laws of the United States. After the director of financial institutions determines whether it is expedient and desirable to permit the proposed conversion, the director of financial institutions shall, within sixty days after the filing of the application, endorse thereon over the official signature of the director of financial institutions the word "granted" or the word "refused", with the date of such endorsement and shall immediately notify the secretary of such association of his or her decision. If an application to convert to a mutual savings bank is granted, the director of financial institutions shall require the applicants to enter into such an agreement or undertaking with the director of financial institutions as trustee for the depositors with the mutual savings bank to make such contributions in cash to the expense fund of the mutual savings bank as in the director of financial institutions judgment will be necessary then and from time to time thereafter to pay the operating expenses of the mutual savings bank if its earnings should not be sufficient to pay the same in addition to the payment of such dividends as may be declared and credited to depositors from its earnings.

If the application is denied by the director of financial institutions, the association, acting by a two-thirds majority of its board of directors, may, within thirty days after receiving the notice of the denial, appeal to the superior court in the manner prescribed in chapter 34.05 RCW.

(3) If the application is granted by the director of financial institutions or by the court, as the case may be, the board of directors of the association shall, within sixty days thereafter, submit the question of the proposed conversion to the members of the association at a special meeting called for that purpose. Notice of the meeting shall state the time, place and purpose of the meeting, and that the only question to be voted upon will be, "shall the (naming the association) be converted into a savings bank or commercial bank under the laws of the state of Washington?" The vote on the question shall be by ballot. Any member may vote by proxy or may transmit the member's ballot by mail if the bylaws provide a method for so doing. If two-thirds or more in number of the members voting on the question vote affirmatively, then the board of directors shall have power, and it shall be its duty, to proceed to convert such association into a savings bank or commercial bank; otherwise, the proposed conversion shall be abandoned and shall not be again submitted to the members within three years from the date of the meeting.

(4) If authority for the proposed conversion has been approved by the members as required by this section, the directors shall, within thirty days thereafter, subscribe and

acknowledge and file with the director of financial institutions in triplicate a certificate of reincorporation, stating:

(a) The name by which the converted corporation is to be known.

(b) The place where the bank is to be located and its business transacted, naming the city or town and county, which city or town shall be the same as that where the principal place of business of the corporation has theretofore been located.

(c) The name, occupation, residence and post office address of each signer of the certificate.

(d) The amount of the assets of the corporation, the amount of its liabilities and the amount of its contingent, reserve, expense, and guaranty fund, as applicable, as of the first day of the then calendar month.

(e) A declaration that each signer will accept the responsibilities and faithfully discharge the duties of a trustee or director of the bank, and is free from all the disqualifications specified in the laws applicable to savings banks or commercial banks.

(f) Such other items as the director of financial institutions may require.

(5) Upon the filing of the certificate in triplicate, the director of financial institutions shall, within thirty days thereafter, if satisfied that all the provisions of this chapter have been complied with, issue in triplicate an authorization certificate stating that the corporation has complied with all the requirements of law, and that it has authority to transact at the place designated in its certificate of incorporation the business of a savings bank or commercial bank. One of the director of financial institutions certificates of authorization shall be attached to each of the certificates of reincorporation, and one set of these shall be filed and retained by the director of financial institutions, one set shall be filed in the office of the secretary of state, and one set shall be transmitted to the bank for its files. Upon the receipt from the corporation of the same fees as are required for filing and recording other incorporation certificates or articles, the secretary of state shall file the certificates and record the same; whereupon the conversion of the association shall be deemed complete, and the signers of said reincorporation certificate and their successors shall thereupon become and be a corporation having the powers and being subject to the duties and obligations prescribed by the laws of this state applicable to savings banks or commercial banks, as the case may be. The time of existence of the corporation shall be perpetual unless provided otherwise in the articles of incorporation of the association or unless sooner terminated pursuant to law.

[1997 c 101 § 6; 1994 c 92 § 467; 1982 c 3 § 75; 1981 c 302 § 34; 1979 ex.s. c 57 § 7; 1975 1st ex.s. c 111 § 1; 1927 c 177 § 1; 1917 c 154 § 1; RRS §§ 3749 through 3754. Formerly RCW 33.44.020 through 33.44.070.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

Severability--1981 c 302: See note following RCW 19.76.100.

RCW 33.44.080 Depositor's interest upon conversion.

Upon the conversion of any association into a savings bank or commercial bank, every person who was a depositor of the association at the time of the conversion shall become and be

deemed to be a depositor of the bank in a sum equal to the value of the deposit of the depositor as of the day on which the conversion was consummated.

[1982 c 3 § 76; 1927 c 177 § 2; 1917 c 154 § 2; RRS § 3755.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.44.090 Transfer of securities upon conversion.

All mortgages, notes and other securities of any association that has been converted into a savings bank or commercial bank, shall on request of the bank, be delivered to it by the director of financial institutions or under the director's direction by any depositary having possession thereof. Every such bank shall, as soon as practicable and within such time and by such methods as the director may direct, cause its organization, its securities and investments, the character of its business and its methods of transacting the same to conform to the laws applicable to savings banks or commercial banks, as applicable.

[1994 c 92 § 468; 1982 c 3 § 77; 1927 c 177 § 3; 1917 c 154 § 3; RRS § 3756.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.44.125 Waiver of chapter requirements.

If, in the opinion of the director of financial institutions, it is necessary for any of the requirements of this chapter to be waived in order to permit an association which is in danger of failing to convert its charter to that of a commercial bank or a savings bank so that the association may be acquired by a commercial bank or a savings bank or a bank holding company, then the director may waive any such requirement.

[1994 c 92 § 469; 1982 c 3 § 78.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.44.130 Rules implementing chapter--Standard.

The director of financial institutions shall adopt such rules under the administrative procedure act, chapter 34.05 RCW, as are necessary to implement this chapter in a manner which protects the relative interests of members, depositors, borrowers, stockholders, and creditors.

[1994 c 92 § 470; 1982 c 3 § 79.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

Chapter 33.46 RCW
CONVERSION OF SAVINGS BANK OR COMMERCIAL BANK TO ASSOCIATION

(Formerly: Conversion of mutual savings bank to building and loan or savings and loan association)

Sections

33.46.010 Definitions.
33.46.020 Conversion of bank to association--Procedure.
33.46.030 Cash contributions to expense fund if becoming domestic mutual association.
33.46.040 Appeal from denial of application.
33.46.050 Certificate of reincorporation--Required--Filing--Contents.
33.46.060 Issuance of authorization certificate--Filing--Completion of conversion--Effect.
33.46.070 Depositor's interest upon conversion.
33.46.080 Transfer of securities--Conformance to state association laws, when.
33.46.090 Assets, liabilities, etc., vested in association upon conversion.
33.46.100 Initial meeting of shareholders of domestic association--Notice--Proxy voting.
33.46.110 Conversion to federal association--Procedure.
33.46.130 Rules implementing chapter--Standard.

RCW 33.46.010 Definitions.

As used in this chapter, unless the context indicates otherwise:

(1) "Association" means any association organized under the laws of this state or the laws of the United States of America;

(2) "Director" means a member of the board of directors of an association, savings bank, or commercial bank, as applicable;

(3) "Bank" means a savings bank or commercial bank organized under the laws of this state; and

(4) "Trustee" means a member of the managing board of a mutual savings bank.

[1982 c 3 § 80; 1975 1st ex.s. c 83 § 1.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.46.020 Conversion of bank to association--Procedure.

Any bank may be converted into an association in the following manner:

(1) The trustees or directors of the bank shall pass, by at least a two-thirds favorable vote of all trustees or directors, a resolution declaring its intention to convert the bank into an association, specifying in such resolution the type of association and whether the association is to be organized under the laws of this state, or is to be organized under the laws of the United States of America. If the association is to be a state association the bank shall apply to the director of financial institutions for authority to convert into an association. The application shall

include a proposal which sets forth the method by and extent to which membership or stockholder interests, as the case may be, in the bank are to be converted into membership or shareholder interest, as the case may be, in the association, and the proposal shall allow for any member or stockholder to withdraw the value of his or her interest at any time within sixty days of the completion of the conversion. The proposal is subject to the approval of the director of financial institutions and shall conform to all applicable regulations of the federal deposit insurance corporation, the federal home loan bank board, the federal savings and loan insurance corporation, or other federal regulatory agency.

(2) The director of financial institutions shall, in the case of an application to convert into a state association, make the same investigation and determine the same questions as he or she would be required by law to make in determining the case of submission to him or her of articles of incorporation of a proposed new state association, and shall also determine whether the proposed conversion would serve the needs and conveniences of the depositors of the bank.

(3) The director of financial institutions shall grant or deny the application within sixty days of its date of filing and shall immediately notify the secretary of the bank of the decision.

[1994 c 92 § 471; 1982 c 3 § 81; 1975 1st ex.s. c 83 § 2.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.46.030 Cash contributions to expense fund if becoming domestic mutual association.

If the application to become a domestic mutual association is granted, the director of financial institutions shall require the applicant to enter into an agreement or undertaking with the director, as trustee for the members of the association, to make such cash contributions to an expense fund of the mutual association as in the director's judgment will be necessary then and from time to time thereafter to pay the operating expenses of the association if its earnings should not be sufficient to pay the same in addition to the payment of such dividends as may be declared and credited to members from its earnings.

[1994 c 92 § 472; 1982 c 3 § 82; 1975 1st ex.s. c 83 § 3.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.46.040 Appeal from denial of application.

If the application is denied by the director of financial institutions, the bank, acting by a two-thirds majority of its trustees or directors, may, within thirty days after receiving notice of such denial, appeal to the superior court of Thurston county pursuant to the provisions of the administrative procedure act, chapter 34.05 RCW.

[1994 c 92 § 473; 1982 c 3 § 83; 1975 1st ex.s. c 83 § 4.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.46.050 Certificate of reincorporation--Required--Filing--Contents.

If the application is granted by the director of financial institutions, or by the court, the trustees or directors of the bank shall, within thirty days thereafter, subscribe, acknowledge, and file with the director of financial institutions, in triplicate, a certificate of reincorporation stating:

(1) The name by which the association is to be known;

(2) The place where the association is to be located and its business transacted, naming the city or town and the county, which city or town shall be the same as that where the principal place of business of the bank has theretofore been located;

(3) The name, occupation, residence, and post office address of each signer of the certificate;

(4) The amount of the assets of the association, the amount of its liabilities, and the amount of its contingent, expense, or guaranty fund, as applicable, as of the first day of the calendar month during which the certificate is filed; and

(5) A declaration that each signer will accept the responsibilities and faithfully discharge the duties of a director of the association, and is free from all the disqualifications specified in the laws applicable to savings and loan associations.

[1994 c 92 § 474; 1982 c 3 § 84; 1981 c 302 § 35; 1975 1st ex.s. c 83 § 5.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

Severability--1981 c 302: See note following RCW 19.76.100.

RCW 33.46.060 Issuance of authorization certificate--Filing--Completion of conversion--Effect.

Upon filing the certificate in triplicate as provided in RCW 33.46.050, the director of financial institutions shall, within thirty days thereafter, if satisfied that all the provisions of this chapter have been complied with, issue in triplicate an authorization certificate stating that the association has complied with all of the requirements of law, and that it has authority to transact, at the place or places designated in its certificate, the business of an association. The director of financial institutions shall retain one set of the triplicate originals of the certificate of reincorporation and of the certificate of authorization and shall transmit the other two sets to the association, which shall retain one set, and file one set with the secretary of state, paying the required fees. Upon such filings being made, the conversion of the bank to the association shall be deemed complete and consummated, and the association shall thereupon be a corporation having the powers and being subject to the duties and obligations prescribed by the laws of this state applicable to state associations, and the time of existence of such association shall be perpetual, unless sooner terminated.

[1994 c 92 § 475; 1982 c 3 § 85; 1981 c 302 § 36; 1975 1st ex.s. c 83 § 6.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.
Severability--1981 c 302: See note following RCW 19.76.100.

RCW 33.46.070 Depositor's interest upon conversion.

Upon the conversion of a bank into an association, every person who was a depositor of the bank at the time of the conversion shall become and be deemed to be a depositor of the association in a sum equal to the value of the deposits of the depositor in the bank as of the day on which the conversion was consummated.

[1982 c 3 § 86; 1975 1st ex.s. c 83 § 7.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.46.080 Transfer of securities--Conformance to state association laws, when.

All mortgages, notes, and other securities of any bank that has been converted into an association shall, on request of the association, be delivered to it by the director of financial institutions or, under the direction of the director, by any depository having possession thereof. If the association is a state association it shall, as soon as practicable and within such time and by such methods as the director may direct, cause its organization, its securities and investments, the character of its business, and its methods of transacting the same to conform to the laws applicable to state associations.

[1994 c 92 § 476; 1982 c 3 § 87; 1975 1st ex.s. c 83 § 8.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.46.090 Assets, liabilities, etc., vested in association upon conversion.

Upon a conversion being consummated all assets, rights and properties of the bank shall vest in and be the property of the association and all liabilities, debts, and obligations of the bank shall be the liabilities, debts, and obligations of the association and any right can be enforced by or against the association the same as it could have been enforced by or against the bank if the conversion had not occurred.

[1975 1st ex.s. c 83 § 9.]

RCW 33.46.100 Initial meeting of shareholders of domestic association--Notice--Proxy voting.

Within twelve months following consummation of the conversion, the directors of a

domestic association shall call a meeting of the members for the purpose of electing directors and conducting such other business of the association as is appropriate. Notice of such meeting shall be mailed not less than ten nor more than thirty days in advance of the meeting to the last known address of each member. The notice may also include a proxy form authorizing any one or more persons, who may be directors or officers of the association, selected by the directors, to vote on behalf of any member executing such proxy.

[1982 c 3 § 88; 1975 1st ex.s. c 83 § 10.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.46.110 Conversion to federal association--Procedure.

If the bank specifies in the resolution that it intends to become a federal association, it shall proceed to make all filings and do all things which are required by federal laws and regulations to qualify as and become a federal association, and when all such things have been accomplished and a charter has been issued by the appropriate federal agency, the bank shall thereupon cease to be a bank organized under the laws of this state.

[1982 c 3 § 89; 1975 1st ex.s. c 83 § 11.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.46.130 Rules implementing chapter--Standard.

The director of financial institutions shall adopt such rules under the administrative procedure act, chapter 34.05 RCW, as are necessary to implement this chapter in a manner which protects the relative interests of members, depositors, borrowers, stockholders, and creditors.

[1994 c 92 § 477; 1982 c 3 § 90.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

Chapter 33.48 RCW
STOCK ASSOCIATIONS

(Formerly: Guaranty stock state savings and loan associations)

Sections

33.48.025 Applicability of chapter 23B.06 RCW.
33.48.030 Minimum amount of permanent stock required--Preferred or special classes of shares authorized.
33.48.040 Stock dividends, when.
33.48.080 Member's proprietary interest--Subordinate to claims of creditors.
33.48.090 Dividends only if interest paid on deposits.

33.48.100 Conversion procedure--Domestic stock to domestic mutual association.
33.48.110 Conversion procedure--Mutual association to domestic stock association--Rules implementing section--Standard.
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RCW 33.48.025 Applicability of chapter 23B.06 RCW.

Except to the extent provided otherwise in this title, stock associations are subject to the provisions of chapter 23B.06 RCW.

[1991 c 72 § 51; 1982 c 3 § 91; 1981 c 84 § 4.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.48.030 Minimum amount of permanent stock required--Preferred or special classes of shares authorized.

Stock associations shall have permanent stock which may be issued with or without par value but with a statement of value of nonpar stock in accordance with Title 23B RCW. The minimum amount of such stock shall be twenty-five thousand dollars in the case of associations outside of incorporated cities, or in cities of less than twenty-five thousand population. Associations located in cities of greater population shall have as a minimum, fifty thousand dollars of such stock. The board of such association is authorized and directed to issue and maintain the stock in the following percentages: Three percent upon the first five million dollars; two percent upon the next three million dollars, and one percent upon all additional withdrawable savings: PROVIDED, That associations whose savings are insured by the Federal

Savings and Loan Insurance Corporation shall not be required to maintain stock in excess of three hundred thousand dollars. A stock association may issue preferred or special classes of shares as provided in chapter 23B.06 RCW.

[1991 c 72 § 52; 1982 c 3 § 92; 1981 c 84 § 1; 1969 c 107 § 7; 1963 c 246 § 9; 1955 c 122 § 4.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.48.040 Stock dividends, when.

No dividends shall be declared on stock until the association has met the net worth and federal insurance requirements of the federal savings and loan insurance corporation. Subject to the provisions of this chapter, stock shall be entitled to such rate of dividend, if earned, as fixed by the board. Stock dividends may be declared and issued by the board at any time, payable from otherwise unallocated surplus and undivided profits.

[1982 c 3 § 93; 1981 c 84 § 2; 1979 c 113 § 14; 1955 c 122 § 5.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.
Severability--1979 c 113: See note following RCW 33.04.020.

RCW 33.48.080 Member's proprietary interest--Subordinate to claims of creditors.

Each member in a stock association shall have a proportionate proprietary interest in its assets and net earnings subordinate to the claims of its creditors with priorities as established by this chapter.

[1982 c 3 § 94; 1969 c 107 § 8; 1967 c 49 § 6; 1955 c 122 § 9.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.48.090 Dividends only if interest paid on deposits.

No dividend shall be paid or credited upon shares of stock for any period in which the association has not declared and paid interest on deposits eligible to receive interest.

[1982 c 3 § 95; 1955 c 122 § 10.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.48.100 Conversion procedure--Domestic stock to domestic mutual association.

A domestic stock association may convert to a domestic mutual association under the

provisions of applicable statutes and regulations of proper federal and state supervisory authorities. In the event of compliance with such statutes and regulations an appraisal of the stock shall be made by the director, upon written request of the directors of the association, and the appropriate value of the stock may be given consideration in the proceedings to convert by giving credit to such stock from surplus and other reserves.

[1994 c 92 § 478; 1982 c 3 § 96; 1955 c 122 § 11.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.48.110 Conversion procedure--Mutual association to domestic stock association--Rules implementing section--Standard.

Any mutual association, either domestic or federal, operating in the state of Washington may convert itself into a domestic stock association. The conversion shall be effected by the vote of two-thirds of the members present and voting in person or by proxy at any regular or special meeting of the members called for such purpose. Notice of such meeting, stating the purpose thereof, shall be given to the director and to each member by mailing notice to the member's last known address at least thirty days prior to the meeting.

At the meeting, the members may adopt a resolution amending its articles of incorporation and bylaws to provide for operation under this chapter as a stock association.

Upon adoption of the resolution, members shall be given notice of the proposed change and shall be offered, for a period of sixty days following the date of the meeting, the right to subscribe for the proposed stock, pro rata to their deposits in such mutual association, and such right shall be transferable. In the event that the total stock required has not, at the end of the sixty day period, been fully subscribed, the unsubscribed portion shall be offered to any former subscribers for such stock.

When the stock has been fully subscribed and paid for, certified copies of the documents relating to the conversion shall be submitted to the director for his or her approval of the conversion proceedings. Upon notification by the director that the director approves the conversion, the directors shall adopt a resolution declaring the association to be a stock association and thereafter it shall be such.

The director shall adopt such rules under chapter 34.05 RCW, the administrative procedure act, as are necessary to implement this section in a manner which protects the relative interests of members, depositors, borrowers, stockholders, and creditors.

[1994 c 92 § 479; 1982 c 3 § 97; 1955 c 122 § 12.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.48.120 Conversion procedure--Creation of permanent loss reserve--Disposition of reserve upon liquidation.

The accumulated surplus and unallocated reserves of an association at the time of conversion to a stock association shall be designated as a permanent loss reserve against which any losses incurred on assets may be charged. In case of liquidation the remaining sum in said permanent loss reserve shall be distributed to the depositors in proportion to the withdrawable value of their deposit accounts at the time of liquidation. In liquidation, after payment of all liabilities and the withdrawable value of all types and classes of deposit accounts together with the remainder in the permanent loss reserve heretofore mentioned, any excess shall be paid pro rata to the stockholders.

[1982 c 3 § 98; 1955 c 122 § 13.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.48.130 Withdrawal of charter amendment or conversion application.

The directors of an association which has voted to amend its charter or convert to another type of institution, may withdraw the application at any time prior to the issuance of the amended charter, by adopting a proper resolution and forwarding a copy to the director.

[1994 c 92 § 480; 1955 c 122 § 14.]

RCW 33.48.140 Legislative intent--Chapter to control over conflicting provisions.

It is the intention of the legislature to grant, by this chapter, authority to create stock associations in this state, by either organization or conversion under its provisions, and in the event of conflict between the provisions of this chapter and other provisions of Title 33 RCW, such other provisions shall be construed in favor of the accomplishment of the purposes of this chapter.

[1982 c 3 § 99; 1955 c 122 § 15.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

RCW 33.48.150 Organizing permit--Required.

No subscriptions or funds from proposed stockholders of any proposed association, prior to its incorporation and prior to a decision by the director on its application for approval of its articles of incorporation, may be solicited or taken until a verified application for an organizing permit has been filed and a permit has been issued by the director authorizing such subscription or collection of funds and then, only in accordance with the terms of such permit.

[1994 c 92 § 481; 1973 c 130 § 6.]

Notes:

Severability--1973 c 130: See note following RCW 33.24.350.

Definitions--1973 c 130: See RCW 33.24.350.

RCW 33.48.160 Organizing permit--Application.

The application for an organizing permit under RCW 33.48.150 shall be in writing, verified as provided by law for the verification of pleadings and shall be filed in the office of the director. Such application shall be signed by the proposed incorporators and shall include the following:

(1) The names and addresses of its proposed directors, officers and incorporators, to the extent known;

(2) The proposed location of its office;

(3) A copy of any contract proposed to be used for the solicitation of stock subscriptions and funds for its preincorporation expenses;

(4) A copy of any advertisement, circular, or other written matter proposed to be used for soliciting stock subscriptions and funds for its preincorporation expenses;

(5) A statement of the total funds proposed to be solicited and collected prior to incorporation and an itemized estimate of the preincorporation expenses proposed to be paid;

(6) A list of the names and addresses and amounts of each of the known proposed stockholders and contributors to the fund for preincorporation expenses; and

(7) Such additional information as the director may require.

[1994 c 92 § 482; 1973 c 130 § 7.]

Notes:

Severability--1973 c 130: See note following RCW 33.24.350.
Definitions--1973 c 130: See RCW 33.24.350.

RCW 33.48.170 Organizing permit--Conditions.

The director may impose conditions in the director's organizing permit issued under RCW 33.48.150 concerning the deposit in escrow of funds collected pursuant to said permit, the manner of expenditure of such funds and such other conditions as he or she deems reasonable and necessary or advisable for the protection of the public and the subscribers to such stock or funds for preincorporation expenses.

[1994 c 92 § 483; 1982 c 3 § 100; 1973 c 130 § 8.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.
Severability--1973 c 130: See note following RCW 33.24.350.

RCW 33.48.180 Permit authorizing sale of stock--Applicability.

No association shall sell, take subscriptions for, or issue any stock until the association applies for and secures from the director a permit authorizing it to sell stock.

This section does not apply to an offering involving less than five hundred thousand dollars nor to an offering made under a registration statement filed under the federal securities act of 1933 (48 Stat. 74; 15 U.S.C. Sec. 77a).

[1994 c 92 § 484; 1982 c 3 § 101; 1973 c 130 § 5.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.
Severability--1973 c 130: See note following RCW 33.24.350.

RCW 33.48.190 Permit authorizing sale of guaranty stock--Required prior to sale of issued or outstanding stock.

No issued and outstanding stock of an association shall be sold or offered for sale to the public, nor shall subscriptions be solicited or taken for such sales until the association or the selling stockholders have applied for and secured from the director a permit authorizing the sale of the guaranty stock.

This section shall not apply to an offering involving less than ten percent of the issued and outstanding guaranty stock of an association and less than five hundred thousand dollars nor to an offering made under a registration statement filed under the Securities Act of 1933 (48 Stat. 74; 15 U.S.C. Sec. 77a).

[1994 c 92 § 485; 1973 c 130 § 9.]

Notes:

Severability--1973 c 130: See note following RCW 33.24.350.
Definitions--1973 c 130: See RCW 33.24.350.

RCW 33.48.200 Permit authorizing sale of stock--Application--Contents.

An application for a permit to sell stock shall be in writing and shall be filed in the office of the director by the association.

The application shall include the following:

(1) Regarding the association:

(a) The names and addresses of its officers;

(b) The location of its office;

(c) An itemized account of its financial condition within ninety days of the filing date; and

(d) A copy of all minutes of any proceedings of its directors, shareholders, or stockholders relating to or affecting the issue of such stock;

(2) Regarding the offering:

(a) The names and addresses of the selling stockholders and of the officers of any selling corporation and the partners of any selling partnership;

(b) A copy of any contract concerning the sale of the stock;

(c) A copy of a prospectus or advertisement or other description of the stock prepared for distribution or publication in accordance with requirements prescribed by the director;

(d) A brief description of the method by which the stock is to be offered for sale including the offering price and the underwriting commissions and expense, if any; and

(3) Such additional information as the director may require.

[1994 c 92 § 486; 1982 c 3 § 102; 1973 c 130 § 10.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.
Severability--1973 c 130: See note following RCW 33.24.350.

RCW 33.48.210 Permit authorizing sale of stock--Examination and investigation--Issuance or denial.

Upon the filing of the application for a permit to sell stock, the director shall examine the application and other papers and documents filed therewith and he or she may make a detailed examination, audit, and investigation of the association and its affairs. If the director finds that the proposed plan for the issue and sale of such stock is fair, just and equitable, the director shall issue to the applicant a permit authorizing it to issue and dispose of its stock in such amounts and for such considerations and upon such terms and conditions as the director may provide in the permit. If the director does not so find he or she shall deny the application and notify the applicant in writing of his or her decision.

[1994 c 92 § 487; 1982 c 3 § 103; 1973 c 130 § 11.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.
Severability--1973 c 130: See note following RCW 33.24.350.

RCW 33.48.220 Recitation in permit to take subscriptions for stock.

Every permit to take subscriptions for stock shall recite in bold face type that the issuance thereof is permissive only and does not constitute a recommendation or endorsement of the stock permitted to be issued.

[1982 c 3 § 104; 1973 c 130 § 12.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.
Severability--1973 c 130: See note following RCW 33.24.350.

RCW 33.48.230 Sales of stock--Imposition of conditions.

With respect to sales of stock by an association, the director may impose conditions requiring the impoundment of the proceeds from the sale of stock, limiting the expense in connection with the sale of such stock, and other conditions as he or she deems reasonable and necessary or advisable to insure the disposition of the proceeds from the sale of such stock in the manner and for the purposes provided in the permit.

[1994 c 92 § 488; 1982 c 3 § 105; 1973 c 130 § 13.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.
Severability--1973 c 130: See note following RCW 33.24.350.

RCW 33.48.240 Organizing permit--Amendment, alteration, suspension, or revocation by director--Grounds.

The director may amend, alter, suspend, or revoke any permit issued under RCW 33.48.150 if there is a violation of the terms and conditions of the permit or if the director determines that the subscription or proposed issue and sale is no longer fair, just, and equitable.

[1994 c 92 § 489; 1982 c 3 § 106; 1973 c 130 § 14.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.
Severability--1973 c 130: See note following RCW 33.24.350.

RCW 33.48.250 Purchase by association of stock issued by it--Conditions.

An association may purchase stock issued by it in an amount not to exceed the amount of earned surplus or undivided profits available for dividends on its stock if: The stock so purchased is included for federal estate tax purposes in determining the gross estate of a decedent, and the amount paid for such purchase is entitled to be treated under section 303 of the Internal Revenue Code of 1954 (68A Stat. 3; 26 U.S.C. Sec. 1), or other applicable federal statute or the corresponding provision of any future federal revenue law, as a distribution in full payment in exchange for the stock so purchased, or such purchase is with the prior consent of the director, or such purchase is pursuant to a put option contained in a plan which has been approved by the director establishing an employee stock ownership plan for the association and its employees pursuant to the provisions of the act of congress entitled "Employee Retirement Income Security Act of 1974", as now constituted or hereafter amended, or Section 409 of the Internal Revenue Code of 1954, as now constituted or hereafter amended. Stock so purchased until sold shall be carried as treasury stock. Upon the purchase of any stock issued by the association, an amount equal to the purchase price shall be set aside from earned surplus or undivided profits available for dividends to a specific reserve account established for this purpose. Upon sale of any of such stock, the amount relating thereto in the specific reserve account shall be returned to the surplus or undivided profits account (as the case may be) and shall be available for dividends. Reacquired stock shall not be resold at less than its reacquisition cost, without the specific approval of the director, and shall not be resold or reissued except in accordance with RCW 33.48.220 through 33.48.240.

[1994 c 92 § 490; 1985 c 239 § 3; 1982 c 3 § 107; 1973 c 130 § 15.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.
Severability--1973 c 130: See note following RCW 33.24.350.

RCW 33.48.260 Reduction of stock--Conditions.

With the prior consent of the director, the stock of an association may be reduced by resolution of the board of directors approved by the vote or written consent of the holders of a majority in amount of the outstanding stock of the association to such amount as the director approves.

[1994 c 92 § 491; 1982 c 3 § 108; 1973 c 130 § 16.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.
Severability--1973 c 130: See note following RCW 33.24.350.

RCW 33.48.270 Reduction of stock--Disposition of surplus.

Any surplus resulting from reduction of stock shall not be available for dividends or other distribution to stockholders except upon liquidation.

[1982 c 3 § 109; 1973 c 130 § 17.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.
Severability--1973 c 130: See note following RCW 33.24.350.

RCW 33.48.280 Paid-in or contributed surplus or surplus created by reduction of stock--Application and uses.

An association may, by action of its board of directors and with the prior approval of the director, apply any part or all of any paid-in or contributed surplus or any surplus created by reduction of stock to the reduction or writing off of any deficit arising from losses or diminution in value of its assets, or may transfer to or designate as a part of its federal insurance account or any other reserve account irrevocably established for the sole purpose of absorbing losses, any part or all of any paid-in or contributed surplus or any surplus created by reduction of stock.

[1994 c 92 § 492; 1982 c 3 § 110; 1973 c 130 § 18.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.
Severability--1973 c 130: See note following RCW 33.24.350.

RCW 33.48.290 RCW 33.48.150 through 33.48.280 inapplicable to foreign associations.

RCW 33.48.150 through 33.48.280 do not apply to foreign associations doing business in this state pursuant to the provisions of chapter 33.32 RCW.

[1982 c 3 § 111; 1973 c 130 § 19.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.
Severability--1973 c 130: See note following RCW 33.24.350.

RCW 33.48.320 Waiver of chapter requirements.

If, in the opinion of the director, it is necessary for any of the requirements of this chapter to be waived in order to permit an association which is in danger of failing to convert its charter from a mutual association to a stock association or from a stock association to a mutual association so that the association may be acquired by an association or a savings and loan holding company, then the director may waive any such requirement.

[1994 c 92 § 493; 1982 c 3 § 112.]

Notes:

Severability--1982 c 3: See note following RCW 33.04.002.

Chapter 33.54 RCW
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(See chapter 30.43 RCW)

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RCW 34.05.001 Legislative intent.

The legislature intends, by enacting this 1988 Administrative Procedure Act, to clarify the existing law of administrative procedure, to achieve greater consistency with other states and the federal government in administrative procedure, and to provide greater public and legislative access to administrative decision making. The legislature intends that to the greatest extent possible and unless this chapter clearly requires otherwise, current agency practices and court decisions interpreting the Administrative Procedure Act in effect before July 1, 1989, shall remain in effect. The legislature also intends that the courts should interpret provisions of this chapter consistently with decisions of other courts interpreting similar provisions of other states,

the federal government, and model acts.

[1988 c 288 § 18.]

PART I
GENERAL PROVISIONS

RCW 34.05.010 Definitions.

The definitions set forth in this section shall apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Adjudicative proceeding" means a proceeding before an agency in which an opportunity for hearing before that agency is required by statute or constitutional right before or after the entry of an order by the agency. Adjudicative proceedings also include all cases of licensing and rate making in which an application for a license or rate change is denied except as limited by RCW 66.08.150, or a license is revoked, suspended, or modified, or in which the granting of an application is contested by a person having standing to contest under the law.

(2) "Agency" means any state board, commission, department, institution of higher education, or officer, authorized by law to make rules or to conduct adjudicative proceedings, except those in the legislative or judicial branches, the governor, or the attorney general except to the extent otherwise required by law and any local governmental entity that may request the appointment of an administrative law judge under chapter 42.41 RCW.

(3) "Agency action" means licensing, the implementation or enforcement of a statute, the adoption or application of an agency rule or order, the imposition of sanctions, or the granting or withholding of benefits.

Agency action does not include an agency decision regarding (a) contracting or procurement of goods, services, public works, and the purchase, lease, or acquisition by any other means, including eminent domain, of real estate, as well as all activities necessarily related to those functions, or (b) determinations as to the sufficiency of a showing of interest filed in support of a representation petition, or mediation or conciliation of labor disputes or arbitration of labor disputes under a collective bargaining law or similar statute, or (c) any sale, lease, contract, or other proprietary decision in the management of public lands or real property interests, or (d) the granting of a license, franchise, or permission for the use of trademarks, symbols, and similar property owned or controlled by the agency.

(4) "Agency head" means the individual or body of individuals in whom the ultimate legal authority of the agency is vested by any provision of law. If the agency head is a body of individuals, a majority of those individuals constitutes the agency head.

(5) "Entry" of an order means the signing of the order by all persons who are to sign the order, as an official act indicating that the order is to be effective.

(6) "Filing" of a document that is required to be filed with an agency means delivery of the document to a place designated by the agency by rule for receipt of official documents, or in the absence of such designation, at the office of the agency head.

(7) "Institutions of higher education" are the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, the various community colleges, and the governing boards of each of the above, and the various colleges, divisions, departments, or offices authorized by the governing board of the institution involved to act for the institution, all of which are sometimes referred to in this chapter as "institutions."

(8) "Interpretive statement" means a written expression of the opinion of an agency, entitled an interpretive statement by the agency head or its designee, as to the meaning of a statute or other provision of law, of a court decision, or of an agency order.

(9)(a) "License" means a franchise, permit, certification, approval, registration, charter, or similar form of authorization required by law, but does not include (i) a license required solely for revenue purposes, or (ii) a certification of an exclusive bargaining representative, or similar status, under a collective bargaining law or similar statute, or (iii) a license, franchise, or permission for use of trademarks, symbols, and similar property owned or controlled by the agency.

(b) "Licensing" includes the agency process respecting the issuance, denial, revocation, suspension, or modification of a license.

(10) "Mail" or "send," for purposes of any notice relating to rule making or policy or interpretive statements, means regular mail or electronic distribution, as provided in RCW 34.05.260. "Electronic distribution" or "electronically" means distribution by electronic mail or facsimile mail.

(11)(a) "Order," without further qualification, means a written statement of particular applicability that finally determines the legal rights, duties, privileges, immunities, or other legal interests of a specific person or persons.

(b) "Order of adoption" means the official written statement by which an agency adopts, amends, or repeals a rule.

(12) "Party to agency proceedings," or "party" in a context so indicating, means:

(a) A person to whom the agency action is specifically directed; or

(b) A person named as a party to the agency proceeding or allowed to intervene or participate as a party in the agency proceeding.

(13) "Party to judicial review or civil enforcement proceedings," or "party" in a context so indicating, means:

(a) A person who files a petition for a judicial review or civil enforcement proceeding; or

(b) A person named as a party in a judicial review or civil enforcement proceeding, or allowed to participate as a party in a judicial review or civil enforcement proceeding.

(14) "Person" means any individual, partnership, corporation, association, governmental subdivision or unit thereof, or public or private organization or entity of any character, and includes another agency.

(15) "Policy statement" means a written description of the current approach of an agency, entitled a policy statement by the agency head or its designee, to implementation of a statute or other provision of law, of a court decision, or of an agency order, including where appropriate the agency's current practice, procedure, or method of action based upon that approach.

(16) "Rule" means any agency order, directive, or regulation of general applicability (a) the violation of which subjects a person to a penalty or administrative sanction; (b) which establishes, alters, or revokes any procedure, practice, or requirement relating to agency hearings; (c) which establishes, alters, or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law; (d) which establishes, alters, or revokes any qualifications or standards for the issuance, suspension, or revocation of licenses to pursue any commercial activity, trade, or profession; or (e) which establishes, alters, or revokes any mandatory standards for any product or material which must be met before distribution or sale. The term includes the amendment or repeal of a prior rule, but does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public, (ii) declaratory rulings issued pursuant to RCW 34.05.240, (iii) traffic restrictions for motor vehicles, bicyclists, and pedestrians established by the secretary of transportation or his designee where notice of such restrictions is given by official traffic control devices, or (iv) rules of institutions of higher education involving standards of admission, academic advancement, academic credit, graduation and the granting of degrees, employment relationships, or fiscal processes.

(17) "Rules review committee" or "committee" means the joint administrative rules review committee created pursuant to RCW 34.05.610 for the purpose of selectively reviewing existing and proposed rules of state agencies.

(18) "Rule making" means the process for formulation and adoption of a rule.

(19) "Service," except as otherwise provided in this chapter, means posting in the United States mail, properly addressed, postage prepaid, or personal service. Service by mail is complete upon deposit in the United States mail. Agencies may, by rule, authorize service by electronic telefacsimile transmission, where copies are mailed simultaneously, or by commercial parcel delivery company.

[1997 c 126 § 2; 1992 c 44 § 10; 1989 c 175 § 1; 1988 c 288 § 101; 1982 c 10 § 5. Prior: 1981 c 324 § 2; 1981 c 183 § 1; 1967 c 237 § 1; 1959 c 234 § 1. Formerly RCW 34.04.010.]

Notes:

Effective dates--Severability--1992 c 44: See RCW 42.41.901 and 42.41.902.

Effective dates--1989 c 175: "Sections 1 through 35 and 37 through 185 of this act are necessary for the immediate preservation of the public peace, health, or safety, or the support of the state government and its existing public institutions, and shall take effect on July 1, 1989. Section 36 of this act shall take effect on July 1, 1990." [1989 c 175 § 186.]

Severability--1982 c 10: See note following RCW 6.13.080.

Legislative affirmation--1981 c 324: "The legislature affirms that all rule-making authority of state agencies and institutions of higher education is a function delegated by the legislature, and as such, shall be exercised pursuant to the conditions and restrictions contained in this act." [1981 c 324 § 1.]

Severability--1981 c 324: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 324 § 18.]

RCW 34.05.020 Savings--Authority of agencies to comply with chapter--Effect of

subsequent legislation.

Nothing in this chapter may be held to diminish the constitutional rights of any person or to limit or repeal additional requirements imposed by statute or otherwise recognized by law. Except as otherwise required by law, all requirements or privileges relating to evidence or procedure shall apply equally to agencies and persons. Every agency is granted all authority necessary to comply with the requirements of this chapter through the issuance of rules or otherwise. No subsequent legislation shall be held to supersede or modify the provisions of this chapter or its applicability to any agency except to the extent that such legislation shall do so expressly.

[1988 c 288 § 102; 1967 c 237 § 24. Formerly RCW 34.04.940.]

RCW 34.05.030 Exclusions from chapter or parts of chapter.

(1) This chapter shall not apply to:

(a) The state militia, or

(b) The board of clemency and pardons, or

(c) The department of corrections or the indeterminate sentencing review board with respect to persons who are in their custody or are subject to the jurisdiction of those agencies.

(2) The provisions of RCW 34.05.410 through 34.05.598 shall not apply:

(a) To adjudicative proceedings of the board of industrial insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

(b) Except for actions pursuant to chapter 46.29 RCW, to the denial, suspension, or revocation of a driver's license by the department of licensing;

(c) To the department of labor and industries where another statute expressly provides for review of adjudicative proceedings of a department action, order, decision, or award before the board of industrial insurance appeals;

(d) To actions of the Washington personnel resources board, the director of personnel, or the personnel appeals board; or

(e) To the extent they are inconsistent with any provisions of chapter 43.43 RCW.

(3) Unless a party makes an election for a formal hearing pursuant to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through 34.05.598 do not apply to a review hearing conducted by the board of tax appeals.

(4) The rule-making provisions of this chapter do not apply to reimbursement unit values, fee schedules, arithmetic conversion factors, and similar arithmetic factors used to determine payment rates that apply to goods and services purchased under contract for clients eligible under chapter 74.09 RCW.

(5) All other agencies, whether or not formerly specifically excluded from the provisions of all or any part of the Administrative Procedure Act, shall be subject to the entire act.

[1994 c 39 § 1; 1993 c 281 § 15; 1989 c 175 § 2; 1988 c 288 § 103; 1984 c 141 § 8; 1982 c 221 § 6; 1981 c 64 § 2; 1979 c 158 § 90; 1971 ex.s. c 57 § 17; 1971 c 21 § 1; 1967 ex.s. c 71 § 1; 1967 c 237 § 7; 1963 c 237 § 1; 1959 c 234 § 15. Formerly RCW 34.04.150.]

Notes:

Effective date--1993 c 281: See note following RCW 41.06.022.
Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.040 Operation of chapter if in conflict with federal law.

If any part of this chapter is found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the state, the conflicting part of this chapter is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such findings or determination shall not affect the operation of the remainder of this chapter in its application to the agencies concerned.

[1988 c 288 § 104; 1959 c 234 § 19. Formerly RCW 34.04.930.]

RCW 34.05.050 Waiver.

Except to the extent precluded by another provision of law, a person may waive any right conferred upon that person by this chapter.

[1988 c 288 § 105.]

RCW 34.05.060 Informal settlements.

Except to the extent precluded by another provision of law and subject to approval by agency order, informal settlement of matters that may make unnecessary more elaborate proceedings under this chapter is strongly encouraged. Agencies may establish by rule specific procedures for attempting and executing informal settlement of matters. This section does not require any party or other person to settle a matter.

[1988 c 288 § 106.]

RCW 34.05.070 Conversion of proceedings.

(1) If it becomes apparent during the course of an adjudicative or rule-making proceeding undertaken pursuant to this chapter that another form of proceeding under this chapter is necessary, is in the public interest, or is more appropriate to resolve issues affecting the participants, on his or her own motion or on the motion of any party, the presiding officer or other official responsible for the original proceeding shall advise the parties of necessary steps for conversion and, if within the official's power, commence the new proceeding. If the agency refuses to convert to another proceeding, that decision is not subject to judicial review. Commencement of the new proceeding shall be accomplished pursuant to the procedural rules of the new proceeding, except that elements already performed need not be repeated.

(2) If appropriate, a new proceeding may be commenced independently of the original proceeding or may replace the original proceeding.

(3) Conversion to a replacement proceeding shall not be undertaken if the rights of any party will be substantially prejudiced.

(4) To the extent feasible the record of the original proceeding shall be included in the record of a replacement proceeding.

(5) The time of commencement of a replacement proceeding shall be considered to be the time of commencement of the original proceeding.

[1988 c 288 § 107.]

RCW 34.05.080 Variation from time limits.

(1) An agency may modify time limits established in this chapter only as set forth in this section. An agency may not modify time limits relating to rule-making procedures or the time limits for filing a petition for judicial review specified in RCW 34.05.542.

(2) The time limits set forth in this chapter may be modified by rule of the agency or by rule of the chief administrative law judge if:

(a) The agency has an agency head composed of a body of individuals serving part time who do not regularly meet on a schedule that would allow compliance with the time limits of this chapter in the normal course of agency affairs;

(b) The agency does not have a permanent staff to comply with the time limits set forth in this chapter without substantial loss of efficiency and economy; and

(c) The rights of persons dealing with the agency are not substantially impaired.

(3) The time limits set forth in this chapter may be modified by rule if the agency determines that the change is necessary to the performance of its statutory duties. Agency rule may provide for emergency variation when required in a specific case.

(4) Time limits may be changed pursuant to RCW 34.05.040.

(5) Time limits may be waived pursuant to RCW 34.05.050.

(6) Any modification in the time limits set forth in this chapter shall be to new time limits that are reasonable under the specific circumstances.

(7) In an adjudicative proceeding, any agency whose time limits vary from those set forth in this chapter shall provide reasonable and adequate notice of the pertinent time limits to persons affected. The notice may be given by the presiding or reviewing officer involved in the proceeding.

(8) Two years after July 1, 1989, the chief administrative law judge shall cause a survey to be made of variations by agencies from the time limits set forth in this chapter, and shall submit a written report of the results of the survey to the office of the governor.

[1989 c 175 § 3; 1988 c 288 § 108.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.090 Forest practices board--Emergency rules.

Emergency rules adopted by the forest practices board pertaining to forest practices and the protection of aquatic resources are subject to this chapter to the extent provided in RCW 76.09.055.

[1999 sp.s. c 4 § 202.]

Notes:

Effective date--1999 sp.s. c 4 §§ 201, 202, and 203: See note following RCW 76.09.055.

Part headings not law--1999 sp.s. c 4: See note following RCW 77.85.180.

PART II
PUBLIC ACCESS TO AGENCY RULES

RCW 34.05.210 Code and register--Publication and distribution--Omissions, removals, revisions--Judicial notice.

(1) The code reviser shall cause the Washington Administrative Code to be compiled, indexed by subject, and published. All current, permanently effective rules of each agency shall be published in the Washington Administrative Code. Compilations shall be supplemented or revised as often as necessary and at least annually in a form compatible with the main compilation.

(2) Subject to the provisions of this chapter, the code reviser shall prescribe a uniform numbering system, form, and style for all proposed and adopted rules.

(3) The code reviser shall publish a register setting forth the text of all rules filed during the appropriate register publication period.

(4) The code reviser may omit from the register or the compilation, rules that would be unduly cumbersome, expensive, or otherwise inexpedient to publish, if such rules are made available in printed or processed form on application to the adopting agency, and if the register or compilation contains a notice stating the general subject matter of the rules so omitted and stating how copies thereof may be obtained.

(5) The code reviser may edit and revise rules for publication, codification, and compilation, without changing the meaning of any such rule.

(6) When a rule, in whole or in part, is declared invalid and unconstitutional by a court of final appeal, the adopting agency shall give notice to that effect in the register. With the consent of the attorney general, the code reviser may remove obsolete rules or parts of rules from the Washington Administrative Code when:

(a) The rules are declared unconstitutional by a court of final appeal; or

(b) The adopting agency ceases to exist and the rules are not transferred by statute to a successor agency.

(7) Registers and compilations shall be made available, in written form to (a) state elected officials whose offices are created by Article II or III of the state Constitution or by RCW 48.02.010, upon request, (b) to the secretary of the senate and the chief clerk of the house for committee use, as required, but not to exceed the number of standing committees in each body, (c) to county boards of law library trustees and to the Olympia representatives of the Associated Press and the United Press International without request, free of charge, and (d) to other persons at a price fixed by the code reviser.

(8) The board of law library trustees of each county shall keep and maintain a complete

and current set of registers and compilations for use and inspection as provided in *RCW 27.24.060.

(9) Judicial notice shall be taken of rules filed and published as provided in RCW 34.05.380 and this section.

[1988 c 288 § 201; 1982 1st ex.s. c 32 § 7; 1980 c 186 § 12; 1977 ex.s. c 240 § 9; 1959 c 234 § 5. Formerly RCW 34.04.050.]

Notes:

***Reviser's note:** RCW 27.24.060 was repealed by 1992 c 62 § 9, effective April 1, 1992.

Severability--1980 c 186: See note following RCW 34.05.320.

Effective date--Severability--1977 ex.s. c 240: See RCW 34.08.905 and 34.08.910.

Nonbinding effect of unpublished rules and procedures: RCW 42.17.250.

RCW 34.05.220 Rules for agency procedure--Indexes of opinions and statements.

(1) In addition to other rule-making requirements imposed by law:

(a) Each agency may adopt rules governing the formal and informal procedures prescribed or authorized by this chapter and rules of practice before the agency, together with forms and instructions. If an agency has not adopted procedural rules under this section, the model rules adopted by the chief administrative law judge under RCW 34.05.250 govern procedures before the agency.

(b) To assist interested persons dealing with it, each agency shall adopt as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information and make submissions or requests. No person may be required to comply with agency procedure not adopted as a rule as herein required.

(2) To the extent not prohibited by federal law or regulation, nor prohibited for reasons of confidentiality by state law, each agency shall keep on file for public inspection all final orders, decisions, and opinions in adjudicative proceedings, interpretive statements, policy statements, and any digest or index to those orders, decisions, opinions, or statements prepared by or for the agency.

(3) No agency order, decision, or opinion is valid or effective against any person, nor may it be invoked by the agency for any purpose, unless it is available for public inspection. This subsection is not applicable in favor of any person who has actual knowledge of the order, decision, or opinion. The agency has the burden of proving that knowledge, but may meet that burden by proving that the person has been properly served with a copy of the order.

(4) Each agency that is authorized by law to exercise discretion in deciding individual cases is encouraged to formalize the general principles that may evolve from these decisions by adopting the principles as rules that the agency will follow until they are amended or repealed.

(5) To the extent practicable, any rule proposed or adopted by an agency should be clearly and simply stated, so that it can be understood by those required to comply.

[1994 c 249 § 24; 1989 c 175 § 4; 1988 c 288 § 202; 1981 c 67 § 13; 1967 c 237 § 2; 1959 c 234 § 2. Formerly RCW 34.04.020.]

Notes:

Severability--Application--1994 c 249: See notes following RCW 34.05.310.
Effective date--1989 c 175: See note following RCW 34.05.010.
Effective dates--Severability--1981 c 67: See notes following RCW 34.12.010.

RCW 34.05.230 Interpretive and policy statements.

(1) An agency is encouraged to advise the public of its current opinions, approaches, and likely courses of action by means of interpretive or policy statements. Current interpretive and policy statements are advisory only. To better inform and involve the public, an agency is encouraged to convert long-standing interpretive and policy statements into rules.

(2) A person may petition an agency requesting the conversion of interpretive and policy statements into rules. Upon submission, the agency shall notify the joint administrative rules review committee of the petition. Within sixty days after submission of a petition, the agency shall either deny the petition in writing, stating its reasons for the denial, or initiate rule-making proceedings in accordance with this chapter.

(3) Each agency shall maintain a roster of interested persons, consisting of persons who have requested in writing to be notified of all interpretive and policy statements issued by that agency. Each agency shall update the roster once each year and eliminate persons who do not indicate a desire to continue on the roster. Whenever an agency issues an interpretive or policy statement, it shall send a copy of the statement to each person listed on the roster. The agency may charge a nominal fee to the interested person for this service.

(4) Whenever an agency issues an interpretive or policy statement, it shall submit to the code reviser for publication in the Washington State Register a statement describing the subject matter of the interpretive or policy statement, and listing the person at the agency from whom a copy of the interpretive or policy statement may be obtained.

[2001 c 25 § 1; 1997 c 409 § 202; 1996 c 206 § 12; 1995 c 403 § 702; 1988 c 288 § 203.]

NOTES:

Part headings--Severability--1997 c 409: See notes following RCW 43.22.051.
Findings--1996 c 206: See note following RCW 43.05.030.
Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.
Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 34.05.240 Declaratory order by agency--Petition.

(1) Any person may petition an agency for a declaratory order with respect to the applicability to specified circumstances of a rule, order, or statute enforceable by the agency. The petition shall set forth facts and reasons on which the petitioner relies to show:

(a) That uncertainty necessitating resolution exists;

(b) That there is actual controversy arising from the uncertainty such that a declaratory order will not be merely an advisory opinion;

(c) That the uncertainty adversely affects the petitioner;

(d) That the adverse effect of uncertainty on the petitioner outweighs any adverse effects on others or on the general public that may likely arise from the order requested; and

(e) That the petition complies with any additional requirements established by the agency under subsection (2) of this section.

(2) Each agency may adopt rules that provide for: (a) The form, contents, and filing of petitions for a declaratory order; (b) the procedural rights of persons in relation thereto; and (c) the disposition of those petitions. These rules may include a description of the classes of circumstances in which the agency will not enter a declaratory order and shall be consistent with the public interest and with the general policy of this chapter to facilitate and encourage agencies to provide reliable advice.

(3) Within fifteen days after receipt of a petition for a declaratory order, the agency shall give notice of the petition to all persons to whom notice is required by law, and may give notice to any other person it deems desirable.

(4) RCW 34.05.410 through 34.05.494 apply to agency proceedings for declaratory orders only to the extent an agency so provides by rule or order.

(5) Within thirty days after receipt of a petition for a declaratory order an agency, in writing, shall do one of the following:

(a) Enter an order declaring the applicability of the statute, rule, or order in question to the specified circumstances;

(b) Set the matter for specified proceedings to be held no more than ninety days after receipt of the petition;

(c) Set a specified time no more than ninety days after receipt of the petition by which it will enter a declaratory order; or

(d) Decline to enter a declaratory order, stating the reasons for its action.

(6) The time limits of subsection (5) (b) and (c) of this section may be extended by the agency for good cause.

(7) An agency may not enter a declaratory order that would substantially prejudice the rights of a person who would be a necessary party and who does not consent in writing to the determination of the matter by a declaratory order proceeding.

(8) A declaratory order has the same status as any other order entered in an agency adjudicative proceeding. Each declaratory order shall contain the names of all parties to the proceeding on which it is based, the particular facts on which it is based, and the reasons for its conclusions.

[1988 c 288 § 204; 1959 c 234 § 8. Formerly RCW 34.04.080.]

RCW 34.05.250 Model rules of procedure.

The chief administrative law judge shall adopt model rules of procedure appropriate for use by as many agencies as possible. The model rules shall deal with all general functions and duties performed in common by the various agencies. Each agency shall adopt as much of the model rules as is reasonable under its circumstances. Any agency adopting a rule of procedure that differs from the model rules shall include in the order of adoption a finding stating the reasons for variance.

[1988 c 288 § 205.]

RCW 34.05.260 Electronic distribution.

(1) In order to provide the greatest possible access to agency documents to the most people, agencies are encouraged to make their rule, interpretive, and policy information available through electronic distribution as well as through the regular mail. Agencies that have the capacity to transmit electronically may ask persons who are on mailing lists or rosters for copies of interpretive statements, policy statements, preproposal statements of inquiry, and other similar notices whether they would like to receive the notices electronically.

(2) Electronic distribution to persons who request it may substitute for mailed copies related to rule making or policy or interpretive statements. If a notice is distributed electronically, the agency is not required to transmit the actual notice form but must send all the information contained in the notice.

(3) Agencies which maintain mailing lists or rosters for any notices relating to rule making or policy or interpretive statements may establish different rosters or lists by general subject area.

[1997 c 126 § 1.]

PART III
RULE-MAKING PROCEDURES

RCW 34.05.310 Prenotice inquiry--Negotiated and pilot rules.

(1) To meet the intent of providing greater public access to administrative rule making and to promote consensus among interested parties, agencies shall solicit comments from the public on a subject of possible rule making before filing with the code reviser a notice of proposed rule making under RCW 34.05.320. The agency shall prepare a statement of inquiry that:

(a) Identifies the specific statute or statutes authorizing the agency to adopt rules on this subject;

(b) Discusses why rules on this subject may be needed and what they might accomplish;

(c) Identifies other federal and state agencies that regulate this subject, and describes the process whereby the agency would coordinate the contemplated rule with these agencies;

(d) Discusses the process by which the rule might be developed, including, but not limited to, negotiated rule making, pilot rule making, or agency study;

(e) Specifies the process by which interested parties can effectively participate in the decision to adopt a new rule and formulation of a proposed rule before its publication.

The statement of inquiry shall be filed with the code reviser for publication in the state register at least thirty days before the date the agency files notice of proposed rule making under RCW 34.05.320 and shall be sent to any party that has requested receipt of the agency's

statements of inquiry.

(2) Agencies are encouraged to develop and use new procedures for reaching agreement among interested parties before publication of notice and the adoption hearing on a proposed rule. Examples of new procedures include, but are not limited to:

(a) Negotiated rule making by which representatives of an agency and of the interests that are affected by a subject of rule making, including, where appropriate, county and city representatives, seek to reach consensus on the terms of the proposed rule and on the process by which it is negotiated; and

(b) Pilot rule making which includes testing the feasibility of complying with or administering draft new rules or draft amendments to existing rules through the use of volunteer pilot groups in various areas and circumstances, as provided in RCW 34.05.313 or as otherwise provided by the agency.

(3)(a) An agency must make a determination whether negotiated rule making, pilot rule making, or another process for generating participation from interested parties prior to development of the rule is appropriate.

(b) An agency must include a written justification in the rule-making file if an opportunity for interested parties to participate in the rule-making process prior to publication of the proposed rule has not been provided.

(4) This section does not apply to:

(a) Emergency rules adopted under RCW 34.05.350;

(b) Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party;

(c) Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of state-wide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;

(d) Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;

(e) Rules the content of which is explicitly and specifically dictated by statute;

(f) Rules that set or adjust fees or rates pursuant to legislative standards; or

(g) Rules that adopt, amend, or repeal:

(i) A procedure, practice, or requirement relating to agency hearings; or

(ii) A filing or related process requirement for applying to an agency for a license or permit.

[1995 c 403 § 301; 1994 c 249 § 1; 1993 c 202 § 2; 1989 c 175 § 5; 1988 c 288 § 301.]

Notes:

Application--1995 c 403 §§ 201, 301-305, 401-405, and 801: See note following RCW 34.05.328.

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

Severability--1994 c 249: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1994 c 249 § 38.]

Application--1994 c 249: "This act applies prospectively only and not retroactively." [1994 c 249 § 36.]

Finding--Intent--1993 c 202: "The legislature finds that while the 1988 Administrative Procedure Act expanded public participation in the agency rule-making process, there continue to be instances when participants have developed adversarial relationships with each other, resulting in the inability to identify all of the issues, the failure to focus on solutions to problems, unnecessary delays, litigation, and added cost to the agency, affected parties, and the public in general.

When interested parties work together, it is possible to negotiate development of a rule that is acceptable to all affected, and that conforms to the intent of the statute the rule is intended to implement.

After a rule is adopted, unanticipated negative impacts may emerge. Examples include excessive costs of administration for the agency and compliance by affected parties, technical conditions that may be physically or economically unfeasible to meet, problems of interpretation due to lack of clarity, and reporting requirements that duplicate or conflict with those already in place.

It is therefore the intent of the legislature to encourage flexible approaches to developing administrative rules, including but not limited to negotiated rule making and a process for testing the feasibility of adopted rules, often called the pilot rule process. However, nothing in chapter 202, Laws of 1993 shall be construed to create any mandatory duty for an agency to use the procedures in RCW 34.05.310 or 34.05.313 in any particular instance of rule making. Agencies shall determine, in their discretion, when it is appropriate to use these procedures." [1993 c 202 § 1.]

Effective date--1989 c 175: See note following RCW 34.05.010.

Rules coordinator duties regarding business: RCW 43.17.310.

RCW 34.05.312 Rules coordinator.

Each agency shall designate a rules coordinator, who shall have knowledge of the subjects of rules being proposed or prepared within the agency for proposal, maintain the records of any such action, and respond to public inquiries about possible or proposed rules and the identity of agency personnel working, reviewing, or commenting on them. The office and mailing address of the rules coordinator shall be published in the state register at the time of designation and in the first issue of each calendar year thereafter for the duration of the designation. The rules coordinator may be an employee of another agency.

[1993 c 202 § 3.]

Notes:

Finding--Intent--1993 c 202: See note following RCW 34.05.310.

RCW 34.05.313 Feasibility studies--Pilot projects.

(1) During the development of a rule or after its adoption, an agency may develop methods for measuring or testing the feasibility of complying with or administering the rule and for identifying simple, efficient, and economical alternatives for achieving the goal of the rule. A pilot project shall include public notice, participation by volunteers who are or will be subject to the rule, a high level of involvement from agency management, reasonable completion dates, and a process by which one or more parties may withdraw from the process or the process may be

terminated. Volunteers who agree to test a rule and attempt to meet the requirements of the draft rule, to report periodically to the proposing agency on the extent of their ability to meet the requirements of the draft rule, and to make recommendations for improving the draft rule shall not be obligated to comply fully with the rule being tested nor be subject to any enforcement action or other sanction for failing to comply with the requirements of the draft rule.

(2) An agency conducting a pilot rule project authorized under subsection (1) of this section may waive one or more provisions of agency rules otherwise applicable to participants in such a pilot project if the agency first determines that such a waiver is in the public interest and necessary to conduct the project. Such a waiver may be only for a stated period of time, not to exceed the duration of the project.

(3) The findings of the pilot project should be widely shared and, where appropriate, adopted as amendments to the rule.

(4) If an agency conducts a pilot rule project in lieu of meeting the requirements of the regulatory fairness act, chapter 19.85 RCW, the agency shall ensure the following conditions are met:

(a) If over ten small businesses are affected, there shall be at least ten small businesses in the test group and at least one-half of the volunteers participating in the pilot test group shall be small businesses.

(b)(i) If there are at least one hundred businesses affected, the participation by small businesses in the test group shall be as follows:

(A) Not less than twenty percent of the small businesses must employ twenty-six to fifty employees;

(B) Not less than twenty percent of the small businesses must employ eleven to twenty-six employees; and

(C) Not less than twenty percent of the small businesses must employ zero to ten employees.

(ii) If there do not exist a sufficient number of small businesses in each size category set forth in (b)(i) of this subsection willing to participate in the pilot project to meet the minimum requirements of that subsection, then the agency must comply with this section to the maximum extent practicable.

(c) The agency may not terminate the pilot project before completion.

(d) Before filing the notice of proposed rule making pursuant to RCW 34.05.320, the agency must prepare a report of the pilot rule project that includes:

(i) A description of the difficulties small businesses had in complying with the pilot rule;

(ii) A list of the recommended revisions to the rule to make compliance with the rule easier or to reduce the cost of compliance with the rule by the small businesses participating in the pilot rule project;

(iii) A written statement explaining the options it considered to resolve each of the difficulties described and a statement explaining its reasons for not including a recommendation by the pilot test group to revise the rule; and

(iv) If the agency was unable to meet the requirements set forth in (b)(i) of this subsection, a written explanation of why it was unable to do so and the steps the agency took to

include small businesses in the pilot project.

[1995 c 403 § 303; 1993 c 202 § 4.]

Notes:

Application--1995 c 403 §§ 201, 301-305, 401-405, and 801: See note following RCW 34.05.328.
Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.
Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.
Finding--Intent--1993 c 202: See note following RCW 34.05.310.

RCW 34.05.314 Rules development agenda.

Each state agency shall prepare a semiannual agenda for rules under development. The agency shall file the agenda with the code reviser for publication in the state register not later than January 31st and July 31st of each year. Not later than three days after its publication in the state register, the agency shall send a copy of the agenda to each person who has requested receipt of a copy of the agenda. The agency shall also submit the agenda to the director of financial management, the rules review committee, and any other state agency that may reasonably be expected to have an interest in the subject of rules that will be developed.

[1997 c 409 § 206.]

Notes:

Part headings--Severability--1997 c 409: See notes following RCW 43.22.051.

RCW 34.05.315 Rule-making docket.

(1) Each agency shall maintain a current public rule-making docket. The rule-making docket shall contain the information specified in subsection (3) of this section.

(2) The rule-making docket shall contain a listing of each pending rule-making proceeding. A rule-making proceeding is pending from the time it is commenced by publication of a notice of proposed rule adoption under RCW 34.05.320 until the proposed rule is withdrawn under RCW 34.05.335 or is adopted by the agency.

(3) For each rule-making proceeding, the docket shall indicate all of the following:

(a) The name and address of agency personnel responsible for the proposed rule;

(b) The subject of the proposed rule;

(c) A citation to all notices relating to the proceeding that have been published in the state register under RCW 34.05.320;

(d) The place where written submissions about the proposed rule may be inspected;

(e) The time during which written submissions will be accepted;

(f) The current timetable established for the agency proceeding, including the time and place of any rule-making hearing, the date of the rule's adoption, filing, publication, and its effective date.

[1989 c 175 § 6; 1988 c 288 § 302.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.320 Notice of proposed rule--Contents--Distribution by agency--Institutions of higher education.

(1) At least twenty days before the rule-making hearing at which the agency receives public comment regarding adoption of a rule, the agency shall cause notice of the hearing to be published in the state register. The publication constitutes the proposal of a rule. The notice shall include all of the following:

(a) A title, a description of the rule's purpose, and any other information which may be of assistance in identifying the rule or its purpose;

(b) Citations of the statutory authority for adopting the rule and the specific statute the rule is intended to implement;

(c) A summary of the rule and a statement of the reasons supporting the proposed action;

(d) The agency personnel, with their office location and telephone number, who are responsible for the drafting, implementation, and enforcement of the rule;

(e) The name of the person or organization, whether private, public, or governmental, proposing the rule;

(f) Agency comments or recommendations, if any, regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule;

(g) Whether the rule is necessary as the result of federal law or federal or state court action, and if so, a copy of such law or court decision shall be attached to the purpose statement;

(h) When, where, and how persons may present their views on the proposed rule;

(i) The date on which the agency intends to adopt the rule;

(j) A short explanation of the rule, its purpose, and anticipated effects, including in the case of a proposal that would modify existing rules, a short description of the changes the proposal would make;

(k) A copy of the small business economic impact statement prepared under chapter 19.85 RCW, or an explanation for why the agency did not prepare the statement; and

(l) A statement indicating whether RCW 34.05.328 applies to the rule adoption.

(2) Upon filing notice of the proposed rule with the code reviser, the adopting agency shall have copies of the notice on file and available for public inspection and shall forward three copies of the notice to the rules review committee.

(3) No later than three days after its publication in the state register, the agency shall cause a copy of the notice of proposed rule adoption to be mailed to each person, city, and county that has made a request to the agency for a mailed copy of such notices. An agency may charge for the actual cost of providing a requesting party mailed copies of these notices.

(4) In addition to the notice required by subsections (1) and (2) of this section, an institution of higher education shall cause the notice to be published in the campus or standard newspaper of the institution at least seven days before the rule-making hearing.

[1995 c 403 § 302; 1994 c 249 § 14; 1992 c 197 § 8; 1989 c 175 § 7; 1988 c 288 § 303; 1982 c 221 § 2; 1982 c 6 § 7; 1980 c 186 § 10; 1977 ex.s. c 84 § 1. Formerly RCW 34.04.045.]

NOTES:

Application--1995 c 403 §§ 201, 301-305, 401-405, and 801: See note following RCW 34.05.328.

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

Severability--Application--1994 c 249: See notes following RCW 34.05.310.

Effective date--1989 c 175: See note following RCW 34.05.010.

Severability--1982 c 6: See RCW 19.85.900.

Severability--1980 c 186: "If any provision of this 1980 act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 186 § 29.]

Expedited adoption: RCW 34.05.353.

Small business economic impact statement--Purpose--Contents: RCW 19.85.040.

RCW 34.05.322 Scope of rule-making authority.

For rules implementing statutes enacted after July 23, 1995, an agency may not rely solely on the section of law stating a statute's intent or purpose, or on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for its statutory authority to adopt the rule. An agency may use the statement of intent or purpose or the agency enabling provisions to interpret ambiguities in a statute's other provisions.

[1995 c 403 § 118.]

Notes:

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 34.05.325 Public participation--Concise explanatory statement.

(1) The agency shall make a good faith effort to insure that the information on the proposed rule published pursuant to RCW 34.05.320 accurately reflects the rule to be presented and considered at the oral hearing on the rule. Written comment about a proposed rule, including supporting data, shall be accepted by an agency if received no later than the time and date specified in the notice, or such later time and date established at the rule-making hearing.

(2) The agency shall provide an opportunity for oral comment to be received by the agency in a rule-making hearing.

(3) If the agency possesses equipment capable of receiving telefacsimile transmissions or recorded telephonic communications, the agency may provide in its notice of hearing filed under RCW 34.05.320 that interested parties may comment on proposed rules by these means. If the agency chooses to receive comments by these means, the notice of hearing shall provide instructions for making such comments, including, but not limited to, appropriate telephone numbers to be used; the date and time by which comments must be received; required methods to verify the receipt and authenticity of the comments; and any limitations on the number of pages for telefacsimile transmission comments and on the minutes of tape recorded comments. The agency shall accept comments received by these means for inclusion in the official record if the comments are made in accordance with the agency's instructions.

(4) The agency head, a member of the agency head, or a presiding officer designated by

the agency head shall preside at the rule-making hearing. Rule-making hearings shall be open to the public. The agency shall cause a record to be made of the hearing by stenographic, mechanical, or electronic means. Regardless of whether the agency head has delegated rule-making authority, the presiding official shall prepare a memorandum for consideration by the agency head, summarizing the contents of the presentations made at the rule-making hearing, unless the agency head presided or was present at substantially all of the hearings. The summarizing memorandum is a public document and shall be made available to any person in accordance with chapter 42.17 RCW.

(5) Rule-making hearings are legislative in character and shall be reasonably conducted by the presiding official to afford interested persons the opportunity to present comment. Rule-making hearings may be continued to a later time and place established on the record without publication of further notice under RCW 34.05.320.

(6)(a) Before it files an adopted rule with the code reviser, an agency shall prepare a concise explanatory statement of the rule:

(i) Identifying the agency's reasons for adopting the rule;

(ii) Describing differences between the text of the proposed rule as published in the register and the text of the rule as adopted, other than editing changes, stating the reasons for differences; and

(iii) Summarizing all comments received regarding the proposed rule, and responding to the comments by category or subject matter, indicating how the final rule reflects agency consideration of the comments, or why it fails to do so.

(b) The agency shall provide the concise explanatory statement to any person upon request or from whom the agency received comment.

[1998 c 125 § 1; 1995 c 403 § 304; 1994 c 249 § 7; 1992 c 57 § 1; 1988 c 288 § 304.]

Notes:

Application--1995 c 403 §§ 201, 301-305, 401-405, and 801: See note following RCW 34.05.328.

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

Severability--Application--1994 c 249: See notes following RCW 34.05.310.

RCW 34.05.328 Significant legislative rules, other selected rules.

(1) Before adopting a rule described in subsection (5) of this section, an agency shall:

(a) Clearly state in detail the general goals and specific objectives of the statute that the rule implements;

(b) Determine that the rule is needed to achieve the general goals and specific objectives stated under (a) of this subsection, and analyze alternatives to rule making and the consequences of not adopting the rule;

(c) Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented;

(d) Determine, after considering alternative versions of the rule and the analysis required

under (b) and (c) of this subsection, that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated under (a) of this subsection;

(e) Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law;

(f) Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law;

(g) Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by the following:

(i) A state statute that explicitly allows the agency to differ from federal standards; or

(ii) Substantial evidence that the difference is necessary to achieve the general goals and specific objectives stated under (a) of this subsection; and

(h) Coordinate the rule, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.

(2) In making its determinations pursuant to subsection (1)(b) through (g) of this section, the agency shall place in the rule-making file documentation of sufficient quantity and quality so as to persuade a reasonable person that the determinations are justified.

(3) Before adopting rules described in subsection (5) of this section, an agency shall place in the rule-making file a rule implementation plan for rules filed under each adopting order. The plan shall describe how the agency intends to:

(a) Implement and enforce the rule, including a description of the resources the agency intends to use;

(b) Inform and educate affected persons about the rule;

(c) Promote and assist voluntary compliance; and

(d) Evaluate whether the rule achieves the purpose for which it was adopted, including, to the maximum extent practicable, the use of interim milestones to assess progress and the use of objectively measurable outcomes.

(4) After adopting a rule described in subsection (5) of this section regulating the same activity or subject matter as another provision of federal or state law, an agency shall do all of the following:

(a) Provide to the *business assistance center a list citing by reference the other federal and state laws that regulate the same activity or subject matter;

(b) Coordinate implementation and enforcement of the rule with the other federal and state entities regulating the same activity or subject matter by making every effort to do one or more of the following:

(i) Deferring to the other entity;

(ii) Designating a lead agency; or

(iii) Entering into an agreement with the other entities specifying how the agency and entities will coordinate implementation and enforcement.

If the agency is unable to comply with this subsection (4)(b), the agency shall report to the legislature pursuant to (c) of this subsection;

(c) Report to the joint administrative rules review committee:

(i) The existence of any overlap or duplication of other federal or state laws, any differences from federal law, and any known overlap, duplication, or conflict with local laws; and

(ii) Make recommendations for any legislation that may be necessary to eliminate or mitigate any adverse effects of such overlap, duplication, or difference.

(5)(a) Except as provided in (b) of this subsection, this section applies to:

(i) Significant legislative rules of the departments of ecology, labor and industries, health, revenue, social and health services, and natural resources, the employment security department, the forest practices board, the office of the insurance commissioner, and to the legislative rules of the department of fish and wildlife implementing **chapter 75.20 RCW; and

(ii) Any rule of any agency, if this section is voluntarily made applicable to the rule by the agency, or is made applicable to the rule by a majority vote of the joint administrative rules review committee within forty-five days of receiving the notice of proposed rule making under RCW 34.05.320.

(b) This section does not apply to:

(i) Emergency rules adopted under RCW 34.05.350;

(ii) Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party;

(iii) Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of state-wide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;

(iv) Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;

(v) Rules the content of which is explicitly and specifically dictated by statute;

(vi) Rules that set or adjust fees or rates pursuant to legislative standards; or

(vii) Rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents.

(c) For purposes of this subsection:

(i) A "procedural rule" is a rule that adopts, amends, or repeals (A) any procedure, practice, or requirement relating to any agency hearings; (B) any filing or related process requirement for making application to an agency for a license or permit; or (C) any policy statement pertaining to the consistent internal operations of an agency.

(ii) An "interpretive rule" is a rule, the violation of which does not subject a person to a penalty or sanction, that sets forth the agency's interpretation of statutory provisions it administers.

(iii) A "significant legislative rule" is a rule other than a procedural or interpretive rule that (A) adopts substantive provisions of law pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction; (B) establishes, alters,

or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or (C) adopts a new, or makes significant amendments to, a policy or regulatory program.

(d) In the notice of proposed rule making under RCW 34.05.320, an agency shall state whether this section applies to the proposed rule pursuant to (a)(i) of this subsection, or if the agency will apply this section voluntarily.

(6) By January 31, 1996, and by January 31st of each even-numbered year thereafter, the office of financial management, after consulting with state agencies, counties, and cities, and business, labor, and environmental organizations, shall report to the governor and the legislature regarding the effects of this section on the regulatory system in this state. The report shall document:

(a) The rules proposed to which this section applied and to the extent possible, how compliance with this section affected the substance of the rule, if any, that the agency ultimately adopted;

(b) The costs incurred by state agencies in complying with this section;

(c) Any legal action maintained based upon the alleged failure of any agency to comply with this section, the costs to the state of such action, and the result;

(d) The extent to which this section has adversely affected the capacity of agencies to fulfill their legislatively prescribed mission;

(e) The extent to which this section has improved the acceptability of state rules to those regulated; and

(f) Any other information considered by the office of financial management to be useful in evaluating the effect of this section.

[1997 c 430 § 1; 1995 c 403 § 201.]

NOTES:

Reviser's note: *(1) The business assistance center and its powers and duties were terminated June 30, 1995. RCW 43.31.083, 43.31.085, 43.31.087, and 43.31.089 were repealed by 1993 c 280 § 81, effective June 30, 1996.

**(2) Chapter 75.20 RCW was recodified as chapter 77.55 RCW by 2000 c 107. See Comparative Table for that chapter in the Table of Disposition of Former RCW Sections, Volume 0.

Findings--Short title--Intent--1995 c 403: "(1) The legislature finds that:

(a) One of its fundamental responsibilities, to the benefit of all the citizens of the state, is the protection of public health and safety, including health and safety in the workplace, and the preservation of the extraordinary natural environment with which Washington is endowed;

(b) Essential to this mission is the delegation of authority to state agencies to implement the policies established by the legislature; and that the adoption of administrative rules by these agencies helps assure that these policies are clearly understood, fairly applied, and uniformly enforced;

(c) Despite its importance, Washington's regulatory system must not impose excessive, unreasonable, or unnecessary obligations; to do so serves only to discredit government, makes enforcement of essential regulations more difficult, and detrimentally affects the economy of the state and the well-being of our citizens.

(2) The legislature therefore enacts chapter 403, Laws of 1995, to be known as the regulatory reform act of 1995, to ensure that the citizens and environment of this state receive the highest level of protection, in an effective and efficient manner, without stifling legitimate activities and responsible economic growth. To that end, it is the intent of the legislature, in the adoption of chapter 403, Laws of 1995, that:

(a) Unless otherwise authorized, substantial policy decisions affecting the public be made by those directly accountable to the public, namely the legislature, and that state agencies not use their administrative authority to create or amend regulatory programs;

(b) When an agency is authorized to adopt rules imposing obligations on the public, that it do so responsibly: The rules it adopts should be justified and reasonable, with the agency having determined, based on common sense criteria established by the legislature, that the obligations imposed are truly in the public interest;

(c) Governments at all levels better coordinate their regulatory efforts to avoid confusing and frustrating the public with overlapping or contradictory requirements;

(d) The public respect the process whereby administrative rules are adopted, whether or not they agree with the result: Members of the public affected by administrative rules must have the opportunity for a meaningful role in their development; the bases for agency action must be legitimate and clearly articulated;

(e) Members of the public have adequate opportunity to challenge administrative rules with which they have legitimate concerns through meaningful review of the rule by the executive, the legislature, and the judiciary. While it is the intent of the legislature that upon judicial review of a rule, a court should not substitute its judgment for that of an administrative agency, the court should determine whether the agency decision making was rigorous and deliberative; whether the agency reached its result through a process of reason; and whether the agency took a hard look at the rule before its adoption;

(f) In order to achieve greater compliance with administrative rules at less cost, that a cooperative partnership exist between agencies and regulated parties that emphasizes education and assistance before the imposition of penalties; and

(g) Workplace safety and health in this state not be diminished, whether provided by constitution, by statute, or by rule." [1995 c 403 § 1.]

Application--1995 c 403 §§ 201, 301-305, 401-405, and 801: "Sections 201, 301 through 305, 401 through 405, and 801 of this act shall apply to all rule making for which a statement of proposed rule making under RCW 34.05.320 is filed after July 23, 1995." [1995 c 403 § 1102.]

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

Expedited adoption: RCW 34.05.353.

RCW 34.05.330 Petition for adoption, amendment, repeal--Agency action--Appeal.

(1) Any person may petition an agency requesting the adoption, amendment, or repeal of any rule. The office of financial management shall prescribe by rule the format for such petitions and the procedure for their submission, consideration, and disposition and provide a standard form that may be used to petition any agency. Within sixty days after submission of a petition, the agency shall either (a) deny the petition in writing, stating (i) its reasons for the denial, specifically addressing the concerns raised by the petitioner, and, where appropriate, (ii) the alternative means by which it will address the concerns raised by the petitioner, or (b) initiate rule-making proceedings in accordance with RCW 34.05.320.

(2) If an agency denies a petition to repeal or amend a rule submitted under subsection (1) of this section, and the petition alleges that the rule is not within the intent of the legislature or was not adopted in accordance with all applicable provisions of law, the person may petition for review of the rule by the joint administrative rules review committee under RCW 34.05.655.

(3) If an agency denies a petition to repeal or amend a rule submitted under subsection (1) of this section, the petitioner, within thirty days of the denial, may appeal the denial to the governor. The governor shall immediately file notice of the appeal with the code reviser for publication in the Washington state register. Within forty-five days after receiving the appeal, the governor shall either (a) deny the petition in writing, stating (i) his or her reasons for the

denial, specifically addressing the concerns raised by the petitioner, and, (ii) where appropriate, the alternative means by which he or she will address the concerns raised by the petitioner; (b) for agencies listed in RCW 43.17.010, direct the agency to initiate rule-making proceedings in accordance with this chapter; or (c) for agencies not listed in RCW 43.17.010, recommend that the agency initiate rule-making proceedings in accordance with this chapter. The governor's response to the appeal shall be published in the Washington state register and copies shall be submitted to the chief clerk of the house of representatives and the secretary of the senate.

(4) In petitioning for repeal or amendment of a rule under this section, a person is encouraged to address, among other concerns:

(a) Whether the rule is authorized;

(b) Whether the rule is needed;

(c) Whether the rule conflicts with or duplicates other federal, state, or local laws;

(d) Whether alternatives to the rule exist that will serve the same purpose at less cost;

(e) Whether the rule applies differently to public and private entities;

(f) Whether the rule serves the purposes for which it was adopted;

(g) Whether the costs imposed by the rule are unreasonable;

(h) Whether the rule is clearly and simply stated;

(i) Whether the rule is different than a federal law applicable to the same activity or subject matter without adequate justification; and

(j) Whether the rule was adopted according to all applicable provisions of law.

(5) The department of community, trade, and economic development and the office of financial management shall coordinate efforts among agencies to inform the public about the existence of this rules review process.

(6) The office of financial management shall initiate the rule making required by subsection (1) of this section by September 1, 1995.

[1998 c 280 § 5; 1996 c 318 § 1; 1995 c 403 § 703; 1988 c 288 § 305; 1967 c 237 § 5; 1959 c 234 § 6. Formerly RCW 34.04.060.]

Notes:

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 34.05.335 Withdrawal of proposal--Time and manner of adoption.

(1) A proposed rule may be withdrawn by the proposing agency at any time before adoption. A withdrawn rule may not be adopted unless it is again proposed in accordance with RCW 34.05.320.

(2) Before adopting a rule, an agency shall consider the written and oral submissions, or any memorandum summarizing oral submissions.

(3) Rules not adopted and filed with the code reviser within one hundred eighty days after publication of the text as last proposed in the register shall be regarded as withdrawn. An agency may not thereafter adopt the proposed rule without refiling it in accordance with RCW 34.05.320. The code reviser shall give notice of the withdrawal in the register.

(4) An agency may not adopt a rule before the time established in the published notice, or

such later time established on the record or by publication in the state register.

[1989 c 175 § 8; 1988 c 288 § 306; 1980 c 186 § 11. Formerly RCW 34.04.048.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.
Severability--1980 c 186: See note following RCW 34.05.320.

RCW 34.05.340 Variance between proposed and final rule.

(1) Unless it complies with subsection (3) of this section, an agency may not adopt a rule that is substantially different from the rule proposed in the published notice of proposed rule adoption or a supplemental notice in the proceeding. If an agency contemplates making a substantial variance from a proposed rule described in a published notice, it may file a supplemental notice with the code reviser meeting the requirements of RCW 34.05.320 and reopen the proceedings for public comment on the proposed variance, or the agency may withdraw the proposed rule and commence a new rule-making proceeding to adopt a substantially different rule. If a new rule-making proceeding is commenced, relevant public comment received regarding the initial proposed rule shall be considered in the new proceeding.

(2) The following factors shall be considered in determining whether an adopted rule is substantially different from the proposed rule on which it is based:

(a) The extent to which a reasonable person affected by the adopted rule would have understood that the published proposed rule would affect his or her interests;

(b) The extent to which the subject of the adopted rule or the issues determined in it are substantially different from the subject or issues involved in the published proposed rule; and

(c) The extent to which the effects of the adopted rule differ from the effects of the published proposed rule.

(3) If the agency, without filing a supplemental notice under subsection (1) of this section, adopts a rule that varies in content from the proposed rule, the general subject matter of the adopted rule must remain the same as the proposed rule. The agency shall briefly describe any changes, other than editing changes, and the principal reasons for adopting the changes. The brief description shall be filed with the code reviser together with the order of adoption for publication in the state register. Within sixty days of publication of the adopted rule in the state register, any interested person may petition the agency to amend any portion of the adopted rule that is substantially different from the proposed rule. The petition shall briefly demonstrate how the adopted rule is substantially different from the proposed rule and shall contain the text of the petitioner's proposed amendment. For purposes of the petition, an adopted rule is substantially different if the issues determined in the adopted rule differ from the issues determined in the proposed rule or the anticipated effects of the adopted rule differ from those of the proposed rule. If the petition meets the requirements of this subsection and RCW 34.05.330, the agency shall initiate rule-making proceedings upon the proposed amendments within the time provided in RCW 34.05.330.

[1989 c 175 § 9; 1988 c 288 § 307.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.345 Failure to give twenty days notice of intended action--Effect.

Except for emergency rules adopted under RCW 34.05.350, when twenty days notice of intended action to adopt, amend, or repeal a rule has not been published in the state register, as required by RCW 34.05.320, the code reviser shall not publish such rule and such rule shall not be effective for any purpose.

[1988 c 288 § 308; 1967 c 237 § 4. Formerly RCW 34.04.027.]

RCW 34.05.350 Emergency rules and amendments.

(1) If an agency for good cause finds:

(a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; or

(b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule,

the agency may dispense with those requirements and adopt, amend, or repeal the rule on an emergency basis. The agency's finding and a concise statement of the reasons for its finding shall be incorporated in the order for adoption of the emergency rule or amendment filed with the office of the code reviser under RCW 34.05.380 and with the rules review committee.

(2) An emergency rule adopted under this section takes effect upon filing with the code reviser, unless a later date is specified in the order of adoption, and may not remain in effect for longer than one hundred twenty days after filing. Identical or substantially similar emergency rules may not be adopted in sequence unless conditions have changed or the agency has filed notice of its intent to adopt the rule as a permanent rule, and is actively undertaking the appropriate procedures to adopt the rule as a permanent rule. This section does not relieve any agency from compliance with any law requiring that its permanent rules be approved by designated persons or bodies before they become effective.

(3) Within seven days after the rule is adopted, any person may petition the governor requesting the immediate repeal of a rule adopted on an emergency basis by any department listed in RCW 43.17.010. Within seven days after submission of the petition, the governor shall either deny the petition in writing, stating his or her reasons for the denial, or order the immediate repeal of the rule. In ruling on the petition, the governor shall consider only whether the conditions in subsection (1) of this section were met such that adoption of the rule on an emergency basis was necessary. If the governor orders the repeal of the emergency rule, any sanction imposed based on that rule is void. This subsection shall not be construed to prohibit adoption of any rule as a permanent rule.

(4) In adopting an emergency rule, the agency shall comply with *section 4 of this act or provide a written explanation for its failure to do so.

[1994 c 249 § 3; 1989 c 175 § 10; 1988 c 288 § 309; 1981 c 324 § 4; 1977 ex.s. c 240 § 8; 1959 c 234 § 3. Formerly RCW 34.04.030.]

Notes:

***Reviser's note:** The governor vetoed 1994 c 249 § 4.

Severability--Application--1994 c 249: See notes following RCW 34.05.310.

Effective date--1989 c 175: See note following RCW 34.05.010.

Legislative affirmation--Severability--1981 c 324: See notes following RCW 34.05.010.

Effective date--Severability--1977 ex.s. c 240: See RCW 34.08.905 and 34.08.910.

RCW 34.05.353 Expedited rule making.

(1) An agency may file notice for the expedited adoption of rules in accordance with the procedures set forth in this section for rules meeting any one of the following criteria:

(a) The proposed rules relate only to internal governmental operations that are not subject to violation by a person;

(b) The proposed rules adopt or incorporate by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;

(c) The proposed rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;

(d) The content of the proposed rules is explicitly and specifically dictated by statute;

(e) The proposed rules have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or

(f) The proposed rule is being amended after a review under RCW 34.05.328.

(2) An agency may file notice for the expedited repeal of rules under the procedures set forth in this section for rules meeting any one of the following criteria:

(a) The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;

(b) The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;

(c) The rule is no longer necessary because of changed circumstances; or

(d) Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

(3) The expedited rule-making process must follow the requirements for rule making set forth in RCW 34.05.320, except that the agency is not required to prepare a small business economic impact statement under RCW 19.85.025, a statement indicating whether the rule constitutes a significant legislative rule under RCW 34.05.328(5)(c)(iii), or a significant legislative rule analysis under RCW 34.05.328. An agency is not required to prepare statements

of inquiry under RCW 34.05.310 or conduct a hearing for the expedited rule making. The notice for the expedited rule making must contain a statement in at least ten-point type, that is substantially in the following form:

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO (INSERT NAME AND ADDRESS) AND RECEIVED BY (INSERT DATE).

(4) The agency shall send a copy of the notice of the proposed expedited rule making to any person who has requested notification of proposals for expedited rule making or of regular agency rule making, as well as the joint administrative rules review committee, within three days after its publication in the Washington State Register. An agency may charge for the actual cost of providing a requesting party mailed copies of these notices. The notice of the proposed expedited rule making must be preceded by a statement substantially in the form provided in subsection (3) of this section. The notice must also include an explanation of the reasons the agency believes the expedited rule-making process is appropriate.

(5) The code reviser shall publish the text of all rules proposed for expedited adoption, and the citation and caption of all rules proposed for expedited repeal, along with the notice required in this section in a separate section of the Washington State Register. Once the notice of expedited rule making has been published in the Washington State Register, the only changes that an agency may make in the noticed materials before their final adoption or repeal are to correct typographical errors.

(6) Any person may file a written objection to the expedited rule making. The objection must be filed with the agency rules coordinator within forty-five days after the notice of the proposed expedited rule making has been published in the Washington State Register. A person who has filed a written objection to the expedited rule making may withdraw the objection.

(7) If no written objections to the expedited rule making are filed with the agency within forty-five days after the notice of proposed expedited rule making is published, or if all objections that have been filed are withdrawn by the persons filing the objections, the agency may enter an order adopting or repealing the rule without further notice or a public hearing. The order must be published in the manner required by this chapter for any other agency order adopting, amending, or repealing a rule.

(8) If a written notice of objection to the expedited rule making is timely filed with the agency and is not withdrawn, the notice of proposed expedited rule making published under this section is considered a statement of inquiry for the purposes of RCW 34.05.310, and the agency

may initiate further rule-making proceedings in accordance with this chapter.

(9) As used in this section, "expedited rule making" includes both the expedited adoption of rules and the expedited repeal of rules.

[2001 c 25 § 2.]

RCW 34.05.360 Order adopting rule, contents.

The order of adoption by which each rule is adopted by an agency shall contain all of the following:

(1) The date the agency adopted the rule;

(2) A concise statement of the purpose of the rule;

(3) A reference to all rules repealed, amended, or suspended by the rule;

(4) A reference to the specific statutory or other authority authorizing adoption of the rule;

(5) Any findings required by any provision of law as a precondition to adoption or effectiveness of the rule; and

(6) The effective date of the rule if other than that specified in RCW 34.05.380(2).

[1988 c 288 § 311.]

RCW 34.05.365 Incorporation by reference.

An agency may incorporate by reference and without publishing the incorporated matter in full, all or any part of a code, standard, rule, or regulation that has been adopted by an agency of the United States, of this state, or of another state, by a political subdivision of this state, or by a generally recognized organization or association if incorporation of the full text in the agency rules would be unduly cumbersome, expensive, or otherwise inexpedient. The reference in agency rules shall fully identify the incorporated matter. An agency may incorporate by reference such matter in its rules only if the agency, organization, or association originally issuing that matter makes copies readily available to the public. The incorporating agency shall have, maintain, and make available for public inspection a copy of the incorporated matter. The rule must state where copies of the incorporated matter are available.

[1988 c 288 § 312.]

RCW 34.05.370 Rule-making file.

(1) Each agency shall maintain an official rule-making file for each rule that it (a) proposes by publication in the state register, or (b) adopts. The file and materials incorporated by reference shall be available for public inspection.

(2) The agency rule-making file shall contain all of the following:

(a) A list of citations to all notices in the state register with respect to the rule or the proceeding upon which the rule is based;

(b) Copies of any portions of the agency's public rule-making docket containing entries

relating to the rule or the proceeding on which the rule is based;

(c) All written petitions, requests, submissions, and comments received by the agency and all other written material regarded by the agency as important to adoption of the rule or the proceeding on which the rule is based;

(d) Any official transcript of oral presentations made in the proceeding on which the rule is based or, if not transcribed, any tape recording or stenographic record of them, and any memorandum prepared by a presiding official summarizing the contents of those presentations;

(e) All petitions for exceptions to, amendment of, or repeal or suspension of, the rule;

(f) Citations to data, factual information, studies, or reports on which the agency relies in the adoption of the rule, indicating where such data, factual information, studies, or reports are available for review by the public, but this subsection (2)(f) does not require the agency to include in the rule-making file any data, factual information, studies, or reports gathered pursuant to chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business;

(g) The concise explanatory statement required by RCW 34.05.325(6); and

(h) Any other material placed in the file by the agency.

(3) Internal agency documents are exempt from inclusion in the rule-making file under subsection (2) of this section to the extent they constitute preliminary drafts, notes, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended, except that a specific document is not exempt from inclusion when it is publicly cited by an agency in connection with its decision.

(4) Upon judicial review, the file required by this section constitutes the official agency rule-making file with respect to that rule. Unless otherwise required by another provision of law, the official agency rule-making file need not be the exclusive basis for agency action on that rule.

[1998 c 280 § 7; 1996 c 102 § 2; 1995 c 403 § 801; 1994 c 249 § 2; 1988 c 288 § 313.]

Notes:

Application--1995 c 403 §§ 201, 301-305, 401-405, and 801: See note following RCW 34.05.328.

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

Severability--Application--1994 c 249: See notes following RCW 34.05.310.

RCW 34.05.375 Substantial compliance with procedures.

No rule proposed after July 1, 1989, is valid unless it is adopted in substantial compliance with RCW 34.05.310 through 34.05.395. Inadvertent failure to mail notice of a proposed rule adoption to any person as required by RCW 34.05.320(3) does not invalidate a rule. No action based upon this section may be maintained to contest the validity of any rule unless it is commenced within two years after the effective date of the rule.

[1988 c 288 § 314.]

RCW 34.05.380 Filing with code reviser--Register--Effective dates.

(1) Each agency shall file in the office of the code reviser a certified copy of all rules it adopts, except for rules contained in tariffs filed with or published by the Washington utilities and transportation commission. The code reviser shall place upon each rule a notation of the time and date of filing and shall keep a permanent register of filed rules open to public inspection. In filing a rule, each agency shall use the standard form prescribed for this purpose by the code reviser.

(2) Emergency rules adopted under RCW 34.05.350 become effective upon filing unless a later date is specified in the order of adoption. All other rules become effective upon the expiration of thirty days after the date of filing, unless a later date is required by statute or specified in the order of adoption.

(3) A rule may become effective immediately upon its filing with the code reviser or on any subsequent date earlier than that established by subsection (2) of this section, if the agency establishes that effective date in the adopting order and finds that:

(a) Such action is required by the state or federal Constitution, a statute, or court order;

(b) The rule only delays the effective date of another rule that is not yet effective; or

(c) The earlier effective date is necessary because of imminent peril to the public health, safety, or welfare.

The finding and a brief statement of the reasons therefor required by this subsection shall be made a part of the order adopting the rule.

(4) With respect to a rule made effective pursuant to subsection (3) of this section, each agency shall make reasonable efforts to make the effective date known to persons who may be affected by it.

[1989 c 175 § 11; 1988 c 288 § 315; 1987 c 505 § 17; 1980 c 87 § 11; 1959 c 234 § 4. Formerly RCW 34.04.040.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.385 Rules for rule making.

The code reviser may adopt rules for carrying out the provisions of this chapter relating to the filing and publication of rules and notices of intention to adopt rules, including the form and style to be employed by the various agencies in the drafting of such rules and notices.

[1988 c 288 § 316; 1967 c 237 § 13. Formerly RCW 34.04.055.]

RCW 34.05.390 Style, format, and numbering--Agency compliance.

After the rules of an agency have been published by the code reviser:

(1) All agency orders amending or rescinding such rules, or creating new rules, shall be formulated in accordance with the style, format, and numbering system of the Washington Administrative Code;

(2) Any subsequent printing or reprinting of such rules shall be printed in the style and format (including the numbering system) of such code; and

(3) Amendments of previously adopted rules shall incorporate any editorial corrections

made by the code reviser.

[1988 c 288 § 317; 1967 c 237 § 14. Formerly RCW 34.04.057.]

RCW 34.05.395 Format and style of amendatory and new sections--Failure to comply.

(1) Rules proposed or adopted by an agency pursuant to this chapter that amend existing sections of the administrative code shall have the words which are amendatory to such existing sections underlined. Any matter to be deleted from an existing section shall be indicated by setting such matter forth in full, enclosed by double parentheses, and such deleted matter shall be lined out with hyphens. A new section shall be designated "NEW SECTION" in upper case type and such designation shall be underlined, but the complete text of the section shall not be underlined. No rule may be forwarded by any agency to the code reviser, nor may the code reviser accept for filing any rule unless the format of such rule is in compliance with the provisions of this section.

(2) Once the rule has been formally adopted by the agency the code reviser need not, except with regard to the register published pursuant to RCW 34.05.210(3), include the items enumerated in subsection (1) of this section in the official code.

(3) Any addition to or deletion from an existing code section not filed by the agency in the style prescribed by subsection (1) of this section shall in all respects be ineffectual, and shall not be shown in subsequent publications or codifications of that section unless the ineffectual portion of the rule is clearly distinguished and an explanatory note is appended thereto by the code reviser in accordance with RCW 34.05.210.

[1988 c 288 § 318; 1980 c 186 § 14; 1977 c 19 § 1. Formerly RCW 34.04.058.]

Notes:

Severability--1980 c 186: See note following RCW 34.05.320.

PART IV
ADJUDICATIVE PROCEEDINGS

RCW 34.05.410 Application of Part IV.

(1) Adjudicative proceedings are governed by RCW 34.05.413 through 34.05.476, except as otherwise provided:

(a) By a rule that adopts the procedures for brief adjudicative proceedings in accordance with the standards provided in RCW 34.05.482 for those proceedings;

(b) By RCW 34.05.479 pertaining to emergency adjudicative proceedings; or

(c) By RCW 34.05.240 pertaining to declaratory proceedings.

(2) RCW 34.05.410 through 34.05.494 do not apply to rule-making proceedings unless another statute expressly so requires.

[1988 c 288 § 401.]

RCW 34.05.413 Commencement--When required.

(1) Within the scope of its authority, an agency may commence an adjudicative proceeding at any time with respect to a matter within the agency's jurisdiction.

(2) When required by law or constitutional right, and upon the timely application of any person, an agency shall commence an adjudicative proceeding.

(3) An agency may provide forms for and, by rule, may provide procedures for filing an application for an adjudicative proceeding. An agency may require by rule that an application be in writing and that it be filed at a specific address, in a specified manner, and within specified time limits. The agency shall allow at least twenty days to apply for an adjudicative proceeding from the time notice is given of the opportunity to file such an application.

(4) If an agency is required to hold an adjudicative proceeding, an application for an agency to enter an order includes an application for the agency to conduct appropriate adjudicative proceedings, whether or not the applicant expressly requests those proceedings.

(5) An adjudicative proceeding commences when the agency or a presiding officer notifies a party that a prehearing conference, hearing, or other stage of an adjudicative proceeding will be conducted.

[1989 c 175 § 12; 1988 c 288 § 402.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.416 Decision not to conduct an adjudication.

If an agency decides not to conduct an adjudicative proceeding in response to an application, the agency shall furnish the applicant a copy of its decision in writing, with a brief statement of the agency's reasons and of any administrative review available to the applicant.

[1988 c 288 § 403.]

RCW 34.05.419 Agency action on applications for adjudication.

After receipt of an application for an adjudicative proceeding, other than a declaratory order, an agency shall proceed as follows:

(1) Except in situations governed by subsection (2) or (3) of this section, within ninety days after receipt of the application or of the response to a timely request made by the agency under subsection (2) of this section, the agency shall do one of the following:

(a) Approve or deny the application, in whole or in part, on the basis of brief or emergency adjudicative proceedings, if those proceedings are available under this chapter for disposition of the matter;

(b) Commence an adjudicative proceeding in accordance with this chapter; or

(c) Dispose of the application in accordance with RCW 34.05.416;

(2) Within thirty days after receipt of the application, the agency shall examine the application, notify the applicant of any obvious errors or omissions, request any additional information the agency wishes to obtain and is permitted by law to require, and notify the

applicant of the name, mailing address, and telephone number of an office that may be contacted regarding the application;

(3) If the application seeks relief that is not available when the application is filed but may be available in the future, the agency may proceed to make a determination of eligibility within the time limits provided in subsection (1) of this section. If the agency determines that the applicant is eligible, the agency shall maintain the application on the agency's list of eligible applicants as provided by law and, upon request, shall notify the applicant of the status of the application.

[1988 c 288 § 404.]

RCW 34.05.422 Rate changes, licenses.

(1) Unless otherwise provided by law: (a) Applications for rate changes and uncontested applications for licenses may, in the agency's discretion, be conducted as adjudicative proceedings; (b) applications for licenses that are contested by a person having standing to contest under the law and review of denials of applications for licenses or rate changes shall be conducted as adjudicative proceedings; and (c) an agency may not revoke, suspend, or modify a license unless the agency gives notice of an opportunity for an appropriate adjudicative proceeding in accordance with this chapter or other statute.

(2) An agency with authority to grant or deny a professional or occupational license shall notify an applicant for a new or renewal license not later than twenty days prior to the date of the examination required for that license of any grounds for denial of the license which are based on specific information disclosed in the application submitted to the agency. The agency shall notify the applicant either that the license is denied or that the decision to grant or deny the license will be made at a future date. If the agency fails to give the notification prior to the examination and the applicant is denied licensure, the examination fee shall be refunded to the applicant. If the applicant takes the examination, the agency shall notify the applicant of the result.

(3) When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, an existing full, temporary, or provisional license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(4) If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

[1989 c 175 § 13; 1988 c 288 § 405; 1980 c 33 § 1; 1967 c 237 § 8. Formerly RCW 34.04.170.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.425 Presiding officers--Disqualification, substitution.

(1) Except as provided in subsection (2) of this section, in the discretion of the agency head, the presiding officer in an administrative hearing shall be:

(a) The agency head or one or more members of the agency head;

(b) If the agency has statutory authority to do so, a person other than the agency head or an administrative law judge designated by the agency head to make the final decision and enter the final order; or

(c) One or more administrative law judges assigned by the office of administrative hearings in accordance with chapter 34.12 RCW.

(2) An agency expressly exempted under RCW 34.12.020(4) or other statute from the provisions of chapter 34.12 RCW or an institution of higher education shall designate a presiding officer as provided by rules adopted by the agency.

(3) Any individual serving or designated to serve alone or with others as presiding officer is subject to disqualification for bias, prejudice, interest, or any other cause provided in this chapter or for which a judge is disqualified.

(4) Any party may petition for the disqualification of an individual promptly after receipt of notice indicating that the individual will preside or, if later, promptly upon discovering facts establishing grounds for disqualification.

(5) The individual whose disqualification is requested shall determine whether to grant the petition, stating facts and reasons for the determination.

(6) When the presiding officer is an administrative law judge, the provisions of this section regarding disqualification for cause are in addition to the motion of prejudice available under RCW 34.12.050.

(7) If a substitute is required for an individual who becomes unavailable as a result of disqualification or any other reason, the substitute must be appointed by the appropriate appointing authority.

(8) Any action taken by a duly appointed substitute for an unavailable individual is as effective as if taken by the unavailable individual.

[1989 c 175 § 14; 1988 c 288 § 406.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.428 Representation.

(1) A party to an adjudicative proceeding may participate personally or, if the party is a corporation or other artificial person, by a duly authorized representative.

(2) Whether or not participating in person, any party may be advised and represented at the party's own expense by counsel or, if permitted by provision of law, other representative.

[1989 c 175 § 15; 1988 c 288 § 407.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.431 Conference--Procedure and participation.

(1) Agencies may hold prehearing or other conferences for the settlement or simplification of issues. Every agency shall by rule describe the conditions under which and the manner in which conferences are to be held.

(2) In the discretion of the presiding officer, and where the rights of the parties will not be prejudiced thereby, all or part of the conference may be conducted by telephone, television, or other electronic means. Each participant in the conference must have an opportunity to participate effectively in, to hear, and, if technically and economically feasible, to see the entire proceeding while it is taking place.

[1988 c 288 § 408.]

RCW 34.05.434 Notice of hearing.

(1) The agency or the office of administrative hearings shall set the time and place of the hearing and give not less than seven days advance written notice to all parties and to all persons who have filed written petitions to intervene in the matter.

(2) The notice shall include:

(a) Unless otherwise ordered by the presiding officer, the names and mailing addresses of all parties to whom notice is being given and, if known, the names and addresses of their representatives;

(b) If the agency intends to appear, the mailing address and telephone number of the office designated to represent the agency in the proceeding;

(c) The official file or other reference number and the name of the proceeding;

(d) The name, official title, mailing address, and telephone number of the presiding officer, if known;

(e) A statement of the time, place and nature of the proceeding;

(f) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(g) A reference to the particular sections of the statutes and rules involved;

(h) A short and plain statement of the matters asserted by the agency; and

(i) A statement that a party who fails to attend or participate in a hearing or other stage of an adjudicative proceeding may be held in default in accordance with this chapter.

(3) If the agency is unable to state the matters required by subsection (2)(h) of this section at the time the notice is served, the initial notice may be limited to a statement of the issues involved. If the proceeding is initiated by a person other than the agency, the initial notice may be limited to the inclusion of a copy of the initiating document. Thereafter, upon request, a more definite and detailed statement shall be furnished.

(4) The notice may include any other matters considered desirable by the agency.

[1988 c 288 § 409; 1980 c 31 § 1; 1967 c 237 § 9; 1959 c 234 § 9. Formerly RCW 34.04.090.]

RCW 34.05.437 Pleadings, briefs, motions, service.

(1) The presiding officer, at appropriate stages of the proceedings, shall give all parties full opportunity to submit and respond to pleadings, motions, objections, and offers of settlement.

(2) At appropriate stages of the proceedings, the presiding officer may give all parties full opportunity to file briefs, proposed findings of fact and conclusions of law, and proposed initial or final orders.

(3) A party that files a pleading, brief, or other paper with the agency or presiding officer shall serve copies on all other parties, unless a different procedure is specified by agency rule.

[1988 c 288 § 410.]

RCW 34.05.440 Default.

(1) Failure of a party to file an application for an adjudicative proceeding within the time limit or limits established by statute or agency rule constitutes a default and results in the loss of that party's right to an adjudicative proceeding, and the agency may proceed to resolve the case without further notice to, or hearing for the benefit of, that party, except that any default or other dispositive order affecting that party shall be served upon him or her or upon his or her attorney, if any.

(2) If a party fails to attend or participate in a hearing or other stage of an adjudicative proceeding, other than failing to timely request an adjudicative proceeding as set out in subsection (1) of this section, the presiding officer may serve upon all parties a default or other dispositive order, which shall include a statement of the grounds for the order.

(3) Within seven days after service of a default order under subsection (2) of this section, or such longer period as provided by agency rule, the party against whom it was entered may file a written motion requesting that the order be vacated, and stating the grounds relied upon. During the time within which a party may file a written motion under this subsection, the presiding officer may adjourn the proceedings or conduct them without the participation of that party, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings.

[1989 c 175 § 16; 1988 c 288 § 411.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.443 Intervention.

(1) The presiding officer may grant a petition for intervention at any time, upon determining that the petitioner qualifies as an intervenor under any provision of law and that the intervention sought is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.

(2) If a petitioner qualifies for intervention, the presiding officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is

granted or at any subsequent time. Conditions may include:

(a) Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition; and

(b) Limiting the intervenor's use of discovery, cross-examination, and other procedures so as to promote the orderly and prompt conduct of the proceedings; and

(c) Requiring two or more intervenors to combine their presentations of evidence and argument, cross-examination, discovery, and other participation in the proceedings.

(3) The presiding officer shall timely grant or deny each pending petition for intervention, specifying any conditions, and briefly stating the reasons for the order. The presiding officer may modify the order at any time, stating the reasons for the modification. The presiding officer shall promptly give notice of the decision granting, denying, or modifying intervention to the petitioner for intervention and to all parties.

[1988 c 288 § 412.]

RCW 34.05.446 Subpoenas, discovery, and protective orders.

(1) The presiding officer may issue subpoenas and may enter protective orders. A subpoena may be issued with like effect by the agency or the attorney of record in whose behalf the witness is required to appear.

(2) An agency may by rule determine whether or not discovery is to be available in adjudicative proceedings and, if so, which forms of discovery may be used.

(3) Except as otherwise provided by agency rules, the presiding officer may decide whether to permit the taking of depositions, the requesting of admissions, and all other procedures authorized by rules 26 through 36 of the superior court civil rules. The presiding officer may condition use of discovery on a showing of necessity and unavailability by other means. In exercising such discretion, the presiding officer shall consider: (a) Whether all parties are represented by counsel; (b) whether undue expense or delay in bringing the case to hearing will result; (c) whether the discovery will promote the orderly and prompt conduct of the proceeding; and (d) whether the interests of justice will be promoted.

(4) Discovery orders and protective orders entered under this section may be enforced under the provisions of this chapter on civil enforcement of agency action.

(5) Subpoenas issued under this section may be enforced under RCW 34.05.588(1).

(6) The subpoena powers created by this section shall be state-wide in effect.

(7) Witnesses in an adjudicatory proceeding shall be paid the same fees and allowances, in the same manner and under the same conditions, as provided for witnesses in the courts of this state by chapter 2.40 RCW and by RCW 5.56.010, except that the agency shall have the power to fix the allowance for meals and lodging in like manner as is provided in RCW 5.56.010 as to courts. The person initiating an adjudicative proceeding or the party requesting issuance of a subpoena shall pay the fees and allowances and the cost of producing records required to be produced by subpoena.

[1989 c 175 § 17; 1988 c 288 § 413; 1967 c 237 § 10. Formerly RCW 34.04.105.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.449 Procedure at hearing.

(1) The presiding officer shall regulate the course of the proceedings, in conformity with applicable rules and the prehearing order, if any.

(2) To the extent necessary for full disclosure of all relevant facts and issues, the presiding officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence, except as restricted by a limited grant of intervention or by the prehearing order.

(3) In the discretion of the presiding officer, and where the rights of the parties will not be prejudiced thereby, all or part of the hearing may be conducted by telephone, television, or other electronic means. Each party in the hearing must have an opportunity to participate effectively in, to hear, and, if technically and economically feasible, to see the entire proceeding while it is taking place.

(4) The presiding officer shall cause the hearing to be recorded by a method chosen by the agency. The agency is not required, at its expense, to prepare a transcript, unless required to do so by a provision of law. Any party, at the party's expense, may cause a reporter approved by the agency to prepare a transcript from the agency's record, or cause additional recordings to be made during the hearing if the making of the additional recording does not cause distraction or disruption.

(5) The hearing is open to public observation, except for the parts that the presiding officer states to be closed under a provision of law expressly authorizing closure or under a protective order entered by the presiding officer pursuant to applicable rules. A presiding officer may order the exclusion of witnesses upon a showing of good cause. To the extent that the hearing is conducted by telephone, television, or other electronic means, and is not closed, the availability of public observation is satisfied by giving members of the public an opportunity, at reasonable times, to hear or inspect the agency's record, and to inspect any transcript obtained by the agency.

[1989 c 175 § 18; 1988 c 288 § 414.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.452 Rules of evidence--Cross-examination.

(1) Evidence, including hearsay evidence, is admissible if in the judgment of the presiding officer it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The presiding officer shall exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The presiding officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious.

(2) If not inconsistent with subsection (1) of this section, the presiding officer shall refer

to the Washington Rules of Evidence as guidelines for evidentiary rulings.

(3) All testimony of parties and witnesses shall be made under oath or affirmation.

(4) Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

(5) Official notice may be taken of (a) any judicially cognizable facts, (b) technical or scientific facts within the agency's specialized knowledge, and (c) codes or standards that have been adopted by an agency of the United States, of this state or of another state, or by a nationally recognized organization or association. Parties shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material so noticed and the sources thereof, including any staff memoranda and data, and they shall be afforded an opportunity to contest the facts and material so noticed. A party proposing that official notice be taken may be required to produce a copy of the material to be noticed.

[1988 c 288 § 415; 1959 c 234 § 10. Formerly RCW 34.04.100.]

RCW 34.05.455 Ex parte communications.

(1) A presiding officer may not communicate, directly or indirectly, regarding any issue in the proceeding other than communications necessary to procedural aspects of maintaining an orderly process, with any person employed by the agency without notice and opportunity for all parties to participate, except as provided in this subsection:

(a) Where the ultimate legal authority of an agency is vested in a multimember body, and where that body presides at an adjudication, members of the body may communicate with one another regarding the proceeding;

(b) Any presiding officer may receive aid from legal counsel, or from staff assistants who are subject to the presiding officer's supervision; and

(c) Presiding officers may communicate with other employees or consultants of the agency who have not participated in the proceeding in any manner, and who are not engaged in any investigative or prosecutorial functions in the same or a factually related case.

(d) This subsection does not apply to communications required for the disposition of ex parte matters specifically authorized by statute.

(2) Unless required for the disposition of ex parte matters specifically authorized by statute or unless necessary to procedural aspects of maintaining an orderly process, a presiding officer may not communicate, directly or indirectly, regarding any issue in the proceeding, with any person not employed by the agency who has a direct or indirect interest in the outcome of the proceeding, without notice and opportunity for all parties to participate.

(3) Unless necessary to procedural aspects of maintaining an orderly process, persons to whom a presiding officer may not communicate under subsections (1) and (2) of this section may not communicate with presiding officers without notice and opportunity for all parties to participate.

(4) If, before serving as presiding officer in an adjudicative proceeding, a person receives an ex parte communication of a type that could not properly be received while serving, the person, promptly after starting to serve, shall disclose the communication in the manner

prescribed in subsection (5) of this section.

(5) A presiding officer who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the presiding officer received an ex parte communication. The presiding officer shall advise all parties that these matters have been placed on the record. Upon request made within ten days after notice of the ex parte communication, any party desiring to rebut the communication shall be allowed to place a written rebuttal statement on the record. Portions of the record pertaining to ex parte communications or rebuttal statements do not constitute evidence of any fact at issue in the matter unless a party moves the admission of any portion of the record for purposes of establishing a fact at issue and that portion is admitted pursuant to RCW 34.05.452.

(6) If necessary to eliminate the effect of an ex parte communication received in violation of this section, a presiding officer who receives the communication may be disqualified, and the portions of the record pertaining to the communication may be sealed by protective order.

(7) The agency shall, and any party may, report any violation of this section to appropriate authorities for any disciplinary proceedings provided by law. In addition, each agency by rule may provide for appropriate sanctions, including default, for any violations of this section.

[1988 c 288 § 416.]

RCW 34.05.458 Separation of functions.

(1) A person who has served as investigator, prosecutor, or advocate in an adjudicative proceeding or in its preadjudicative stage, or one who is subject to the authority, direction, or discretion of such a person, may not serve as a presiding officer in the same proceeding.

(2) A person, including an agency head, who has participated in a determination of probable cause or other equivalent preliminary determination in an adjudicative proceeding may serve as presiding officer or assist or advise a presiding officer in the same proceeding unless a party demonstrates grounds for disqualification in accordance with RCW 34.05.425.

(3) A person may serve as presiding officer at successive stages of the same adjudicative proceeding unless a party demonstrates grounds for disqualification in accordance with RCW 34.05.425.

[1988 c 288 § 417.]

RCW 34.05.461 Entry of orders.

(1) Except as provided in subsection (2) of this section:

(a) If the presiding officer is the agency head or one or more members of the agency head, the presiding officer may enter an initial order if further review is available within the agency, or a final order if further review is not available;

(b) If the presiding officer is a person designated by the agency to make the final decision

and enter the final order, the presiding officer shall enter a final order; and

(c) If the presiding officer is one or more administrative law judges, the presiding officer shall enter an initial order.

(2) With respect to agencies exempt from chapter 34.12 RCW or an institution of higher education, the presiding officer shall transmit a full and complete record of the proceedings, including such comments upon demeanor of witnesses as the presiding officer deems relevant, to each agency official who is to enter a final or initial order after considering the record and evidence so transmitted.

(3) Initial and final orders shall include a statement of findings and conclusions, and the reasons and basis therefor, on all the material issues of fact, law, or discretion presented on the record, including the remedy or sanction and, if applicable, the action taken on a petition for a stay of effectiveness. Any findings based substantially on credibility of evidence or demeanor of witnesses shall be so identified. Findings set forth in language that is essentially a repetition or paraphrase of the relevant provision of law shall be accompanied by a concise and explicit statement of the underlying evidence of record to support the findings. The order shall also include a statement of the available procedures and time limits for seeking reconsideration or other administrative relief. An initial order shall include a statement of any circumstances under which the initial order, without further notice, may become a final order.

(4) Findings of fact shall be based exclusively on the evidence of record in the adjudicative proceeding and on matters officially noticed in that proceeding. Findings shall be based on the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. Findings may be based on such evidence even if it would be inadmissible in a civil trial. However, the presiding officer shall not base a finding exclusively on such inadmissible evidence unless the presiding officer determines that doing so would not unduly abridge the parties' opportunities to confront witnesses and rebut evidence. The basis for this determination shall appear in the order.

(5) Where it bears on the issues presented, the agency's experience, technical competency, and specialized knowledge may be used in the evaluation of evidence.

(6) If a person serving or designated to serve as presiding officer becomes unavailable for any reason before entry of the order, a substitute presiding officer shall be appointed as provided in RCW 34.05.425. The substitute presiding officer shall use any existing record and may conduct any further proceedings appropriate in the interests of justice.

(7) The presiding officer may allow the parties a designated time after conclusion of the hearing for the submission of memos, briefs, or proposed findings.

(8)(a) Except as otherwise provided in (b) of this subsection, initial or final orders shall be served in writing within ninety days after conclusion of the hearing or after submission of memos, briefs, or proposed findings in accordance with subsection (7) of this section unless this period is waived or extended for good cause shown.

(b) This subsection does not apply to the final order of the shorelines hearings board on appeal under RCW 90.58.180(3).

(9) The presiding officer shall cause copies of the order to be served on each party and the agency.

[1995 c 347 § 312; 1989 c 175 § 19; 1988 c 288 § 418.]

Notes:

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.464 Review of initial orders.

(1) As authorized by law, an agency may by rule provide that initial orders in specified classes of cases may become final without further agency action unless, within a specified period, (a) the agency head upon its own motion determines that the initial order should be reviewed, or (b) a party to the proceedings files a petition for administrative review of the initial order. Upon occurrence of either event, notice shall be given to all parties to the proceeding.

(2) As authorized by law, an agency head may appoint a person to review initial orders and to prepare and enter final agency orders.

(3) RCW 34.05.425 and 34.05.455 apply to any person reviewing an initial order on behalf of an agency as part of the decision process, and to persons communicating with them, to the same extent that it is applicable to presiding officers.

(4) The officer reviewing the initial order (including the agency head reviewing an initial order) is, for the purposes of this chapter, termed the reviewing officer. The reviewing officer shall exercise all the decision-making power that the reviewing officer would have had to decide and enter the final order had the reviewing officer presided over the hearing, except to the extent that the issues subject to review are limited by a provision of law or by the reviewing officer upon notice to all the parties. In reviewing findings of fact by presiding officers, the reviewing officers shall give due regard to the presiding officer's opportunity to observe the witnesses.

(5) The reviewing officer shall personally consider the whole record or such portions of it as may be cited by the parties.

(6) The reviewing officer shall afford each party an opportunity to present written argument and may afford each party an opportunity to present oral argument.

(7) The reviewing officer shall enter a final order disposing of the proceeding or remand the matter for further proceedings, with instructions to the presiding officer who entered the initial order. Upon remanding a matter, the reviewing officer shall order such temporary relief as is authorized and appropriate.

(8) A final order shall include, or incorporate by reference to the initial order, all matters required by RCW 34.05.461(3).

(9) The reviewing officer shall cause copies of the final order or order remanding the matter for further proceedings to be served upon each party.

[1989 c 175 § 20; 1988 c 288 § 419.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.467 Stay.

A party may submit to the presiding or reviewing officer, as is appropriate to the stage of the proceeding, a petition for stay of effectiveness of a final order within ten days of its service unless otherwise provided by statute or stated in the final order. Disposition of the petition for stay shall be made by the presiding officer, reviewing officer, or agency head as provided by agency rule. Disposition may be made either before or after the effective date of the final order. Disposition denying a stay is not subject to judicial review.

[1988 c 288 § 420.]

RCW 34.05.470 Reconsideration.

(1) Within ten days of the service of a final order, any party may file a petition for reconsideration, stating the specific grounds upon which relief is requested. The place of filing and other procedures, if any, shall be specified by agency rule.

(2) No petition for reconsideration may stay the effectiveness of an order.

(3) If a petition for reconsideration is timely filed, and the petitioner has complied with the agency's procedural rules for reconsideration, if any, the time for filing a petition for judicial review does not commence until the agency disposes of the petition for reconsideration. The agency is deemed to have denied the petition for reconsideration if, within twenty days from the date the petition is filed, the agency does not either: (a) Dispose of the petition; or (b) serve the parties with a written notice specifying the date by which it will act on the petition.

(4) Unless the petition for reconsideration is deemed denied under subsection (3) of this section, the petition shall be disposed of by the same person or persons who entered the order, if reasonably available. The disposition shall be in the form of a written order denying the petition, granting the petition and dissolving or modifying the final order, or granting the petition and setting the matter for further hearing.

(5) The filing of a petition for reconsideration is not a prerequisite for seeking judicial review. An order denying reconsideration, or a notice provided for in subsection (3)(b) of this section is not subject to judicial review.

[1989 c 175 § 21; 1988 c 288 § 421.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.473 Effectiveness of orders.

(1) Unless a later date is stated in an order or a stay is granted, an order is effective when entered, but:

(a) A party may not be required to comply with a final order unless the party has been served with or has actual knowledge of the final order;

(b) A nonparty may not be required to comply with a final order unless the agency has made the final order available for public inspection and copying or the nonparty has actual knowledge of the final order;

(c) For purposes of determining time limits for further administrative procedure or for

judicial review, the determinative date is the date of service of the order.

(2) Unless a later date is stated in the initial order or a stay is granted, the time when an initial order becomes a final order in accordance with RCW 34.05.461 is determined as follows:

(a) When the initial order is entered, if administrative review is unavailable; or

(b) When the agency head with such authority enters an order stating, after a petition for administrative review has been filed, that review will not be exercised.

(3) This section does not preclude an agency from taking immediate action to protect the public interest in accordance with RCW 34.05.479.

[1989 c 175 § 22; 1988 c 288 § 422.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.476 Agency record.

(1) An agency shall maintain an official record of each adjudicative proceeding under this chapter.

(2) The agency record shall include:

(a) Notices of all proceedings;

(b) Any prehearing order;

(c) Any motions, pleadings, briefs, petitions, requests, and intermediate rulings;

(d) Evidence received or considered;

(e) A statement of matters officially noticed;

(f) Proffers of proof and objections and rulings thereon;

(g) Proposed findings, requested orders, and exceptions;

(h) The recording prepared for the presiding officer at the hearing, together with any transcript of all or part of the hearing considered before final disposition of the proceeding;

(i) Any final order, initial order, or order on reconsideration;

(j) Staff memoranda or data submitted to the presiding officer, unless prepared and submitted by personal assistants and not inconsistent with RCW 34.05.455; and

(k) Matters placed on the record after an ex parte communication.

(3) Except to the extent that this chapter or another statute provides otherwise, the agency record constitutes the exclusive basis for agency action in adjudicative proceedings under this chapter and for judicial review of adjudicative proceedings.

[1988 c 288 § 423.]

RCW 34.05.479 Emergency adjudicative proceedings.

(1) Unless otherwise provided by law, an agency may use emergency adjudicative proceedings in a situation involving an immediate danger to the public health, safety, or welfare requiring immediate agency action.

(2) The agency may take only such action as is necessary to prevent or avoid the immediate danger to the public health, safety, or welfare that justifies use of emergency

adjudication.

(3) The agency shall enter an order, including a brief statement of findings of fact, conclusions of law, and policy reasons for the decision if it is an exercise of the agency's discretion, to justify the determination of an immediate danger and the agency's decision to take the specific action.

(4) The agency shall give such notice as is practicable to persons who are required to comply with the order. The order is effective when entered.

(5) After entering an order under this section, the agency shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

(6) The agency record consists of any documents regarding the matter that were considered or prepared by the agency. The agency shall maintain these documents as its official record.

(7) Unless otherwise required by a provision of law, the agency record need not constitute the exclusive basis for agency action in emergency adjudicative proceedings or for judicial review thereof.

(8) This section shall not apply to agency action taken pursuant to a provision of law that expressly authorizes the agency to issue a cease and desist order. The agency may proceed, alternatively, under that independent authority.

[1988 c 288 § 424.]

Notes:
Designation of persons for emergency adjudications by utilities and transportation commission: RCW 80.01.060.

RCW 34.05.482 Brief adjudicative proceedings--Applicability.

(1) An agency may use brief adjudicative proceedings if:

(a) The use of those proceedings in the circumstances does not violate any provision of law;

(b) The protection of the public interest does not require the agency to give notice and an opportunity to participate to persons other than the parties;

(c) The matter is entirely within one or more categories for which the agency by rule has adopted this section and RCW 34.05.485 through 34.05.494; and

(d) The issue and interests involved in the controversy do not warrant use of the procedures of RCW 34.05.413 through 34.05.479.

(2) Brief adjudicative proceedings are not authorized for public assistance and food stamp or benefit programs provided for in Title 74 RCW, including but not limited to public assistance as defined in RCW 74.04.005(1).

[1998 c 79 § 3; 1988 c 288 § 425.]

RCW 34.05.485 Brief adjudicative proceedings--Procedure.

(1) If not specifically prohibited by law, the following persons may be designated as the presiding officer of a brief adjudicative proceeding:

(a) The agency head;

(b) One or more members of the agency head;

(c) One or more administrative law judges; or

(d) One or more other persons designated by the agency head.

(2) Before taking action, the presiding officer shall give each party an opportunity to be informed of the agency's view of the matter and to explain the party's view of the matter.

(3) At the time any unfavorable action is taken the presiding officer shall serve upon each party a brief statement of the reasons for the decision. Within ten days, the presiding officer shall give the parties a brief written statement of the reasons for the decision and information about any internal administrative review available.

(4) The brief written statement is an initial order. If no review is taken of the initial order as authorized by RCW 34.05.488 and 34.05.491, the initial order shall be the final order.

[1989 c 175 § 23; 1988 c 288 § 426.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.488 Brief proceedings--Administrative review--Applicability.

Unless prohibited by any provision of law, an agency, on its own motion, may conduct administrative review of an order resulting from brief adjudicative proceedings. An agency shall conduct this review upon the written or oral request of a party if the agency receives the request within twenty-one days after service of the written statement required by RCW 34.05.485(3).

[1989 c 175 § 24; 1988 c 288 § 427.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.491 Brief proceedings--Administrative review--Procedures.

Unless otherwise provided by statute:

(1) If the parties have not requested review, the agency may review an order resulting from a brief adjudicative proceeding on its own motion and without notice to the parties, but it may not take any action on review less favorable to any party than the original order without giving that party notice and an opportunity to explain that party's view of the matter.

(2) The reviewing officer may be any person who could have presided at the brief proceeding, but the reviewing officer must be one who is authorized to grant appropriate relief upon review.

(3) The reviewing officer shall give each party an opportunity to explain the party's view of the matter and shall make any inquiries necessary to ascertain whether the proceeding must be converted to a formal adjudicative hearing.

(4) The order on review must be in writing, must include a brief statement of the reasons for the decision, and must be entered within twenty days after the date of the initial order or of

the request for review, whichever is later. The order shall include a description of any further available administrative review or, if none is available, a notice that judicial review may be available.

(5) A request for administrative review is deemed to have been denied if the agency does not make a disposition of the matter within twenty days after the request is submitted.

[1988 c 288 § 428.]

RCW 34.05.494 Agency record in brief proceedings.

(1) The agency record consists of any documents regarding the matter that were considered or prepared by the presiding officer for the brief adjudicative proceeding or by the reviewing officer for any review. The agency shall maintain these documents as its official record.

(2) Unless otherwise required by a provision of law, the agency record need not constitute the exclusive basis for agency action in brief adjudicative proceedings or for the judicial review of brief adjudicative proceedings.

[1988 c 288 § 429.]

PART V
JUDICIAL REVIEW AND CIVIL ENFORCEMENT

RCW 34.05.510 Relationship between this chapter and other judicial review authority.

This chapter establishes the exclusive means of judicial review of agency action, except:

(1) The provisions of this chapter for judicial review do not apply to litigation in which the sole issue is a claim for money damages or compensation and the agency whose action is at issue does not have statutory authority to determine the claim.

(2) Ancillary procedural matters before the reviewing court, including intervention, class actions, consolidation, joinder, severance, transfer, protective orders, and other relief from disclosure of privileged or confidential material, are governed, to the extent not inconsistent with this chapter, by court rule.

(3) To the extent that de novo review or jury trial review of agency action is expressly authorized by provision of law.

[1988 c 288 § 501.]

RCW 34.05.514 Petition for review--Where filed.

(1) Except as provided in subsections (2) and (3) of this section, proceedings for review under this chapter shall be instituted by paying the fee required under RCW 36.18.020 and filing a petition in the superior court, at the petitioner's option, for (a) Thurston county, (b) the county of the petitioner's residence or principal place of business, or (c) in any county where the

property owned by the petitioner and affected by the contested decision is located.

(2) For proceedings involving institutions of higher education, the petition shall be filed either in the county in which the principal office of the institution involved is located or in the county of a branch campus if the action involves such branch.

(3) For proceedings conducted by the pollution control hearings board pursuant to chapter 43.21B RCW or as otherwise provided in RCW 90.03.210(2) involving decisions of the department of ecology on applications for changes or transfers of water rights that are the subject of a general adjudication of water rights that is being litigated actively under chapter 90.03 or 90.44 RCW, the petition must be filed with the superior court conducting the adjudication, to be consolidated by the court with the general adjudication. A party to the adjudication shall be a party to the appeal under this chapter only if the party files or is served with a petition for review to the extent required by this chapter.

[2001 c 220 § 3. Prior: 1995 c 347 § 113; 1995 c 292 § 9; 1994 c 257 § 23; 1988 c 288 § 502.]

NOTES:

Intent--Construction--Effective date--2001 c 220: See notes following RCW 43.21B.110.

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

Severability--1994 c 257: See note following RCW 36.70A.270.

RCW 34.05.518 Direct review by court of appeals.

(1) The final decision of an administrative agency in an adjudicative proceeding under this chapter may be directly reviewed by the court of appeals either (a) upon certification by the superior court pursuant to this section or (b) if the final decision is from an environmental board as defined in subsection (3) of this section, upon acceptance by the court of appeals after a certificate of appealability has been filed by the environmental board that rendered the final decision.

(2) For direct review upon certification by the superior court, an application for direct review must be filed with the superior court within thirty days of the filing of the petition for review in superior court. The superior court may certify a case for direct review only if the judicial review is limited to the record of the agency proceeding and the court finds that:

(a) Fundamental and urgent issues affecting the future administrative process or the public interest are involved which require a prompt determination;

(b) Delay in obtaining a final and prompt determination of such issues would be detrimental to any party or the public interest;

(c) An appeal to the court of appeals would be likely regardless of the determination in superior court; and

(d) The appellate court's determination in the proceeding would have significant precedential value.

Procedures for certification shall be established by court rule.

(3)(a) For the purposes of direct review of final decisions of environmental boards, environmental boards include those boards identified in RCW 43.21B.005 and growth management hearings boards as identified in RCW 36.70A.250.

(b) An environmental board may issue a certificate of appealability if it finds that delay in obtaining a final and prompt determination of the issues would be detrimental to any party or the public interest and either:

(i) Fundamental and urgent state-wide or regional issues are raised; or

(ii) The proceeding is likely to have significant precedential value.

(4) The environmental board shall state in the certificate of appealability which criteria it applied, explain how that criteria was met, and file with the certificate a copy of the final decision.

(5) For an appellate court to accept direct review of a final decision of an environmental board, it shall consider the same criteria outlined in subsection (3) of this section.

(6) The procedures for direct review of final decisions of environmental boards include:

(a) Within thirty days after filing the petition for review with the superior court, a party may file an application for direct review with the superior court and serve the appropriate environmental board and all parties of record. The application shall request the environmental board to file a certificate of appealability.

(b) If an issue on review is the jurisdiction of the environmental board, the board may file an application for direct review on that issue.

(c) The environmental board shall have thirty days to grant or deny the request for a certificate of appealability and its decision shall be filed with the superior court and served on all parties of record.

(d) If a certificate of appealability is issued, the parties shall have fifteen days from the date of service to file a notice of discretionary review in the superior court, and the notice shall include a copy of the certificate of appealability and a copy of the final decision.

(e) If the appellate court accepts review, the certificate of appealability shall be transmitted to the court of appeals as part of the certified record.

(f) If a certificate of appealability is denied, review shall be by the superior court. The superior court's decision may be appealed to the court of appeals.

[1995 c 382 § 5; 1988 c 288 § 503; 1980 c 76 § 1. Formerly RCW 34.04.133.]

RCW 34.05.522 Refusal of review by court of appeals.

The court of appeals may refuse to accept direct review of a case pursuant to RCW 34.05.518 if it finds that the case does not meet the applicable standard in RCW 34.05.518(2) or (5). Rules of Appellate Procedure 2.3 do not apply in this instance. The refusal to accept such review is not subject to further appellate review, notwithstanding anything in Rule 13.3 of the Rules of Appellate Procedure to the contrary.

[1995 c 382 § 6; 1988 c 288 § 504; 1980 c 76 § 2. Formerly RCW 34.04.135.]

RCW 34.05.526 Appellate review by supreme court or court of appeals.

An aggrieved party may secure appellate review of any final judgment of the superior court under this chapter by the supreme court or the court of appeals. The review shall be

secured in the manner provided by law for review of superior court decisions in other civil cases.

[1988 c 288 § 505; 1988 c 202 § 35; 1971 c 81 § 87; 1959 c 234 § 14. Formerly RCW 34.04.140.]

Notes:

Reviser's note: This section was amended by 1988 c 202 § 35, effective June 9, 1988, and by 1988 c 288 § 505, effective July 1, 1989, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 34.05.530 Standing.

A person has standing to obtain judicial review of agency action if that person is aggrieved or adversely affected by the agency action. A person is aggrieved or adversely affected within the meaning of this section only when all three of the following conditions are present:

(1) The agency action has prejudiced or is likely to prejudice that person;

(2) That person's asserted interests are among those that the agency was required to consider when it engaged in the agency action challenged; and

(3) A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the agency action.

[1988 c 288 § 506.]

RCW 34.05.534 Exhaustion of administrative remedies.

A person may file a petition for judicial review under this chapter only after exhausting all administrative remedies available within the agency whose action is being challenged, or available within any other agency authorized to exercise administrative review, except:

(1) A petitioner for judicial review of a rule need not have participated in the rule-making proceeding upon which that rule is based, have petitioned for its amendment or repeal, have petitioned the joint administrative rules review committee for its review, or have appealed a petition for amendment or repeal to the governor;

(2) A petitioner for judicial review need not exhaust administrative remedies to the extent that this chapter or any other statute states that exhaustion is not required; or

(3) The court may relieve a petitioner of the requirement to exhaust any or all administrative remedies upon a showing that:

(a) The remedies would be patently inadequate;

(b) The exhaustion of remedies would be futile; or

(c) The grave irreparable harm that would result from having to exhaust administrative remedies would clearly outweigh the public policy requiring exhaustion of administrative remedies.

[1997 c 409 § 302; 1995 c 403 § 803; 1988 c 288 § 507.]

Notes:

Part headings--Severability--1997 c 409: See notes following RCW 43.22.051.
Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.
Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 34.05.542 Time for filing petition for review.

Subject to other requirements of this chapter or of another statute:

(1) A petition for judicial review of a rule may be filed at any time, except as limited by RCW 34.05.375.

(2) A petition for judicial review of an order shall be filed with the court and served on the agency, the office of the attorney general, and all parties of record within thirty days after service of the final order.

(3) A petition for judicial review of agency action other than the adoption of a rule or the entry of an order is not timely unless filed with the court and served on the agency, the office of the attorney general, and all other parties of record within thirty days after the agency action, but the time is extended during any period that the petitioner did not know and was under no duty to discover or could not reasonably have discovered that the agency had taken the action or that the agency action had a sufficient effect to confer standing upon the petitioner to obtain judicial review under this chapter.

(4) Service of the petition on the agency shall be by delivery of a copy of the petition to the office of the director, or other chief administrative officer or chairperson of the agency, at the principal office of the agency. Service of a copy by mail upon the other parties of record and the office of the attorney general shall be deemed complete upon deposit in the United States mail, as evidenced by the postmark.

(5) Failure to timely serve a petition on the office of the attorney general is not grounds for dismissal of the petition.

(6) For purposes of this section, service upon the attorney of record of any agency or party of record constitutes service upon the agency or party of record.

[1998 c 186 § 1; 1988 c 288 § 509.]

RCW 34.05.546 Petition for review--Contents.

A petition for review must set forth:

(1) The name and mailing address of the petitioner;

(2) The name and mailing address of the petitioner's attorney, if any;

(3) The name and mailing address of the agency whose action is at issue;

(4) Identification of the agency action at issue, together with a duplicate copy, summary, or brief description of the agency action;

(5) Identification of persons who were parties in any adjudicative proceedings that led to the agency action;

(6) Facts to demonstrate that the petitioner is entitled to obtain judicial review;

(7) The petitioner's reasons for believing that relief should be granted; and

(8) A request for relief, specifying the type and extent of relief requested.

[1988 c 288 § 510.]

RCW 34.05.550 Stay and other temporary remedies.

(1) Unless precluded by law, the agency may grant a stay, in whole or in part, or other temporary remedy.

(2) After a petition for judicial review has been filed, a party may file a motion in the reviewing court seeking a stay or other temporary remedy.

(3) If judicial relief is sought for a stay or other temporary remedy from agency action based on public health, safety, or welfare grounds the court shall not grant such relief unless the court finds that:

(a) The applicant is likely to prevail when the court finally disposes of the matter;

(b) Without relief the applicant will suffer irreparable injury;

(c) The grant of relief to the applicant will not substantially harm other parties to the proceedings; and

(d) The threat to the public health, safety, or welfare is not sufficiently serious to justify the agency action in the circumstances.

(4) If the court determines that relief should be granted from the agency's action granting a stay or other temporary remedies, the court may remand the matter or may enter an order denying a stay or granting a stay on appropriate terms.

[1989 c 175 § 25; 1988 c 288 § 511.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.554 Limitation on new issues.

(1) Issues not raised before the agency may not be raised on appeal, except to the extent that:

(a) The person did not know and was under no duty to discover or could not have reasonably discovered facts giving rise to the issue;

(b) The agency action subject to judicial review is a rule and the person has not been a party in adjudicative proceedings that provided an adequate opportunity to raise the issue;

(c) The agency action subject to judicial review is an order and the person was not notified of the adjudicative proceeding in substantial compliance with this chapter; or

(d) The interests of justice would be served by resolution of an issue arising from:

(i) A change in controlling law occurring after the agency action; or

(ii) Agency action occurring after the person exhausted the last feasible opportunity for seeking relief from the agency.

(2) The court shall remand to the agency for determination any issue that is properly raised pursuant to subsection (1) of this section.

[1988 c 288 § 512.]

RCW 34.05.558 Judicial review of facts confined to record.

Judicial review of disputed issues of fact shall be conducted by the court without a jury and must be confined to the agency record for judicial review as defined by this chapter, supplemented by additional evidence taken pursuant to this chapter.

[1988 c 288 § 513.]

RCW 34.05.562 New evidence taken by court or agency.

(1) The court may receive evidence in addition to that contained in the agency record for judicial review, only if it relates to the validity of the agency action at the time it was taken and is needed to decide disputed issues regarding:

(a) Improper constitution as a decision-making body or grounds for disqualification of those taking the agency action;

(b) Unlawfulness of procedure or of decision-making process; or

(c) Material facts in rule making, brief adjudications, or other proceedings not required to be determined on the agency record.

(2) The court may remand a matter to the agency, before final disposition of a petition for review, with directions that the agency conduct fact-finding and other proceedings the court considers necessary and that the agency take such further action on the basis thereof as the court directs, if:

(a) The agency was required by this chapter or any other provision of law to base its action exclusively on a record of a type reasonably suitable for judicial review, but the agency failed to prepare or preserve an adequate record;

(b) The court finds that (i) new evidence has become available that relates to the validity of the agency action at the time it was taken, that one or more of the parties did not know and was under no duty to discover or could not have reasonably been discovered until after the agency action, and (ii) the interests of justice would be served by remand to the agency;

(c) The agency improperly excluded or omitted evidence from the record; or

(d) A relevant provision of law changed after the agency action and the court determines that the new provision may control the outcome.

[1988 c 288 § 514.]

RCW 34.05.566 Agency record for review--Costs.

(1) Within thirty days after service of the petition for judicial review, or within further time allowed by the court or by other provision of law, the agency shall transmit to the court the original or a certified copy of the agency record for judicial review of the agency action. The record shall consist of any agency documents expressing the agency action, other documents identified by the agency as having been considered by it before its action and used as a basis for its action, and any other material described in this chapter as the agency record for the type of agency action at issue, subject to the provisions of this section.

(2) If part of the record has been preserved without a transcript, the agency shall prepare a transcript for inclusion in the record transmitted to the court, except for portions that the parties stipulate to omit in accordance with subsection (4) of this section.

(3) The agency may charge a nonindigent petitioner with the reasonable costs of preparing any necessary copies and transcripts for transmittal to the court. A failure by the petitioner to pay any of this cost to the agency relieves the agency from the responsibility for preparation of the record and transmittal to the court.

(4) The record may be shortened, summarized, or organized temporarily or, by stipulation of all parties, permanently.

(5) The court may tax the cost of preparing transcripts and copies of the record:

(a) Against a party who unreasonably refuses to stipulate to shorten, summarize, or organize the record; or

(b) In accordance with any provision of law.

(6) Additions to the record pursuant to RCW 34.05.562 must be made as ordered by the court.

(7) The court may require or permit subsequent corrections or additions to the record.

[1989 c 175 § 26; 1988 c 288 § 515.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.570 Judicial review.

(1) Generally. Except to the extent that this chapter or another statute provides otherwise:

(a) The burden of demonstrating the invalidity of agency action is on the party asserting invalidity;

(b) The validity of agency action shall be determined in accordance with the standards of review provided in this section, as applied to the agency action at the time it was taken;

(c) The court shall make a separate and distinct ruling on each material issue on which the court's decision is based; and

(d) The court shall grant relief only if it determines that a person seeking judicial relief has been substantially prejudiced by the action complained of.

(2) Review of rules. (a) A rule may be reviewed by petition for declaratory judgment filed pursuant to this subsection or in the context of any other review proceeding under this section. In an action challenging the validity of a rule, the agency shall be made a party to the proceeding.

(b) The validity of any rule may be determined upon petition for a declaratory judgment addressed to the superior court of Thurston county, when it appears that the rule, or its threatened application, interferes with or impairs or immediately threatens to interfere with or impair the legal rights or privileges of the petitioner. The declaratory judgment order may be entered whether or not the petitioner has first requested the agency to pass upon the validity of the rule in question.

(c) In a proceeding involving review of a rule, the court shall declare the rule invalid only

if it finds that: The rule violates constitutional provisions; the rule exceeds the statutory authority of the agency; the rule was adopted without compliance with statutory rule-making procedures; or the rule is arbitrary and capricious.

(3) Review of agency orders in adjudicative proceedings. The court shall grant relief from an agency order in an adjudicative proceeding only if it determines that:

(a) The order, or the statute or rule on which the order is based, is in violation of constitutional provisions on its face or as applied;

(b) The order is outside the statutory authority or jurisdiction of the agency conferred by any provision of law;

(c) The agency has engaged in unlawful procedure or decision-making process, or has failed to follow a prescribed procedure;

(d) The agency has erroneously interpreted or applied the law;

(e) The order is not supported by evidence that is substantial when viewed in light of the whole record before the court, which includes the agency record for judicial review, supplemented by any additional evidence received by the court under this chapter;

(f) The agency has not decided all issues requiring resolution by the agency;

(g) A motion for disqualification under RCW 34.05.425 or 34.12.050 was made and was improperly denied or, if no motion was made, facts are shown to support the grant of such a motion that were not known and were not reasonably discoverable by the challenging party at the appropriate time for making such a motion;

(h) The order is inconsistent with a rule of the agency unless the agency explains the inconsistency by stating facts and reasons to demonstrate a rational basis for inconsistency; or

(i) The order is arbitrary or capricious.

(4) Review of other agency action.

(a) All agency action not reviewable under subsection (2) or (3) of this section shall be reviewed under this subsection.

(b) A person whose rights are violated by an agency's failure to perform a duty that is required by law to be performed may file a petition for review pursuant to RCW 34.05.514, seeking an order pursuant to this subsection requiring performance. Within twenty days after service of the petition for review, the agency shall file and serve an answer to the petition, made in the same manner as an answer to a complaint in a civil action. The court may hear evidence, pursuant to RCW 34.05.562, on material issues of fact raised by the petition and answer.

(c) Relief for persons aggrieved by the performance of an agency action, including the exercise of discretion, or an action under (b) of this subsection can be granted only if the court determines that the action is:

(i) Unconstitutional;

(ii) Outside the statutory authority of the agency or the authority conferred by a provision of law;

(iii) Arbitrary or capricious; or

(iv) Taken by persons who were not properly constituted as agency officials lawfully entitled to take such action.

[1995 c 403 § 802; 1989 c 175 § 27; 1988 c 288 § 516; 1977 ex.s. c 52 § 1; 1967 c 237 § 6; 1959 c 234 § 13. Formerly RCW 34.04.130.]

Notes:

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.574 Type of relief.

(1) In a review under RCW 34.05.570, the court may (a) affirm the agency action or (b) order an agency to take action required by law, order an agency to exercise discretion required by law, set aside agency action, enjoin or stay the agency action, remand the matter for further proceedings, or enter a declaratory judgment order. The court shall set out in its findings and conclusions, as appropriate, each violation or error by the agency under the standards for review set out in this chapter on which the court bases its decision and order. In reviewing matters within agency discretion, the court shall limit its function to assuring that the agency has exercised its discretion in accordance with law, and shall not itself undertake to exercise the discretion that the legislature has placed in the agency. The court shall remand to the agency for modification of agency action, unless remand is impracticable or would cause unnecessary delay.

(2) The sole remedy available to a person who is wrongfully denied licensure based upon a failure to pass an examination administered by a state agency, or under its auspices, is the right to retake the examination free of the defect or defects the court may have found in the examination or the examination procedure.

(3) The court may award damages, compensation, or ancillary relief only to the extent expressly authorized by another provision of law.

(4) If the court sets aside or modifies agency action or remands the matter to the agency for further proceedings, the court may make any interlocutory order it finds necessary to preserve the interests of the parties and the public, pending further proceedings or agency action.

[1989 c 175 § 28; 1988 c 288 § 517.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.578 Petition by agency for enforcement.

(1) In addition to other remedies provided by law, an agency may seek enforcement of its rule or order by filing a petition for civil enforcement in the superior court.

(2) The petition must name as respondent each alleged person against whom the agency seeks to obtain civil enforcement.

(3) Venue is determined as in other civil cases.

(4) A petition for civil enforcement filed by an agency may request, and the court may grant, declaratory relief, temporary or permanent injunctive relief, any other civil remedy provided by law, or any combination of the foregoing.

[1988 c 288 § 518.]

RCW 34.05.582 Petition by others for enforcement.

(1) Any person who would qualify under this chapter as having standing to obtain judicial review of an agency's failure to enforce an order directed to another person may file a petition for civil enforcement of that order, but the action may not be commenced:

(a) Until at least sixty days after the petitioner has given notice of the alleged violation and of the petitioner's intent to seek civil enforcement to the head of the agency concerned, to the attorney general, and to each person against whom the petitioner seeks civil enforcement;

(b) If the agency has filed and is diligently prosecuting a petition for civil enforcement of the same order against the same person; or

(c) If a petition for review of the same order has been filed and a stay is in effect.

(2) The petition shall name, as respondents, the agency whose order is sought to be enforced and each person against whom the petitioner seeks civil enforcement.

(3) The agency whose order is sought to be enforced may move to dismiss the petition on the grounds that it fails to qualify under this section or that the enforcement would be contrary to the policy of the agency. The court shall grant the motion to dismiss the petition unless the petitioner demonstrates that (a) the petition qualifies under this section and (b) the agency's failure to enforce its order is based on an exercise of discretion that is arbitrary or capricious.

(4) Except to the extent expressly authorized by law, a petition for civil enforcement may not request, and the court may not grant, any monetary payment apart from taxable costs.

[1988 c 288 § 519.]

RCW 34.05.586 Defenses, limitations on.

(1) Except as expressly provided in this section, a respondent may not assert as a defense in a proceeding for civil enforcement any fact or issue that the respondent had an opportunity to assert before the agency or a reviewing court and did not, or upon which the final determination of the agency or a reviewing court was adverse to the respondent. A respondent may assert as a defense only the following:

(a) That the rule or order is invalid under RCW 34.05.570(3) (a), (b), (c), (d), (g), or (h), but only when the respondent did not know and was under no duty to discover, or could not reasonably have discovered, facts giving rise to this issue;

(b) That the interest of justice would be served by resolution of an issue arising from:

(i) A change in controlling law occurring after the agency action; or

(ii) Agency action after the respondent has exhausted the last foreseeable opportunity for seeking relief from the agency or from a reviewing court;

(c) That the order does not apply to the respondent or that the respondent has not violated the order; or

(d) A defense specifically authorized by statute to be raised in a civil enforcement proceeding.

(2) The limitations of subsection (1) of this section do not apply to the extent that:

(a) The agency action sought to be enforced is a rule and the respondent has not been a party in an adjudicative proceeding that provided an adequate opportunity to raise the issue; or

(b) The agency action sought to be enforced is an order and the respondent was not notified actually or constructively of the related adjudicative proceeding in substantial compliance with this chapter.

(3) The court, to the extent necessary for the determination of the matter, may take new evidence.

[1989 c 175 § 29; 1988 c 288 § 520.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.588 Enforcement of agency subpoena.

(1) If a person fails to obey an agency subpoena issued in an adjudicative proceeding, or obeys the subpoena but refuses to testify or produce documents when requested concerning a matter under examination, the agency or attorney issuing the subpoena may petition the superior court of any county where the hearing is being conducted, where the subpoenaed person resides or is found, or where subpoenaed documents are located, for enforcement of the subpoena. The petition shall be accompanied by a copy of the subpoena and proof of service, shall set forth in what specific manner the subpoena has not been complied with, and shall request an order of the court to compel compliance. Upon such petition, the court shall enter an order directing the person to appear before the court at a time and place fixed in the order to show cause why the person has not obeyed the subpoena or has refused to testify or produce documents. A copy of the court's show cause order shall be served upon the person. If it appears to the court that the subpoena was properly issued, and that the particular questions the person refused to answer or the requests for production of documents were reasonable and relevant, the court shall enter an order that the person appear before the agency at the time and place fixed in the order and testify or produce the required documents, and on failing to obey this order the person shall be dealt with as for contempt of court.

(2) Agencies with statutory authority to issue investigative subpoenas may petition for enforcement of such subpoenas in accordance with subsection (1) of this section. The agency may petition the superior court of any county where the subpoenaed person resides or is found, or where subpoenaed documents are located. If it appears to the court that the subpoena was properly issued, that the investigation is being conducted for a lawfully authorized purpose, and that the testimony or documents required to be produced are adequately specified and relevant to the investigation, the court shall enter an order that the person appear before the agency at the time and place fixed in the order and testify or produce the required documents, and failing to obey this order the person shall be dealt with as for contempt of court.

(3) Petitions for enforcement of agency subpoenas are not subject to RCW 34.05.578 through 34.05.590.

[1989 c 175 § 30.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.05.590 Incorporation of other judicial review provisions.

Proceedings for civil enforcement are governed by the following provisions of this chapter on judicial review, as modified where necessary to adapt them to those proceedings:

(1) RCW 34.05.510(2) (ancillary procedural matters); and

(2) RCW 34.05.566 (agency record for judicial review).

[1988 c 288 § 521.]

RCW 34.05.594 Review by higher court.

Decisions on petitions for civil enforcement are reviewable as in other civil cases.

[1988 c 288 § 522.]

RCW 34.05.598 Frivolous petitions.

The provisions of RCW 4.84.185 relating to civil actions that are frivolous and advanced without reasonable cause apply to petitions for judicial review under this chapter.

[1988 c 288 § 607.]

PART VI
LEGISLATIVE REVIEW

RCW 34.05.610 Joint administrative rules review committee--Members--Appointment--Terms--Vacancies.

(1) There is hereby created a joint administrative rules review committee which shall be a bipartisan committee consisting of four senators and four representatives from the state legislature. The senate members of the committee shall be appointed by the president of the senate, and the house members of the committee shall be appointed by the speaker of the house. Not more than two members from each house may be from the same political party. The appointing authorities shall also appoint one alternate member from each caucus of each house. All appointments to the committee are subject to approval by the caucuses to which the appointed members belong.

(2) Members and alternates shall be appointed as soon as possible after the legislature convenes in regular session in an odd-numbered year, and their terms shall extend until their successors are appointed and qualified at the next regular session of the legislature in an odd-numbered year or until such persons no longer serve in the legislature, whichever occurs

first. Members and alternates may be reappointed to the committee.

(3) On or about January 1, 1999, the president of the senate shall appoint the chairperson and the vice chairperson from among the committee membership. The speaker of the house shall appoint the chairperson and the vice chairperson in alternating even-numbered years beginning in the year 2000 from among the committee membership. The secretary of the senate shall appoint the chairperson and the vice chairperson in the alternating even-numbered years beginning in the year 2002 from among the committee membership. Such appointments shall be made in January of each even-numbered year as soon as possible after a legislative session convenes.

(4) The chairperson of the committee shall cause all meeting notices and committee documents to be sent to the members and alternates. A vacancy shall be filled by appointment of a legislator from the same political party as the original appointment. The appropriate appointing authority shall make the appointment within thirty days of the vacancy occurring.

[1998 c 280 § 9; 1996 c 318 § 2; 1988 c 288 § 601; 1983 c 53 § 1; 1981 c 324 § 5. Formerly RCW 34.04.210.]

Notes:

Legislative affirmation--Severability--1981 c 324: See notes following RCW 34.05.010.

RCW 34.05.620 Review of proposed rules--Notice.

If the rules review committee finds by a majority vote of its members that a proposed rule is not within the intent of the legislature as expressed in the statute which the rule implements, or that an agency may not be adopting a proposed rule in accordance with all applicable provisions of law, the committee shall give the affected agency written notice of its decision. The notice shall be given at least seven days prior to any hearing scheduled for consideration of or adoption of the proposed rule pursuant to RCW 34.05.320. The notice shall include a statement of the review committee's findings and the reasons therefor. When the agency holds a hearing on the proposed rule, the agency shall consider the review committee's decision.

[1996 c 318 § 3; 1994 c 249 § 17; 1988 c 288 § 602; 1987 c 451 § 1; 1981 c 324 § 6. Formerly RCW 34.04.220.]

Notes:

Severability--Application--1994 c 249: See notes following RCW 34.05.310.

Legislative affirmation--Severability--1981 c 324: See notes following RCW 34.05.010.

RCW 34.05.630 Review of existing rules--Policy and interpretive statements, etc.--Notice--Hearing.

(1) All rules required to be filed pursuant to RCW 34.05.380, and emergency rules adopted pursuant to RCW 34.05.350, are subject to selective review by the committee.

(2) All agency policy and interpretive statements, guidelines, and documents that are of general applicability, or their equivalents, are subject to selective review by the committee to determine whether or not a statement, guideline, or document that is of general applicability, or its equivalent, is being used as a rule that has not been adopted in accordance with all applicable

provisions of law.

(3) If the rules review committee finds by a majority vote of its members: (a) That an existing rule is not within the intent of the legislature as expressed by the statute which the rule implements, (b) that the rule has not been adopted in accordance with all applicable provisions of law, or (c) that an agency is using a policy or interpretive statement in place of a rule, the agency affected shall be notified of such finding and the reasons therefor. Within thirty days of the receipt of the rules review committee's notice, the agency shall file notice of a hearing on the rules review committee's finding with the code reviser and mail notice to all persons who have made timely request of the agency for advance notice of its rule-making proceedings as provided in RCW 34.05.320. The agency's notice shall include the rules review committee's findings and reasons therefor, and shall be published in the Washington state register in accordance with the provisions of chapter 34.08 RCW.

(4) The agency shall consider fully all written and oral submissions regarding (a) whether the rule in question is within the intent of the legislature as expressed by the statute which the rule implements, (b) whether the rule was adopted in accordance with all applicable provisions of law, and (c) whether the agency is using a policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent, in place of a rule.

[1998 c 21 § 1; 1996 c 318 § 4; 1994 c 249 § 18; 1993 c 277 § 1; 1988 c 288 § 603; 1987 c 451 § 2; 1981 c 324 § 7. Formerly RCW 34.04.230.]

Notes:

Severability--Application--1994 c 249: See notes following RCW 34.05.310.

Legislative affirmation--Severability--1981 c 324: See notes following RCW 34.05.010.

RCW 34.05.640 Committee objections to agency intended action--Statement in register and WAC--Suspension of rule.

(1) Within seven days of an agency hearing held after notification of the agency by the rules review committee pursuant to RCW 34.05.620 or 34.05.630, the affected agency shall notify the committee of its intended action on a proposed or existing rule to which the committee objected or on a committee finding of the agency's failure to adopt rules.

(2) If the rules review committee finds by a majority vote of its members: (a) That the proposed or existing rule in question will not be modified, amended, withdrawn, or repealed by the agency so as to conform with the intent of the legislature, (b) that an existing rule was not adopted in accordance with all applicable provisions of law, or (c) that the agency will not replace the policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent, with a rule, the rules review committee may, within thirty days from notification by the agency of its intended action, file with the code reviser notice of its objections together with a concise statement of the reasons therefor. Such notice and statement shall also be provided to the agency by the rules review committee.

(3)(a) If the rules review committee makes an adverse finding regarding an existing rule under subsection (2)(a) or (b) of this section, the committee may, by a majority vote of its members, recommend suspension of the rule. Within seven days of such vote the committee shall

transmit to the appropriate standing committees of the legislature, the governor, the code reviser, and the agency written notice of its objection and recommended suspension and the concise reasons therefor. Within thirty days of receipt of the notice, the governor shall transmit to the committee, the code reviser, and the agency written approval or disapproval of the recommended suspension. If the suspension is approved by the governor, it is effective from the date of that approval and continues until ninety days after the expiration of the next regular legislative session.

(b) If the rules review committee makes an adverse finding regarding a policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent, under subsection (2)(c) of this section, the committee may, by a majority vote of its members, advise the governor of its finding.

(4) The code reviser shall publish transmittals from the rules review committee or the governor issued pursuant to subsection (2) or (3) of this section in the Washington state register and shall publish in the next supplement and compilation of the Washington Administrative Code a reference to the committee's objection or recommended suspension and the governor's action on it and to the issue of the Washington state register in which the full text thereof appears.

(5) The reference shall be removed from a rule published in the Washington Administrative Code if a subsequent adjudicatory proceeding determines that the rule is within the intent of the legislature or was adopted in accordance with all applicable laws, whichever was the objection of the rules review committee.

[1998 c 21 § 2; 1996 c 318 § 5; 1994 c 249 § 19; 1993 c 277 § 2; 1988 c 288 § 604; 1987 c 451 § 3; 1981 c 324 § 8. Formerly RCW 34.04.240.]

Notes:

Severability--Application--1994 c 249: See notes following RCW 34.05.310.

Legislative affirmation--Severability--1981 c 324: See notes following RCW 34.05.010.

RCW 34.05.650 Recommendations by committee to legislature.

The rules review committee may recommend to the legislature that the original enabling legislation serving as authority for the adoption of any rule reviewed by the committee be amended or repealed in such manner as the committee deems advisable.

[1988 c 288 § 605; 1987 c 451 § 4; 1981 c 324 § 9. Formerly RCW 34.04.250.]

Notes:

Legislative affirmation--Severability--1981 c 324: See notes following RCW 34.05.010.

RCW 34.05.655 Petition for review.

(1) Any person may petition the rules review committee for a review of a proposed or existing rule or a proposed or existing policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent. A petition to review a statement, guideline, or

document that is of general applicability, or its equivalent, may only be filed for the purpose of requesting the committee to determine whether the statement, guideline, or document that is of general applicability, or its equivalent, is being used as a rule that has not been adopted in accordance with all provisions of law. Within thirty days of the receipt of the petition, the rules review committee shall acknowledge receipt of the petition and describe any initial action taken. If the rules review committee rejects the petition, a written statement of the reasons for rejection shall be included.

(2) A person may petition the rules review committee under subsection (1) of this section requesting review of an existing rule only if the person has petitioned the agency to amend or repeal the rule under RCW 34.05.330(1) and such petition was denied.

(3) A petition for review of a rule under subsection (1) of this section shall:

(a) Identify with specificity the proposed or existing rule to be reviewed;

(b) Identify the specific statute identified by the agency as authorizing the rule, the specific statute which the rule interprets or implements, and, if applicable, the specific statute the department is alleged not to have followed in adopting the rule;

(c) State the reasons why the petitioner believes that the rule is not within the intent of the legislature, or that its adoption was not or is not in accordance with law, and provide documentation to support these statements;

(d) Identify any known judicial action regarding the rule or statutes identified in the petition.

A petition to review an existing rule shall also include a copy of the agency's denial of a petition to amend or repeal the rule issued under RCW 34.05.330(1) and, if available, a copy of the governor's denial issued under RCW 34.05.330(3).

(4) A petition for review of a policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent, under subsection (1) of this section shall:

(a) Identify the specific policy or interpretative statement, guideline, or document that is of general applicability, or its equivalent, to be reviewed;

(b) Identify the specific statute which the rule interprets or implements;

(c) State the reasons why the petitioner believes that the policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent, meets the definition of a rule under RCW 34.05.010 and should have been adopted according to the procedures of this chapter;

(d) Identify any known judicial action regarding the policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent, or statutes identified in the petition.

(5) Within ninety days of receipt of the petition, the rules review committee shall make a final decision on the rule for which the petition for review was not previously rejected.

[1998 c 21 § 3; 1996 c 318 § 7; 1995 c 403 § 502.]

Notes:

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 34.05.660 Review and objection procedures--No presumption established.

It is the express policy of the legislature that establishment of procedures for review of administrative rules by the legislature and the notice of objection required by RCW 34.05.630(3) and 34.05.640(2) in no way serves to establish a presumption as to the legality or constitutionality of a rule in any subsequent judicial proceedings interpreting such rules.

[2001 c 64 § 2; 1988 c 288 § 606; 1981 c 324 § 10. Formerly RCW 34.04.260.]

NOTES:

Legislative affirmation--Severability--1981 c 324: See notes following RCW 34.05.010.

RCW 34.05.665 Submission of rule for review--State employees protected.

Any individual employed or holding office in any department or agency of state government may submit rules warranting review to the rules review committee. Any such state employee is protected under chapter 42.40 RCW.

[1995 c 403 § 503.]

Notes:

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 34.05.671 Reports--Advisory boards--Staff.

(1) The rules review committee may make reports from time to time to the members of the legislature and to the public with respect to any of its findings or recommendations. The committee shall keep complete minutes of its meetings.

(2) The committee may establish ad hoc advisory boards, including but not limited to, ad hoc economics or science advisory boards to assist the committee in its rules review functions.

(3) The committee may hire staff as needed to perform functions under this chapter.

[1995 c 403 § 505.]

Notes:

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 34.05.675 Inspection of properties--Oaths, subpoenas, witnesses, depositions.

In the discharge of any duty imposed under this chapter, the rules review committee may examine and inspect all properties, equipment, facilities, files, records, and accounts of any state office, department, institution, board, committee, commission, or agency, and administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents, and testimony, and cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by law for taking depositions in civil actions in the superior courts.

[1995 c 403 § 506.]

Notes:

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.
Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 34.05.681 Enforcement--Committee subpoena--Refusal to testify.

In case of the failure on the part of any person to comply with any subpoena issued in [on] behalf of the rules review committee, or on the refusal of any witness to testify to any matters regarding which he or she may be lawfully interrogated, it is the duty of the superior court of any county, or of the judge thereof, on application of the committee, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in the court.

[1995 c 403 § 507.]

Notes:

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.
Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

PART IX
TECHNICAL PROVISIONS

RCW 34.05.900 Captions and headings.

Section captions and subchapter headings used in this chapter do not constitute any part of the law.

[1988 c 288 § 703.]

RCW 34.05.901 Severability--1988 c 288.

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

[1988 c 288 § 704.]

RCW 34.05.902 Effective date--Application--1988 c 288.

RCW 34.05.001 through 34.05.902 shall take effect on July 1, 1989, and shall apply to all rule-making actions and agency proceedings begun on or after that date. Rule-making actions or other agency proceedings begun before July 1, 1989, shall be completed under the applicable provisions of chapter 28B.19 or 34.04 RCW existing immediately before that date in the same manner as if they were not amended by chapter 288, Laws of 1988 or repealed by section 701 of chapter 288, Laws of 1988.

[1988 c 288 § 705.]

Notes:

Recodification--Correction of statutory references--1988 c 288: "Parts X through XV of this act shall constitute a new chapter in Title 34 RCW, and the sections amended or set forth in this act shall be recodified in the order they appear in this act. The code reviser shall correct all statutory references to these sections and to the repealed chapters 28B.19 and 34.04 RCW to reflect this recodification and repeal." [1988 c 288 § 706.]

RCW 34.05.903 Severability--1998 c 280.

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

[1998 c 280 § 14.]

Chapter 34.08 RCW
WASHINGTON STATE REGISTER ACT OF 1977

Sections

34.08.010 Legislative finding.
34.08.020 Washington State Register--Created--Publication period--Contents.
34.08.030 Preparation and transmittal of material by agencies to code reviser--Rules regarding.
34.08.040 Publication in register deemed official notice--Certification of material.
34.08.050 Institutions of higher education considered state agencies for certain purposes.
34.08.900 Short title.
34.08.905 Effective date--1977 ex.s. c 240.
34.08.910 Severability--1977 ex.s. c 240.

Notes:

Regulatory Fairness Act: Chapter 19.85 RCW.

RCW 34.08.010 Legislative finding.

The legislature finds that a need exists to adequately inform the public on the conduct of the people's business by state government, and that providing adequate notice of the affairs of government enables the public to actively participate in the conduct of state government. The legislature further finds that the promulgation of rules by state agencies has a direct effect on the ability of the people to conduct their personal affairs and knowledgeably deal with state government. It is therefore the intent and purpose of RCW 1.08.110 and 42.30.075 and of this chapter to require the publication of a state register by which the public will be adequately informed of the activities of government and where they may actively participate in the conduct of state government and influence the decision making process of the people's business.

[1977 ex.s. c 240 § 1.]

RCW 34.08.020 Washington State Register--Created--Publication period--Contents.

There is hereby created a state publication to be called the Washington State Register, which shall be published on no less than a monthly basis. The register shall contain, but is not limited to, the following materials received by the code reviser's office during the pertinent publication period:

(1)(a) The full text of any proposed new or amendatory rule, as defined in RCW 34.05.010, and the citation of any existing rules the repeal of which is proposed, prior to the public hearing on such proposal. Such material shall be considered, when published, to be the official notification of the intended action, and no state agency or official thereof may take action on any such rule except on emergency rules adopted in accordance with RCW 34.05.350, until twenty days have passed since the distribution date of the register in which the rule and hearing notice have been published or a notice regarding the omission of the rule has been published pursuant to RCW 34.05.210(4) as now or hereafter amended;

(b) The small business economic impact statement, if required by RCW 19.85.030, preceding the full text of the proposed new or amendatory rule;

(2) The full text of any new or amendatory rule adopted, and the citation of any existing rule repealed, on a permanent or emergency basis;

(3) Executive orders and emergency declarations of the governor;

(4) Public meeting notices of any and all agencies of state government, including state elected officials whose offices are created by Article III of the state Constitution or RCW 48.02.010;

(5) Rules of the state supreme court which have been adopted but not yet published in an official permanent codification;

(6) Summaries of attorney general opinions and letter opinions, noting the number, date, subject, and other information, and prepared by the attorney general for inclusion in the register;

(7) Juvenile disposition standards and security guidelines proposed and adopted under RCW 13.40.030;

(8) Proposed and adopted rules of the commission on judicial conduct;

(9) The maximum allowable rates of interest and retail installment contract service charges filed by the state treasurer under RCW 19.52.025 and *63.14.135. In addition, the highest rate of interest permissible for the current month and the maximum retail installment contract service charge for the current year shall be published in each issue of the register. The publication of the maximum allowable interest rate established pursuant to RCW 19.52.025 shall be accompanied by the following advisement: NOTICE: FEDERAL LAW PERMITS FEDERALLY INSURED FINANCIAL INSTITUTIONS IN THE STATE TO CHARGE THE HIGHEST RATE OF INTEREST THAT MAY BE CHARGED BY ANY FINANCIAL INSTITUTION IN THE STATE. THE MAXIMUM ALLOWABLE RATE OF INTEREST SET FORTH ABOVE MAY NOT APPLY TO A PARTICULAR TRANSACTION; and

(10) A list of corporations dissolved during the preceding month filed by the secretary of state under chapter 23B.14 RCW.

[1995 c 47 § 9; 1987 c 186 § 8; 1986 c 60 § 3; 1983 c 2 § 8. Prior: 1982 c 6 § 6; 1981 c 299 § 18; 1980 c 186 § 15; 1977 ex.s. c 240 § 3.]

Notes:

***Reviser's note:** RCW 63.14.135 was repealed by 1995 c 249 § 1.

Severability--1983 c 2: See note following RCW 18.71.030.

Severability--1982 c 6: See RCW 19.85.900.

Severability--1980 c 186: See note following RCW 34.05.320.

Schedule of regular meetings of state agencies: RCW 42.30.075.

RCW 34.08.030 Preparation and transmittal of material by agencies to code reviser--Rules regarding.

All material included in the register pursuant to RCW 34.08.020 shall be prepared by the appropriate agency or official and transmitted to the code reviser in accordance with rules adopted by the code reviser prescribing the style, format, and numbering system therefor, the date of receipt for inclusion within a particular register, and such other requirements as may be necessary for the orderly and efficient publication of the register and the Washington Administrative Code.

[1977 ex.s. c 240 § 4.]

RCW 34.08.040 Publication in register deemed official notice--Certification of material.

The publication of any information in the Washington State Register shall be deemed to be official notice of such information, and publication in the register of such information and materials shall be certified to be the true and correct copy of such rules or other information as filed in the code reviser's office. The code reviser shall certify, to any court of record, the publication of any notice or information, and attached to such certification shall be the agency's declaration of compliance with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), and this chapter.

[1989 c 175 § 31; 1977 ex.s. c 240 § 5.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.08.050 Institutions of higher education considered state agencies for certain purposes.

For the purposes of the state register and this chapter, an institution of higher education, as defined in RCW 34.05.010, shall be considered to be a state agency.

[1989 c 175 § 32; 1977 ex.s. c 240 § 6.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 34.08.900 Short title.

This 1977 amendatory act may be known as the Washington State Register Act of 1977.

[1977 ex.s. c 240 § 15.]

RCW 34.08.905 Effective date--1977 ex.s. c 240.

This 1977 amendatory act shall take effect January 1, 1978.

[1977 ex.s. c 240 § 16.]

RCW 34.08.910 Severability--1977 ex.s. c 240.

If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1977 ex.s. c 240 § 17.]

Chapter 34.12 RCW
OFFICE OF ADMINISTRATIVE HEARINGS

Sections

34.12.010	Office created--Conduct of hearings--Chief administrative law judge, appointment, term, qualifications, removal.
34.12.020	Definitions.
34.12.030	Administrative law judges--Appointment and contractual basis--Clerical personnel--Discipline and termination of administrative law judges--Civil service--Rules for operation of office.
34.12.035	State patrol disciplinary hearings.
34.12.037	Human rights commission proceedings.
34.12.038	Local government whistleblower proceedings.
34.12.039	Local government whistleblower proceedings--Costs.
34.12.040	Hearings conducted by administrative law judges--Criteria for assignment.
34.12.050	Administrative law judge--Motion of prejudice against--Request for assignment of.
34.12.060	Initial decision or proposal for decision--Findings of fact and conclusions of law--Inapplicability to state patrol disciplinary hearings.
34.12.070	Record of hearings.
34.12.080	Procedural conduct of hearings--Rules.
34.12.090	Transfer of employees and equipment.
34.12.100	Salaries.
34.12.110	Application of chapter.
34.12.120	Appointment of chief administrative law judge.
34.12.130	Administrative hearings revolving fund--Created, purposes.
34.12.140	Transfers and payments into revolving fund--Limitation on employment security department payments--Allotment by director of financial management--Disbursements from fund by voucher.
34.12.150	Accounting procedures.
34.12.160	Direct payments by agencies, when authorized.

Notes:
Bilingual services for non-English speaking public assistance applicants and recipients: RCW 74.04.025.

RCW 34.12.010 Office created--Conduct of hearings--Chief administrative law judge, appointment, term, qualifications, removal.

A state office of administrative hearings is hereby created. The office shall be independent of state administrative agencies and shall be responsible for impartial administration of administrative hearings in accordance with the legislative intent expressed by this chapter. Hearings shall be conducted with the greatest degree of informality consistent with fairness and the nature of the proceeding. The office shall be under the direction of a chief administrative law judge, appointed by the governor with the advice and consent of the senate, for a term of five years. The person appointed is required, as a condition of appointment, to be admitted to practice law in the state of Washington, and may be removed for cause.

[1981 c 67 § 1.]

NOTES:

Effective dates--1981 c 67: "Sections 12 and 37 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately. The remainder of the act shall take effect July 1, 1982." [1981 c 67 § 40.]

Severability--1981 c 67: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 67 § 39.]

RCW 34.12.020 Definitions.

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

(1) "Office" means the office of administrative hearings.

(2) "Administrative law judge" means any person appointed by the chief administrative law judge to conduct or preside over hearings as provided in this chapter.

(3) "Hearing" means an adjudicative proceeding within the meaning of RCW 34.05.010(1) conducted by a state agency under RCW 34.05.413 through 34.05.476.

(4) "State agency" means any state board, commission, department, or officer authorized by law to make rules or to conduct adjudicative proceedings, except those in the legislative or judicial branches, the growth management hearings boards, the utilities and transportation commission, the pollution control hearings board, the shorelines hearings board, the forest practices appeals board, the environmental hearings office, the board of industrial insurance appeals, the Washington personnel resources board, the public employment relations commission, the personnel appeals board, and the board of tax appeals.

[1995 c 331 § 1; 1994 c 257 § 22; 1993 c 281 § 16; 1989 c 175 § 33; 1982 c 189 § 1; 1981 c 67 § 2.]

Notes:

Severability--1994 c 257: See note following RCW 36.70A.270.
Effective date--1993 c 281: See note following RCW 41.06.022.
Effective date--1989 c 175: See note following RCW 34.05.010.
Effective date--1982 c 189: "This act shall take effect July 1, 1982." [1982 c 189 § 16.]
Effective dates--Severability--1981 c 67: See notes following RCW 34.12.010.

RCW 34.12.030 Administrative law judges--Appointment and contractual basis--Clerical personnel--Discipline and termination of administrative law judges--Civil service--Rules for operation of office.

(1) The chief administrative law judge shall appoint administrative law judges to fulfill the duties prescribed in this chapter. All administrative law judges shall have a demonstrated knowledge of administrative law and procedures. The chief administrative law judge may establish different levels of administrative law judge positions.

(2) The chief administrative law judge may also contract with qualified individuals to serve as administrative law judges for specified hearings. Such individuals shall be compensated for their services on a contractual basis for each hearing, in accordance with chapter 43.88 RCW. The chief administrative law judge may not contract with any individual who is at that time an employee of the state.

(3) The chief administrative law judge may appoint such clerical and other specialized or technical personnel as may be necessary to carry on the work of this chapter.

(4) The administrative law judges appointed under subsection (1) of this section are subject to discipline and termination, for cause, by the chief administrative law judge. Upon written request by the person so disciplined or terminated, the chief administrative law judge shall forthwith put the reasons for such action in writing. The person affected has a right of review by the superior court of Thurston county on petition for reinstatement or other remedy filed within thirty days of receipt of such written reasons.

(5) All employees of the office except the chief administrative law judge and the administrative law judges are subject to chapter 41.06 RCW.

(6) The office may adopt rules for its own operation and in furtherance of this chapter in accordance with chapter 34.05 RCW.

[1981 c 67 § 3.]

Notes:

Effective dates--Severability--1981 c 67: See notes following RCW 34.12.010.

RCW 34.12.035 State patrol disciplinary hearings.

The chief administrative law judge shall designate an administrative law judge to serve, as the need arises, as presiding officer in state patrol disciplinary hearings conducted under RCW 43.43.090.

[1984 c 141 § 6.]

RCW 34.12.037 Human rights commission proceedings.

When requested by the state human rights commission, the chief administrative law judge shall assign an administrative law judge to conduct proceedings under chapter 49.60 RCW.

[1985 c 185 § 29.]

RCW 34.12.038 Local government whistleblower proceedings.

When requested by a local government, the chief administrative law judge shall assign an administrative law judge to conduct proceedings under chapter 42.41 RCW.

[1992 c 44 § 8.]

Notes:

Effective dates--Severability--1992 c 44: See RCW 42.41.901 and 42.41.902.

RCW 34.12.039 Local government whistleblower proceedings--Costs.

Costs for the services of the office of administrative hearings for the initial twenty-four hours of services on a hearing under chapter 42.41 RCW shall be billed to the local government administrative hearings account. Costs for services beyond the initial twenty-four hours of services shall be allocated to the parties by the administrative law judge, the proportion to be borne by each party at the discretion of the administrative law judge. The charges for these costs shall be billed to the affected local government that shall recover payment from any other party specified by the administrative law judge.

[1992 c 44 § 9.]

Notes:

Effective date--Severability--1992 c 44: See RCW 42.41.901 and 42.41.902.

RCW 34.12.040 Hearings conducted by administrative law judges--Criteria for assignment.

Whenever a state agency conducts a hearing which is not presided over by officials of the agency who are to render the final decision, the hearing shall be conducted by an administrative law judge assigned under this chapter. In assigning administrative law judges, the chief administrative law judge shall wherever practical (1) use personnel having expertise in the field or subject matter of the hearing, and (2) assign administrative law judges primarily to the hearings of particular agencies on a long-term basis.

[1981 c 67 § 4.]

Notes:

Effective dates--Severability--1981 c 67: See notes following RCW 34.12.010.

RCW 34.12.050 Administrative law judge--Motion of prejudice against--Request for assignment of.

(1) Any party to a hearing being conducted under the provisions of this chapter (including the state agency, whether or not it is nominally a party) may file with the chief

administrative law judge a motion of prejudice, with supporting affidavit, against the administrative law judge assigned to preside at the hearing. The first such motion filed by any party shall be automatically granted.

(2) Any state agency may request from the chief administrative law judge the assignment of an administrative law judge for the purpose of conducting a rule-making or investigatory proceeding.

[1981 c 67 § 5.]

Notes:

Effective dates--Severability--1981 c 67: See notes following RCW 34.12.010.

RCW 34.12.060 Initial decision or proposal for decision--Findings of fact and conclusions of law--Inapplicability to state patrol disciplinary hearings.

When an administrative law judge presides at a hearing under this chapter and a majority of the officials of the agency who are to render the final decision have not heard substantially all of the oral testimony and read all exhibits submitted by any party, it shall be the duty of such judge, or in the event of his unavailability or incapacity, of another judge appointed by the chief administrative law judge, to issue an initial decision or proposal for decision including findings of fact and conclusions of law in accordance with RCW 34.05.461 or 34.05.485. However, this section does not apply to a state patrol disciplinary hearing conducted under RCW 43.43.090.

[1989 c 175 § 34; 1984 c 141 § 7; 1982 c 189 § 2; 1981 c 67 § 6.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.
Effective date--1982 c 189: See note following RCW 34.12.020.
Effective dates--Severability--1981 c 67: See notes following RCW 34.12.010.

RCW 34.12.070 Record of hearings.

The chief administrative law judge may establish a method of making a record of all hearings and may employ or contract in order to implement such method.

[1981 c 67 § 7.]

Notes:

Effective dates--Severability--1981 c 67: See notes following RCW 34.12.010.

RCW 34.12.080 Procedural conduct of hearings--Rules.

All hearings shall be conducted in conformance with the Administrative Procedure Act, chapter 34.05 RCW. After consultation with affected agencies, the chief administrative law judge may promulgate rules governing the procedural conduct of the hearings. Such rules shall seek the maximum procedural uniformity in agency hearings consistent with demonstrable needs for individual agency variation.

[1981 c 67 § 8.]

Notes:

Effective dates--Severability--1981 c 67: See notes following RCW 34.12.010.

RCW 34.12.090 Transfer of employees and equipment.

(1) All state employees who have exclusively or principally conducted or presided over hearings for state agencies prior to July 1, 1982, shall be transferred to the office.

(2) All state employees who have exclusively or principally served as support staff for those employees transferred under subsection (1) of this section shall be transferred to the office.

(3) All equipment or other tangible property in possession of state agencies, used or held exclusively or principally by personnel transferred under subsection (1) of this section shall be transferred to the office unless the office of financial management, in consultation with the head of the agency and the chief administrative law judge, determines that the equipment or property will be more efficiently used by the agency if such property is not transferred.

[1981 c 67 § 9.]

Notes:

Effective dates--Severability--1981 c 67: See notes following RCW 34.12.010.

RCW 34.12.100 Salaries.

The chief administrative law judge shall be paid a salary fixed by the governor after recommendation of the state committee on agency officials' salaries. The salaries of administrative law judges appointed under the terms of this chapter shall be determined by the chief administrative law judge after recommendation of the state committee on agency officials' salaries.

[1986 c 155 § 10; 1981 c 67 § 10.]

Notes:

Contingent effective date--Severability--1986 c 155: See notes following RCW 43.03.300.

Effective dates--Severability--1981 c 67: See notes following RCW 34.12.010.

RCW 34.12.110 Application of chapter.

The creation of the office of administrative hearings and the transfer of duties and personnel under this chapter shall not affect the validity of any rule, action, decision, or proceeding held or promulgated by any state agency before July 1, 1982. This chapter applies to hearings occurring after July 1, 1982.

[1981 c 67 § 11.]

Notes:

Effective dates--Severability--1981 c 67: See notes following RCW 34.12.010.

RCW 34.12.120 Appointment of chief administrative law judge.

The governor shall appoint the chief administrative law judge.

[1989 c 175 § 35; 1981 c 67 § 12.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.
Effective dates--Severability--1981 c 67: See notes following RCW 34.12.010.

RCW 34.12.130 Administrative hearings revolving fund--Created, purposes.

The administrative hearings revolving fund is hereby created in the state treasury for the purpose of centralized funding, accounting, and distribution of the actual costs of the services provided to agencies of the state government by the office of administrative hearings.

[1982 c 189 § 9.]

Notes:

Effective date--1982 c 189: See note following RCW 34.12.020.

RCW 34.12.140 Transfers and payments into revolving fund--Limitation on employment security department payments--Allotment by director of financial management--Disbursements from fund by voucher.

The amounts to be disbursed from the administrative hearings revolving fund from time to time shall be transferred thereto by the state treasurer from funds appropriated to any and all agencies for administrative hearings expenses on a quarterly basis. Agencies operating in whole or in part from nonappropriated funds shall pay into the administrative hearings revolving fund such funds as will fully reimburse funds appropriated to the office of administrative hearings for any services provided activities financed by nonappropriated funds. The funds from the employment security department for the administrative hearings services provided by the office of administrative hearings shall not exceed that portion of the resources provided to the employment security department by the department of labor, employment and training administration, for such administrative hearings services. To satisfy department of labor funding requirements, the office of administrative hearings shall meet or exceed timeliness standards under federal regulations in the conduct of employment security department appeals.

The director of financial management shall allot all such funds to the office of administrative hearings for the operation of the office, pursuant to appropriation, in the same manner as appropriated funds are allocated to other agencies under chapter 43.88 RCW.

Disbursements from the administrative hearings revolving fund shall be pursuant to vouchers executed by the chief administrative law judge or his designee.

[1982 c 189 § 10.]

Notes:

Effective date--1982 c 189: See note following RCW 34.12.020.

RCW 34.12.150 Accounting procedures.

The chief administrative law judge shall keep such records as are necessary to facilitate proper allocation of costs to funds and agencies served and the director of financial management shall prescribe appropriate accounting procedures to accurately allocate costs to funds and agencies served. Billings shall be adjusted in line with actual costs incurred at intervals not to exceed six months.

[1982 c 189 § 11.]

Notes:

Effective date--1982 c 189: See note following RCW 34.12.020.

RCW 34.12.160 Direct payments by agencies, when authorized.

In cases where there are unanticipated demands for services of the office of administrative hearings or where there are insufficient funds on hand or available for payment through the administrative hearings revolving fund or in other cases of necessity, the chief administrative law judge may request payment for services directly from agencies for whom the services are performed to the extent that revenues or other funds are available. Upon approval by the director of financial management, the agency shall make the requested payment. The payment may be made on either an advance or reimbursable basis as approved by the director of financial management.

[1982 c 189 § 12.]

Notes:

Effective date--1982 c 189: See note following RCW 34.12.020.

Title 35 RCW
CITIES AND TOWNS

Chapters

35.01 Municipal corporations classified.
35.02 Incorporation proceedings.
35.06 Advancement of classification.
35.07 Disincorporation.
35.10 Consolidation and annexation of cities and towns.
35.13 Annexation of unincorporated areas.
35.13A Water or sewer districts--Assumption of jurisdiction.
35.14 Community municipal corporations.
35.16 Reduction of city limits.
35.17 Commission form of government.
35.18 Council-manager plan.
35.20 Municipal courts--Cities over four hundred thousand.
35.21 Miscellaneous provisions.
35.22 First class cities.
35.23 Second class cities.
35.27 Towns.
35.30 Unclassified cities.
35.31 Accident claims and funds.
35.32A Budgets in cities over 300,000.
35.33 Budgets in second and third class cities, towns, and first class cities under

300,000.
35.34 Biennial budgets.
35.36 Execution of bonds by proxy--First class cities.
35.37 Fiscal--Cities under 20,000 and cities other than first class--Bonds.
35.38 Fiscal--Depositaries.
35.39 Fiscal--Investment of funds.
35.40 Fiscal--Validation and funding of debts.
35.41 Fiscal--Municipal revenue bond act.
35.42 Leases.
35.43 Local improvements--Authority--Initiation of proceedings.
35.44 Local improvements--Assessments and reassessments.
35.45 Local improvements--Bonds and warrants.
35.47 Local improvements--Procedure for cancellation of nonguaranteed bonds.
35.48 Local improvements--Nonguaranteed bonds.
35.49 Local improvements--Collection of assessments.
35.50 Local improvements--Foreclosure of assessments.
35.51 Local improvements--Classification of property--Reserve funds.
35.53 Local improvements--Disposition of property acquired.
35.54 Local improvements--Guaranty funds.
35.55 Local improvements--Filling lowlands.
35.56 Local improvements--Filling and draining lowlands--Waterways.
35.57 Public facilities districts.
35.58 Metropolitan municipal corporations.
35.59 Multi-purpose community centers.
35.60 World fairs or expositions--Participation by municipalities.
35.61 Metropolitan park districts.
35.62 Name--Change of.
35.63 Planning commissions.
35.64 Zoos and aquariums.
35.66 Police matrons.
35.67 Sewerage systems--Refuse collection and disposal.
35.68 Sidewalks, gutters, curbs, and driveways--All cities and towns.
35.69 Sidewalks--Construction, reconstruction in first and second class cities.
35.70 Sidewalks--Construction in second class cities and towns.
35.71 Pedestrian malls.
35.72 Contracts for street, road, and highway projects.
35.73 Street grades--Sanitary fills.
35.74 Streets--Drawbridges.
35.75 Streets--Bicycles--Paths.
35.76 Streets--Budget and accounting.
35.77 Streets--Planning, establishment, construction, and maintenance.

35.78 Streets--Classification and design standards.
35.79 Streets--Vacation.
35.80 Unfit dwellings, buildings, and structures.
35.80A Condemnation of blighted property.
35.81 Urban renewal law.
35.82 Housing authorities law.
35.83 Housing cooperation law.
35.84 Utility and other services beyond city limits.
35.85 Viaducts, elevated roadways, tunnels and subways.
35.86 Off-street parking facilities.
35.86A Off-street parking--Parking commissions.
35.87 Parking facilities--Conveyance of land for in cities over 300,000.
35.87A Parking and business improvement areas.
35.88 Water pollution--Protection from.
35.89 Water redemption bonds.
35.91 Municipal water and sewer facilities act.
35.92 Municipal utilities.
35.94 Sale or lease of municipal utilities.
35.95 Public transportation systems in municipalities.
35.96 Electric and communication facilities--Conversion to underground.
35.97 Heating systems.
35.98 Construction.
35.99 Telecommunications, cable television service--Use of right of way.

Notes:

Acquisition of
open space, etc., land or rights to future development by counties, cities or metropolitan municipal corporations, tax levy: RCW 84.34.200 through 84.34.240, 84.52.010.
property for state highway purposes: RCW 47.12.040.
real or personal property, executory conditional sales contracts for: RCW 39.30.010.
Actions against
public corporations: RCW 4.08.120.
state: Chapter 4.92 RCW.
Actions by in corporate name: RCW 4.08.110.
Adjoining state, eminent domain for watershed: RCW 8.28.050.
Airport zoning: Chapter 14.12 RCW.
Airports, generally: Chapters 14.07, 14.08 RCW.
Alcoholism, private establishments and institutions, prescription of standards: RCW 71.12.550.
Armories, powers concerning: RCW 36.64.050, 38.20.020.
Assessments and charges against state lands: Chapter 79.44 RCW.
Assessor's plats: Chapter 58.18 RCW.
Associations of municipal corporations or municipal officers to furnish information to legislature and governor: RCW 44.04.170.
Auditing false claim, penalty: RCW 42.20.060.
Bankruptcy readjustment and relief from debts: Chapter 39.64 RCW.

Blind made products, purchase of by cities and towns authorized: RCW 19.06.020.
Board of eminent domain commissioners, appointment of: RCW 8.12.260.
Bonds
airports: RCW 14.08.112.
declaratory judgments: Chapter 7.25 RCW.
eminent domain by cities: Chapter 8.12 RCW.
form, terms, maturity: Chapter 39.44 RCW.
industrial development: Chapter 39.84 RCW.
juvenile correctional institution, authorized investment: RCW 72.19.120.
mutual savings banks, authorized investment for: RCW 32.20.070, 32.20.090, 32.20.100.
refunding of: Chapter 39.53 RCW.
savings and loan associations, authorized investment: RCW 33.24.060, 33.24.070.
state-wide city employees' retirement system funds, investment in: RCW 41.44.100.
United States, sale of bonds to at private sale: Chapter 39.48 RCW.
utility or waterworks, refunding with general obligation funding bonds: Chapter 39.53 RCW.
Boundaries and plats: Title 58 RCW.
Boundary review board, extension of water and sewer service beyond corporate boundaries to go before: RCW 36.93.090.
Bribery of public officer: State Constitution Art. 2 § 30.
Bridges
as part of state highway system: Chapter 47.24 RCW.
eminent domain for: RCW 8.12.030.
Buildings
earthquake standards for construction: Chapter 70.86 RCW.
newly constructed, appraisal by assessor: RCW 36.21.070 and 36.21.080.
Burial of dead, authority to provide for: RCW 68.52.030.
Camping resort contracts--Nonapplicability of certain laws to--Club not subdivision except under city, county powers: RCW 19.105.510.
Cemeteries: Title 68 RCW.
Charters
alternative propositions, submission of: State Constitution Art. 11 § 10 (Amendment 40).
amendment by special law prohibited: State Constitution Art. 2 § 28(8).
power of certain cities to frame, procedure: State Constitution Art. 11 § 10 (Amendment 40).
City and town treasurers' duties under Washington Clean Air Act: RCW 70.94.094.
City attorney
eminent domain by cities, military purposes, for, duties: RCW 8.04.170, 8.04.180.
food, drug and cosmetic act violations, prosecution by: RCW 69.04.160.
City council, unincorporated towns on United States land, powers of review: RCW 58.28.520.
City engineer, tidelands and shorelands, records of plats filed with: RCW 79.94.040.
City halls, jointly with county courthouses: RCW 36.64.010 through 36.64.040.
City treasurer
bonds, compensation payment in eminent domain proceedings, liability on: RCW 8.12.500.
cemetery improvement funds, deposit with: RCW 68.52.050.
cities of first class, employees' retirement fund custodian: RCW 41.28.080.
city street fund, notice of illegal use: RCW 47.08.100.
firemen's pension board member: RCW 41.16.020.
misappropriation of funds: RCW 42.20.090.
moneys to be deposited with treasurer: State Constitution Art. 11 § 15.
motor vehicle funds, distribution to: RCW 46.68.080.
police relief and pension board member: RCW 41.20.010.

use of money by official: State Constitution Art. 11 § 14.
Civil service, generally: Title 41 RCW.
Claims
auditing and paying false claim, penalty: RCW 42.20.060.
contracts and liabilities incurred in violation of indebtedness limitations are void: RCW 39.36.040.
Classification by population: State Constitution Art. 11 § 10 (Amendment 40).
Clerks
city streets as part of state highway system certified to clerk: RCW 47.24.010.
firemen's pension board member: RCW 41.16.020.
ordinances recorded by: RCW 5.44.080.
police relief and pension board of trustees member: RCW 41.20.010.
volunteer fire fighters' relief and pension board of trustees, member of: RCW 41.24.060.
Code of ethics for
municipal officers--Contract interests: Chapter 42.23 RCW.
public officers and employees: Chapter 42.52 RCW.
Commission form, nonpartisan primaries: Chapter 29.21 RCW.
Comptroller
first class cities retirement system, duties of: RCW 41.28.040, 41.28.080.
member firemen's relief and pension boards: RCW 41.16.020, 41.16.040.
member volunteer fire fighters' board of trustees: RCW 41.24.060, 41.24.070.
Conditional sales contracts for purchase of real or personal property: RCW 39.30.010.
Continuity of government in event of enemy attack, succession to office of executive heads: RCW 42.14.050.
Contractors' registration, exemption from: RCW 18.27.090(1).
Contracts
for purchase of real or personal property: RCW 39.30.010.
indebtedness limitations, contracts made in violation of, void: RCW 39.36.040.
joint city halls with county courthouses: RCW 36.64.010 through 36.64.040.
parks and recreation cooperation: RCW 67.20.020.
Conveyance of real property by public bodies--Recording: RCW 65.08.095.
Corporate stock or bonds not to be owned by: State Constitution Art. 8 § 7.
Corporation counsel, eminent domain by cities, military purposes, for: RCW 8.04.170, 8.04.180.
Counties, city harbor in two counties, effect upon assessments: RCW 36.08.030.
County highways, open spaces in cities and towns: Chapter 36.89 RCW.
County property, transfer to municipality, approval necessary: RCW 36.34.280.
County roads and bridges, assistance in finances: RCW 36.76.110.
County sewerage, water and drainage systems, authority, procedure: Chapter 36.94 RCW.
Courthouses, jointly with city halls: RCW 36.64.010 through 36.64.040.
Creation by special act prohibited: State Constitution Art. 2 § 28(8).
Credit card use by local governments: RCW 43.09.2855.
Credit not to be loaned: State Constitution Art. 8 § 7.
Crimes
civil rights, denial by: RCW 9.91.010.
gambling: Chapters 9.46, 9.47 RCW.
Dams, ditches, etc., restrictions for purpose of fish conservation: Chapter 77.55 RCW.
Diking and drainage districts: Chapters 85.05, 86.09 RCW.
Drainage districts, inclusion within: RCW 85.06.230.
Earthquake standards for construction: Chapter 70.86 RCW.
Elective officers, recall: State Constitution Art. 1 §§ 33, 34 (Amendment 8), chapter 29.82 RCW.
Electors, qualifications of: State Constitution Art. 6 § 1 (Amendment 63).
Electric

energy, falling waters--Sale or purchase authorized: RCW 43.52.410.
franchises and rights of way: Chapter 80.32 RCW.
revenue bonds, mutual savings banks, investment in: RCW 32.20.070, 32.20.100.
Electrical
apparatus use and construction rules, violation of, penalty: RCW 19.29.050.
installations, requirements and inspection: Chapter 19.28 RCW.
utilities, franchises for electrical utilities on streets: RCW 80.32.010.
Electricity, steam generation: RCW 43.21.250 through 43.21.410.
Elevators, lifting devices, and moving walks: Chapter 70.87 RCW.
Emergency vehicle, authorized, defined: RCW 46.04.040.
Eminent domain
bridges, for: RCW 8.12.030, 47.24.030.
generally: State Constitution Art. 1 § 16 (Amendment 9), Title 8 RCW.
limited access streets, acquisition of land, by: RCW 47.52.050.
state lands: RCW 8.12.030, 8.12.080, 79.01.128.
streets and highways, wharves and bridges for state highway purposes: RCW 47.24.030.
watersheds, state land: RCW 79.01.128.
Fees, special permits for motor vehicle oversize or overweight movement, fees paid to cities and towns, when: RCW 46.44.096.
Ferries, joint acquisition with counties: RCW 36.54.020.
Financing procedures, validation: Chapter 39.90 RCW.
Fines
payment into police relief and pension fund: RCW 41.20.130.
superior court jurisdiction to determine legality of: RCW 2.08.010.
supreme court jurisdiction to determine legality of: RCW 2.04.010.
Fire department vehicles, lighting, plates: RCW 46.37.184 through 46.37.188 and 46.37.190.
Fire fighters
chief as member of volunteer fire fighters' relief and pension board of trustees: RCW 41.24.060.
civil service, qualifications of applicants for positions: RCW 41.08.070.
jury duty, exemption from: RCW 2.36.080.
militia duty, exemption: RCW 38.44.030.
Fire fighters' retirement and pension acts: Chapters 41.16, 41.18, 41.24 RCW.
Fire prevention, areas withdrawn from fire protection and emergency medical districts: RCW 52.08.035.
Fire protection districts
annexed to or incorporated into city or town, firemen's retirement and job security rights protected: RCW 41.16.250.
joint operation: RCW 52.08.035.
withdrawal from: RCW 52.08.025.
Fireworks, permit for: RCW 70.77.260.
First class cities
birth and death records, furnishing of, fees: RCW 70.58.107.
elections, names of candidates, order on ballots: RCW 29.21.010.
elections, nonpartisan primaries: Chapter 29.21 RCW.
harbor improvements, joint planning authorized: RCW 88.32.240, 88.32.250.
public health pooling fund: Chapter 70.12 RCW.
retirement and pensions: Chapter 41.28 RCW.
taxes, collection by county treasurer: RCW 36.29.100, 36.29.110.
vital statistics, primary registration district: RCW 70.58.010.
Flood control
benefits, liability for: RCW 86.09.529.

maintenance, state participation in: Chapter 86.26 RCW.
Food and beverage workers' permits: Chapter 69.06 RCW.
Fourth class cities (see Towns, chapter 35.27 RCW).
Franchises and privileges
bridges jointly owned or operated with state: RCW 47.44.040.
electric franchises and rights of way on city streets: RCW 80.32.010.
Fresh pursuit, uniform act: Chapter 10.89 RCW.
Funds
assessment fund for compensation of eminent domain damages by city to be kept separate: RCW 8.12.480.
city street fund, established, use: RCW 47.24.040.
city street fund, illegal use of, procedure to correct: RCW 47.08.100.
current expense, sale of unclaimed property: RCW 63.32.030.
general, justice and inferior courts act of 1961, bail forfeitures paid into: RCW 3.30.090.
general, policemen's relief and pension fund, surplus paid into general fund: RCW 41.20.140.
motor vehicle fund, purposes authorized for use: RCW 36.82.070.
police pension, surplus funds to general fund: RCW 41.20.140.
police pension fund, sale of unclaimed property: RCW 63.32.030.
public health pooling fund, generally: Chapter 70.12 RCW.
state-wide city employees' retirement fund: RCW 41.44.100.
street, county road and bridge violations, fines paid into: RCW 36.82.210.
street, directional signs, paid from: RCW 47.36.040.
Gambling activities, cities or towns, as affecting: Chapter 9.46 RCW.
Garbage, eminent domain by cities for garbage dumps: RCW 8.12.030.
Grand jury, inquiry as to misconduct: RCW 10.27.100.
Harbor areas lying in two or more counties, transfer of territory: Chapter 36.08 RCW.
Harbor improvements, joint planning for by first class cities and counties: RCW 88.32.240, 88.32.250.
Harbor line commission and restraint on disposition: State Constitution Art. 15 § 1 (Amendment 15).
Health departments
generally: Chapters 70.05 and 70.08 RCW.
mentally ill: Chapter 43.20A RCW.
vital statistics: Chapter 70.58 RCW, RCW 70.58.107.
Health districts: Chapter 70.46 RCW.
Hearses, authority to provide: RCW 68.52.030.
Highway advertising control act of 1961 restricts placing of signs by: Chapter 47.42 RCW.
Highway funds, allocation of: State Constitution Art. 2 § 40 (Amendment 18).
Highways
abandoned, transfer to city or town: RCW 36.75.090.
franchises: Chapter 47.44 RCW.
return of street to city or town: RCW 47.24.010.
roads or streets, cooperative agreements to benefit: RCW 47.28.140.
sale, lease or gift of municipally owned land to state for, without bids: RCW 47.12.040.
vertical clearances over: RCW 46.44.020.
Historical materials, expenditure of funds for preservation and exhibition of authorized: RCW 27.48.010.
Hospitalization and medical aid for public employees and dependents, premiums, governmental contributions authorized: RCW 41.04.180, 41.04.190.
Hospitals
eminent domain for: RCW 8.12.030.
for mentally ill, private establishments, prescription of standards: RCW 71.12.550.
joint operation with counties: RCW 36.62.030, 36.62.110.
Incorporation

fire protection districts, effect upon: RCW 52.08.021, 52.08.035.
general laws, must be under: State Constitution Art. 11 § 10 (Amendment 40).
Indebtedness
bankruptcy readjustment and relief from debts: Chapter 39.64 RCW.
computation of: RCW 39.36.030.
eminent domain, contracting indebtedness to pay compensation for, reimbursement from local assessments: RCW 8.12.250.
limitations upon: State Constitution Art. 7 § 2 (Amendments 55, 59), Art. 8 § 6 (Amendment 27), chapter 39.36 RCW, RCW 39.52.020, 84.52.050.
Industrial development revenue bonds: Chapter 39.84 RCW.
Insurance companies, excise or privilege taxes, state preemption: RCW 48.14.020(4).
Intergovernmental disposition of property: Chapter 39.33 RCW.
Investment
by mutual savings banks in bonds and warrants of: RCW 32.20.070, 32.20.120.
by savings and loan associations in bonds or warrants of: RCW 33.24.050.
of municipal funds in savings and loan associations by county or other municipal corporation treasurer authorized: RCW 36.29.020.
of public and trust funds in federal agency bonds: Chapter 39.60 RCW.
Jails
city and county jails act: Chapter 70.48 RCW.
eminent domain for: RCW 8.12.030.
working of prisoners permitted: RCW 9.92.130.
Joint governmental activities: Chapter 36.64 RCW.
Joint operating agencies for electric power: Chapter 43.52 RCW.
Joint operations by municipal corporations, deposit and control of funds: RCW 43.09.285.
Judgment against local governmental entity, enforcement: RCW 6.17.080.
Judicial officers, inferior, powers: RCW 2.28.090.
Labor relations consultants: RCW 43.09.230.
Legal publications: Chapter 65.16 RCW.
Libraries, conditional sales contracts by cities and towns for purchase of property for libraries authorized, vote required if exceeds indebtedness: RCW 39.30.010.
Library service, contracts for authorized: RCW 27.12.180.
Library trustees, removal of: RCW 27.12.190.
Licenses, exemptions: RCW 36.71.090.
Liens for
employees for contributions to benefit plans: Chapter 60.76 RCW.
labor and materials on public works: Chapter 60.28 RCW.
Limitation of actions, application of statute of limitations to actions by: RCW 4.16.160.
Limitation on tax levies: State Constitution Art. 7 § 2 (Amendments 55, 59), RCW 84.52.050.
Local adopt-a-highway programs: RCW 47.40.105.
Lost and found property: Chapter 63.21 RCW.
Markets and marketing, eminent domain by cities for: RCW 8.12.030.
Material removed for channel or harbor improvement, or flood control--Use for public purpose: RCW 79.90.150.
Mayor
agent to receive summons: RCW 4.28.080.
bonds, signing of: RCW 39.52.020.
cemetery board, appointment by: RCW 68.52.045.
cemetery improvement fund, indorsement by of payments from: RCW 68.52.050.
district court districting committee: RCW 3.38.010.
firemen's pension board, member of: RCW 41.16.020.

issuance of search warrant by for violation of cigarette tax: RCW 82.24.190.
notification to of illegal use of city road funds: RCW 47.08.100.
police relief and pension board of trustees, member of: RCW 41.20.010.
public works contractor's bond, liability of mayor for failure to take: RCW 39.08.015.
state limited access facility through city or town, board of review to review plan, mayor to appoint members of: RCW 47.52.150.
volunteer fire fighters' relief and pension board member: RCW 41.24.060.
Meetings of governmental bodies, open to public: Chapter 42.30 RCW.
Mental health and retardation services--Interstate contracts by cities in boundary counties: RCW 71.28.010.
Militia and military affairs, eminent domain for military purposes: RCW 8.04.170, 8.04.180.
Minutes of governmental bodies, open to public: Chapter 42.32 RCW.
Misconduct of public officers: Chapter 42.20 RCW.
Motor vehicle excise fund, preemption by state: RCW 82.36.440.
Motor vehicle fuel tax
distribution of proceeds to: RCW 82.36.020.
refunds for urban transportation systems: RCW 82.36.275.
Motor vehicle fund, allocation of and distribution: RCW 46.68.110.
Motor vehicle inspection by: Chapter 46.32 RCW.
Motor vehicles, special permits for oversize or overweight movements, collection of fees: RCW 46.44.096.
Municipal courts
authorization, establishment, generally: Chapter 3.46 RCW.
jurisdiction: State Constitution Art. 4 §§ 4, 6 (Amendment 28).
legislature may provide: State Constitution Art. 4 § 1.
traffic school for offenders, court may compel attendance: RCW 46.83.050.
Nuisances
powder magazine nearby is public nuisance, when: RCW 7.48.140.
public: Chapter 9.66 RCW.
Officers and employees
actions against, venue: RCW 4.12.020(2).
code of ethics--Contracts: Chapter 42.23 RCW.
code of ethics--State agencies and legislative employees: Chapter 42.52 RCW.
continuity of government in event of enemy attack, succession: RCW 42.14.050.
eligibility to hold office: RCW 42.04.020.
hospitalization and medical aid for employees and dependents: RCW 41.04.180, 41.04.190.
hours of labor: Chapter 49.28 RCW.
jury duty, exemption from: RCW 2.36.080.
military leave: RCW 38.40.060.
minimum wage: RCW 49.46.010(5).
misconduct, penalty: Chapter 42.20 RCW.
public moneys deposited with treasurer: State Constitution Art. 11 § 15.
salaries, not be changed during term: State Constitution Art. 11 § 8 (Amendment 57).
subversive activities: Chapter 9.81 RCW.
term not to be extended: State Constitution Art. 11 § 8 (Amendment 57).
use of public money by, felony: State Constitution Art. 11 § 14.
vacancies: Chapter 42.12 RCW.
Official bonds
payment of premiums: RCW 48.28.040.
security to city or town: Chapter 42.08 RCW.
Old age and survivors' insurance: Chapters 41.47, 41.48 RCW.
Ordinances

adoption at public meetings: RCW 42.30.060.
air pollution control: Chapter 70.94 RCW.
airport joint operation: RCW 14.08.200(8).
combined city-county health department, establishment: RCW 70.08.010.
contractor's bond: RCW 39.08.030.
declaratory judgment as to: Chapter 7.24 RCW.
electrical installations: RCW 19.28.010, 19.28.141.
eminent domain, authority to acquire recreational facilities by: RCW 67.20.010.
eminent domain, ordinance to provide methods of payment of compensation: RCW 8.12.040.
evidence, admissible as, when: RCW 5.44.080.
industrial insurance, benefits to injured employees under: RCW 51.12.050.
liquor control, power of municipalities to adopt police regulations: RCW 66.08.120.
minimum wage law supplementary to: RCW 49.46.120.
payment of lower wages than obligated, penalty: RCW 49.52.050.
plots resurvey authorized and regulation of: RCW 58.10.030, 58.10.040.
port district regulations, adoption: RCW 53.08.220.
recording as evidence of passage: RCW 5.44.080.
state-wide city employees' retirement, election to join by: RCW 41.44.050, 41.44.090.
water distribution system, city may accept conveyance of and agree to maintain by: RCW 57.08.040.
Organization under general laws required: State Constitution Art. 11 § 10 (Amendment 40).
Outdoor recreation land acquisition or improvement under marine recreation land act: Chapter 79A.25 RCW.
Parks and recreation
authority to acquire and operate: RCW 67.20.010.
conditional sales contracts by cities and towns for purchase of property for parks authorized, vote required if exceeds indebtedness: RCW 39.30.010.
districts: Chapter 36.69 RCW.
eminent domain by cities for: RCW 8.12.030.
state tidelands and shorelands: RCW 79.08.080, 79.08.090.
Peddlers' and hawkers' licenses: Chapter 36.71 RCW, RCW 73.04.050, 73.04.060.
Planning commissions
airport zoning commission, appointment as: RCW 14.12.070(2).
cemeteries, establishment or extension recommendations concerning: RCW 68.20.080.
Plats and boundaries: Title 58 RCW.
Police
civil service, qualifications of applicants for positions: RCW 41.12.070.
enforcement of traffic laws or regulations: Chapter 46.64 RCW.
health regulations by state board of health, duty to enforce, penalty: RCW 43.20.050.
jury duty, exempt from: RCW 2.36.080.
limited highway access facilities, concurrent jurisdiction: RCW 47.52.200.
militia, exemption from service: RCW 38.44.030.
motor vehicle accident reports: RCW 46.52.070.
motor vehicle dealer's license application, police chief to certify: RCW 46.70.041.
pawnbroker reports to: RCW 19.60.040.
regulations to be enforced: State Constitution Art. 11 § 11.
retirement and pensions, first class cities: Chapter 41.20 RCW.
retirement and pensions, state-wide city employees' retirement system: Chapter 41.44 RCW.
second-hand dealers reports to: RCW 19.60.040.
unclaimed property: Chapter 63.32 RCW.
vehicle wreckers' records, inspection by: RCW 46.80.080, 46.80.150.
Pollution control

eminent domain by cities for: RCW 8.12.030.
municipal bonding authority: Chapter 70.95A RCW.
Population determination, generally: Chapter 43.62 RCW.
Port district must submit park or recreational plans to municipal park agency: RCW 53.08.270.
Port district regulations, adoption as city ordinance: RCW 53.08.220.
Powers of county commissioners to alter boundaries inapplicable where boundary review board created: RCW 36.93.220.
Prepayment of taxes and assessments: RCW 35.21.650.
Printing: RCW 43.78.130 through 43.78.160.
Prisons (see Jails).
Property
forest lands, conveying to state for forestry purposes: RCW 76.12.040.
intergovernmental disposition of: RCW 39.33.010.
sale, exchange, or lease to state or political subdivision authorized: RCW 39.33.010.
state highway purposes, acquisition for: RCW 47.12.040.
Public buildings, provision to be made for use by aged and handicapped: Chapter 70.92 RCW.
Public contracts and indebtedness, generally: Title 39 RCW.
Public employment
civil service and retirement rights preserved when elective office assumed: RCW 41.04.120.
subversive person ineligible: RCW 9.81.040.
wage deduction for charitable contributions: RCW 41.04.035, 41.04.036.
Public funds, private use prohibited: State Constitution Art. 11 § 14.
Public health pooling fund: Chapter 70.12 RCW.
Public lands, assessment against: Chapter 79.44 RCW.
Public markets, eminent domain by cities for: RCW 8.12.030.
Public utility districts
restrictions on use of power facilities: RCW 54.04.040.
tax on revenue: RCW 54.28.070.
Public works, liens for labor and materials performed: Chapter 60.28 RCW.
Purchases
authority to acquire and operate certain recreational facilities and camps: Chapter 67.20 RCW.
conditional sales contracts for purchase of real or personal property: RCW 39.30.010.
preferential, exceptions: RCW 19.06.020, 43.78.130 through 43.78.160.
Railroad
crossings, signals and devices, allocations of funds to defray costs of: RCW 81.53.271 through 81.53.275, 81.53.281.
industrial crossing, inspection, not applicable within limits of first class cities: RCW 81.54.040.
Railways, street: Chapter 81.64 RCW.
Recall of elective officers: State Constitution Art. 1 §§ 33, 34 (Amendment 8), chapter 29.82 RCW.
Reclamation districts: Chapter 89.30 RCW.
Records
destruction of, procedure for: RCW 40.14.070.
historical records, transfer to depository agency, procedure for: RCW 40.14.070.
Redistricting by local governments and municipal corporations--Census information for--Plan, prepared when, criteria for, hearing on, request for review of, certification, remand--Sanctions when review request frivolous: RCW 29.70.100.
Referendum, electric utility transmission line construction and maintenance franchise: RCW 80.32.040.
Reincorporation, under general laws permitted to cities under special charter: State Constitution Art. 11 § 10 (Amendment 40).
River and harbor improvement districts, planning: RCW 88.32.240.

Sanitary regulations may be enforced: State Constitution Art. 11 § 11.
Sanitation, secretary of health, assistance: RCW 70.54.040.
School districts, educational service districts, agreements with other governmental entities for transportation of students or the public, or for other noncommon school purposes--Limitations: RCW 28A.160.120.
Second class cities
elections, nonpartisan primaries: Chapter 29.21 RCW.
eminent domain by cities, construction of chapter as to second class cities: RCW 8.12.560.
Senior citizens programs--Authorization to establish and administer: RCW 36.39.060.
Service of summons on, personal service: RCW 4.28.080(2).
Sewer and water revenue bonds, mutual savings banks, investment in: RCW 32.20.070, 32.20.100.
Sewerage improvement districts: Title 85 RCW.
Sewerage systems
eminent domain by cities for: RCW 8.12.030.
plans, submission to department of ecology: RCW 90.48.110.
public nuisances concerning: RCW 7.48.140(2).
Sexually transmitted disease, treatment and control: Chapter 70.24 RCW.
Shorelands
generally: Title 79 RCW, chapter 90.58 RCW.
parks or playgrounds, application, grantor exchange: RCW 79.08.080, 79.08.090.
Soil and water conservation districts: Chapter 89.08 RCW.
Solid waste collection company provisions do not apply to: RCW 81.77.020.
State-wide city employees' retirement: Chapter 41.44 RCW.
Streets and alleys
abandoned state highways as: RCW 36.75.090.
abandonment, waters backed over: RCW 90.28.020.
aid in construction or maintenance of by state or county, procedure: RCW 47.24.050.
as extension of county road, shared maintenance: RCW 36.75.205.
as state highways, jurisdiction, maintenance and control: RCW 47.24.020.
closure or restrictions on traffic authorized: Chapter 47.48 RCW.
collection and removal of glass containers: RCW 47.40.090.
construction and maintenance aid by state or county, procedure: RCW 47.24.050.
county bridges across: RCW 36.75.200.
county may aid in construction and maintenance of: RCW 47.24.050.
dedication of county land for: RCW 36.34.290, 36.34.300.
dedication upon replat: RCW 79.94.110.
defined, motor vehicle law: RCW 46.04.120.
defined, state highway law: RCW 47.04.010(6).
eminent domain, for: RCW 8.12.030.
franchise rights on limited access facility and when joint governmental facility: RCW 47.52.090.
lighting systems, water-sewer district powers in regard to: RCW 57.08.060.
limited access facilities, generally: Chapter 47.52 RCW.
obstructing is nuisance: RCW 7.48.120.
obstructing or interfering with, public nuisance, penalty: RCW 9.66.010.
state highways as, franchises across bridges jointly owned and operated: RCW 47.44.040.
state highways as, generally: Chapter 47.24 RCW.
state land, easement or right of way over for city streets: RCW 79.01.340.
street materials, sale of material to cities and towns from public lands, disposition of proceeds: RCW 79.01.176.
telecommunications companies' use of rights of way: RCW 80.36.040.
tidelands and shorelands platting, dedication to public use: RCW 79.93.010.

traffic control devices for, generally: Chapters 46.61, 47.36 RCW.
vacation of by replat: RCW 79.94.120, 79.94.140.
Taverns, music permit: RCW 66.28.080.
Tax lien, acquisition by governmental unit of property subject to: RCW 84.60.050, 84.60.070.
Tax liens, priority of: RCW 84.60.010.
Taxation
collection by county treasurer: Chapter 36.29 RCW.
electricity, sale of by public utility districts: RCW 54.28.070.
excess levies authorized, when, procedure: RCW 84.52.052.
firemen's pension fund, property tax for: RCW 41.16.060.
insurance companies, state preemption: RCW 48.14.020(4).
motor vehicle fuel excise tax, preemption by state: RCW 82.36.440.
power of: State Constitution Art. 11 § 12.
preemption, excise taxes: RCW 82.02.020.
preemption, motor vehicle fuel tax: RCW 82.36.440.
property tax
authorized to assess and collect general: State Constitution Art. 7 § 9.
limitation on levies: State Constitution Art. 7 § 2 (Amendments 55, 59), RCW 84.52.050.
local taxes not to be imposed by legislature: State Constitution Art. 11 § 12.
power to assess and collect rests in city: State Constitution Art. 11 § 12.
uniformity in respect to persons and property required: State Constitution Art. 7 § 9.
public utility district's gross revenue: RCW 54.28.070.
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sales and use taxes: Chapter 82.14 RCW.
Taxing district relief act: Chapter 39.64 RCW.
Teletypewriter communications network, connection with, participation in: RCW 43.89.030.
Tidelands
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extension of streets over: State Constitution Art. 15 § 3.
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Toll facilities, contributions by cities and towns for authorized, financing, reimbursement: RCW 47.56.250.
Towns
actions against: RCW 4.08.120.
actions by in corporate name: RCW 4.08.110.
charter, amendment of by special act, prohibited: State Constitution Art. 2 § 28(8).
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credit not to be loaned, exception: State Constitution Art. 8 § 7.
indebtedness: State Constitution Art. 8 § 6 (Amendment 27).
limitation upon actions by: RCW 4.16.160.
moneys, deposited with treasurer: State Constitution Art. 11 § 15.
moneys, use of, by official, a felony: State Constitution Art. 11 § 14.
officers, salaries of, not to be changed during term: State Constitution Art. 11 § 8.
officers, vacancies, not to be extended: State Constitution Art. 11 § 8.
organization under general laws required: State Constitution Art. 11 § 10 (Amendment 40).
plats, regulation of surveys and plats: RCW 58.10.040.
plats, resurvey and correction of: RCW 58.10.030.
police department, control and direction of: State Constitution Art. 11 § 11.
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service of summons on, personal service: RCW 4.28.080(2).
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Uniform state standard of traffic devices, copy of to be furnished to: RCW 47.36.030.
Urban arterials, planning, construction, funds, bond issue, etc.: Chapter 47.26 RCW.
Utility poles, attachment of objects to, penalty: RCW 70.54.090, 70.54.100.
Vacancies in public office, causes, how filled: Chapter 42.12 RCW.
Vehicle wreckers' regulation by, to conform with chapter 46.80 RCW: RCW 46.80.160.
Venue of actions against public officers: RCW 4.12.020(2).
Veterans' organizations, providing of meeting places for: RCW 73.04.070.
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Water distribution systems, conveyance by water districts: Chapter 57.08 RCW.
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depositing unwholesome matter in waters, public nuisance, penalty: RCW 9.66.050.
public utility districts, powers in regard to: RCW 54.16.050.
shellfish sanitation control, pollution laws and rules and regulations applied to: RCW 69.30.130.
water supply, eminent domain by cities to prevent: RCW 8.12.030.
water supply, generally: RCW 70.54.010.
watersheds in adjoining state: RCW 70.54.030.
Water recreation facilities: Chapter 70.90 RCW.
Water revenue bonds, mutual savings banks, investment in: RCW 32.20.070, 32.20.100.
Water systems, bonds, refunding: Chapter 39.52 RCW.
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city streets, improvement of slopes: RCW 79.93.030.
vacation of, grounds for, procedure: RCW 79.93.060.
Watersheds
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state land, condemnation or purchase by city or town permitted: RCW 79.01.128.
Weeds, duty to destroy, extermination areas: RCW 17.04.160.
Weights and measures, city sealer: RCW 19.94.280.
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Chapter 35.01 RCW
MUNICIPAL CORPORATIONS CLASSIFIED

Sections

35.01.010 First class city.
35.01.020 Second class city.
35.01.040 Town.

Notes:

Combined city and county municipal corporations: State Constitution Art. 11 § 16 (Amendment 58).
Determining population
generally: Chapter 43.62 RCW.
of annexed territory: RCW 35.13.260.
First class cities, generally: Chapter 35.22 RCW.
Metropolitan municipal corporations: Chapter 35.58 RCW.
Second class cities, generally: Chapter 35.23 RCW.
Towns, generally: Chapter 35.27 RCW.

RCW 35.01.010 First class city.

A first class city is a city with a population of ten thousand or more at the time of its organization or reorganization that has a charter adopted under Article XI, section 10, of the state Constitution.

[1994 c 81 § 3; 1965 c 7 § 35.01.010. Prior: 1955 c 319 § 2; prior: (i) 1890 p 140 § 11, part; RRS § 8932, part. (ii) 1907 c 248 § 1, part; 1890 p 140 § 12, part; RRS § 8933, part.]

RCW 35.01.020 Second class city.

A second class city is a city with a population of fifteen hundred or more at the time of its organization or reorganization that does not have a charter adopted under Article XI, section 10, of the state Constitution, and does not operate under Title 35A RCW.

[1997 c 361 § 9; 1994 c 81 § 4; 1965 c 7 § 35.01.020. Prior: 1955 c 319 § 3; prior: (i) 1890 p 140 § 11, part; RRS § 8932, part. (ii) 1907 c 248 § 1, part; 1890 p 140 § 12, part; RRS § 8933, part.]

RCW 35.01.040 Town.

A town has a population of less than fifteen hundred at the time of its organization and does not operate under Title 35A RCW.

[1997 c 361 § 10; 1994 c 81 § 5; 1965 c 7 § 35.01.040. Prior: 1963 c 119 § 2; 1955 c 319 § 5; prior: (i) 1890 p 140 § 11, part; RRS § 8932, part. (ii) 1890 p 141 § 13; RRS § 8934.]

Chapter 35.02 RCW
INCORPORATION PROCEEDINGS

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35.02.086 Elections--Candidates--Filing--Withdrawal--Ballot position.
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35.02.210 Fire protection district and library district--Continuation of services at option of city or town.
35.02.220 Duty of county and road, library, and fire districts to continue services during transition period--Road maintenance and law enforcement services.
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35.02.230 Incorporation of city or town located in more than one county--Powers and duties of county after incorporation--Costs.
35.02.240 Incorporation of city or town located in more than one county--Taxes--Powers and duties of county after incorporation--Costs.
35.02.250 Corporate powers in dealings with federal government.
35.02.260 Duty of department of community, trade, and economic development to assist newly incorporated cities and towns.
35.02.270 Other local governments and state agencies--May assist newly incorporated cities and towns.

Notes:
Combined city and county municipal corporations: State Constitution Art. 11 § 16 (Amendment 58).
Fire protection districts, effect upon: Chapter 52.22 RCW.
Incorporation of municipalities: State Constitution Art. 11 § 10 (Amendment 40).
Incorporation proceedings exempt from State Environmental Policy Act: RCW 36.93.170, 43.21C.220.

RCW 35.02.001 Actions subject to review by boundary review board.

The incorporation of a city or town is subject to review by a boundary review board under chapter 36.93 RCW if a boundary review board exists in the county in which all or any portion of the territory proposed to be incorporated is located.

[1994 c 216 § 11; 1989 c 84 § 25.]

Notes:
Effective date--1994 c 216: See note following RCW 35.02.015.

RCW 35.02.005 Purpose.

The purpose of chapter 35.02 RCW is to provide a clear and uniform process for the incorporation of cities or towns operating under either Title 35 or 35A RCW. An incorporation may result in the creation of a second class city or town operating under Title 35 RCW or a noncharter code city operating under Title 35A RCW.

[1994 c 81 § 6; 1986 c 234 § 1.]

RCW 35.02.010 Authority for incorporation--Number of inhabitants required.

Any contiguous area containing not less than one thousand five hundred inhabitants lying outside the limits of an incorporated city or town may become incorporated as a city or town operating under Title 35 or 35A RCW as provided in this chapter: PROVIDED, That no area which lies within five air miles of the boundary of any city having a population of fifteen thousand or more shall be incorporated which contains less than three thousand inhabitants.

[1994 c 216 § 12; 1986 c 234 § 2; 1969 c 48 § 1; 1965 c 7 § 35.02.010. Prior: 1963 c 57 § 1; 1890 p 131 § 1; 1888

p 221 § 1; 1877 p 173 § 1; 1871 p 51 § 1; RRS § 8883.]

Notes:

Reviser's note: The current definition of "town" under RCW 35.01.040 precludes the incorporation of a town under this section.

Effective date--1994 c 216: See note following RCW 35.02.015.

Validation--1961 ex.s. c 16: Validation of certain incorporations and annexations--Municipal corporations of the fourth class: See note following RCW 35.21.010.

Validating--1899 c 61: "Any municipal corporation which has been incorporated under the existing laws of this state shall be a valid municipal corporation notwithstanding a failure to publish the notice of the election held or to be held for the purpose of determining whether such city should or shall become incorporated, for the length of time required by law governing such incorporation: PROVIDED, A notice fulfilling in other respects the requirements of law shall have been published for one week prior to such election in a newspaper printed and published within the boundaries of the corporation." [1899 c 61 p 103 § 1.]

Validating--1893 c 80: "The incorporation of all cities and towns in this state heretofore had or attempted under sections one, two and three of an act entitled 'An act providing for the organization, classification, incorporation and government of municipal corporations, and declaring an emergency,' approved March 24, 1890, and the re-incorporation of all cities and towns in this state heretofore had or attempted under sections one, four and five of said act, under which attempted incorporation or re-incorporation an organized government has been maintained since the date thereof, is hereby for all purposes declared legal and valid, and such cities and towns are hereby declared duly incorporated. And all contracts and obligations heretofore made, entered into or incurred by any such city or town so incorporated or re-incorporated are hereby declared legal and valid and of full force and effect." [1893 c 80 p 183 § 1.]

Validating--1890 c 7: "When so incorporated, the debts due from such town, village or city to any person, firm or corporation may be assumed and paid by the municipal authorities of such town, village or city; and all debts due to such town, village or city from any person, firm or corporation shall be deemed ratified, and may be collected in the same manner and in all respects as though such original incorporation were valid." [1890 c 7 p 136 § 7.]

RCW 35.02.015 Proposed incorporations--Notice to county--Boundary review board hearing.

Any person proposing the incorporation of a city or town shall file a notice of the proposed incorporation with the county legislative authority of the county in which all or the major portion of the proposed city or town is located. The notice shall include the matters required to be included in the incorporation petition under RCW 35.02.030 and be accompanied by both a one hundred dollar filing fee and an affidavit from the person stating that he or she is a registered voter residing in the proposed city or town.

The county legislative authority shall promptly notify the boundary review board of the proposed incorporation, which shall hold a public meeting on the proposed incorporation within thirty days of the notice being filed where persons favoring and opposing the proposed incorporation may state their views. If a boundary review board does not exist in the county, the county legislative authority shall provide the public meeting. The public meeting shall be held at a location in or near the proposed city or town. Notice of the public meeting shall be published in a newspaper of general circulation in the area proposed to be incorporated at least once ten days prior to the public meeting.

[1994 c 216 § 1.]

Notes:

Effective date--1994 c 216: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 1, 1994]." [1994 c 216 § 21.]

RCW 35.02.017 County auditor shall provide identification number.

Within one working day after the public meeting under RCW 35.02.015, the county auditor shall provide an identification number for the incorporation effort to the person who made the notice of proposing the incorporation. The identification number shall be included on the petition proposing the incorporation.

The petition proposing the incorporation may retain the proposed boundaries and other matters as described in the notice, or may alter the proposed boundaries and other matters.

[1994 c 216 § 2.]

Notes:

Effective date--1994 c 216: See note following RCW 35.02.015.

RCW 35.02.020 Petition for incorporation--Signatures--Filing deadline.

A petition for incorporation must be signed by registered voters resident within the limits of the proposed city or town equal in number to at least ten percent of the number of voters residing within the proposed city or town and filed with the auditor of the county in which all, or the largest portion of, the proposed city or town is located. The petition must be filed with the auditor by no later than one hundred eighty days after the date the public meeting on the proposed incorporation was held under RCW 35.02.015, or the next regular business day following the one hundred eightieth day if the one hundred eightieth day is not a regular business day.

[1994 c 216 § 4; 1986 c 234 § 3; 1965 c 7 § 35.02.020. Prior: 1957 c 173 § 2; prior: 1953 c 219 § 1; 1890 p 131 § 2, part; 1888 p 221 §§ 1, 2, part; 1877 p 173 §§ 1, 2, part; 1871 p 51 § 1, part; RRS § 8884, part.]

Notes:

Effective date--1994 c 216: See note following RCW 35.02.015.

RCW 35.02.030 Petition for incorporation--Contents.

The petition for incorporation shall: (1) Indicate whether the proposed city or town shall be a noncharter code city operating under Title 35A RCW, or a city or town operating under Title 35 RCW; (2) indicate the form or plan of government the city or town is to have; (3) set forth and particularly describe the proposed boundaries of the proposed city or town; (4) state the name of the proposed city or town; (5) state the number of inhabitants therein, as nearly as may be; and (6) pray that the city or town be incorporated. The petition shall conform to the requirements for form prescribed in RCW 35A.01.040. The petition shall include the identification number provided under RCW 35.02.017 and state the last date by which the petition may be filed, as determined under RCW 35.02.020.

If the proposed city or town is located in more than one county, the petition shall be

prepared in such a manner as to indicate the different counties within which the signators reside.

A city or town operating under Title 35 RCW may have a mayor/council, council/manager, or commission form of government. A city operating under Title 35A RCW may have a mayor/council or council/manager plan of government.

If the petition fails to specify the matters described in subsection (1) of this section, the proposal shall be to incorporate as a noncharter code city. If the petition fails to specify the matter described in subsection (2) of this section, the proposal shall be to incorporate with a mayor/council form or plan of government.

[1994 c 216 § 3; 1986 c 234 § 4; 1965 c 7 § 35.02.030. Prior: 1957 c 173 § 3; prior: 1953 c 219 § 2; 1890 p 131 § 2, part; 1888 p 221 §§ 1, 2, part; 1877 p 173 §§ 1, 2, part; 1871 p 51 § 1, part; RRS § 8884, part.]

Notes:

Effective date--1994 c 216: See note following RCW 35.02.015.

RCW 35.02.035 Petition--Auditor's duties.

The county auditor shall within thirty days from the time of receiving said petition determine if the petition contains a sufficient number of valid signatures. If the proposed city or town is located in more than one county, the auditor shall immediately transmit a copy of the petition to the auditor of the other county or counties within which the proposed city or town is located. Each of these other county auditors shall certify the number of valid signatures thereon of voters residing in the county and transmit the certification to the auditor of the county with whom the petition was originally filed. This auditor shall determine if the petition contains a sufficient number of valid signatures. If the petition is certified as having sufficient valid signatures, the county auditor shall transmit said petition, accompanied by the certificate of sufficiency, to the county legislative authority or authorities of the county or counties within which the proposed city or town is located.

[1986 c 234 § 5; 1965 c 7 § 35.02.035. Prior: 1953 c 219 § 8.]

RCW 35.02.037 Petition--Notice of certification.

The county auditor who certifies the sufficiency of the petition shall notify the person or persons who submitted the petition of its sufficiency within five days of when the determination of sufficiency is made. Notice shall be by certified mail and may additionally be made by telephone. If a boundary review board or boards exists in the county or counties in which the proposed city or town is located, the petitioners shall file notice of the proposed incorporation with the boundary review board or boards.

[1986 c 234 § 6.]

RCW 35.02.039 Public hearing--Time limitations.

(1) The county legislative authority of the county in which the proposed city or town is located shall hold a public hearing on the proposed incorporation if no boundary review board

exists in the county. The public hearing shall be held within sixty days of when the county auditor notifies the legislative authority of the sufficiency of the petition if no boundary review board exists in the county, or within ninety days of when notice of the proposal is filed with the boundary review board if the boundary review board fails to take jurisdiction over the proposal. The public hearing may be continued to other days, not extending more than sixty days beyond the initial hearing date. If the boundary review board takes jurisdiction, the county legislative authority shall not hold a public hearing on the proposal.

(2) If the proposed city or town is located in more than one county, a public hearing shall be held in each of the counties by the county legislative authority or boundary review board. Joint public hearings may be held by two or more county legislative authorities, or two or more boundary review boards.

[1994 c 216 § 14; 1986 c 234 § 7.]

Notes:

Effective date--1994 c 216: See note following RCW 35.02.015.

RCW 35.02.040 Public hearing--Publication of notice.

Notice of the public hearing by the county legislative authority on the proposed incorporation shall be by one publication in not more than ten nor less than three days prior to the date set for said hearing in one or more newspapers of general circulation within the area proposed to be incorporated. Said notice shall contain the time and place of said hearing.

[1986 c 234 § 8; 1965 c 7 § 35.02.040. Prior: 1957 c 173 § 4; prior: 1953 c 219 § 3; 1890 p 131 § 2, part; 1888 p 221 §§ 1, 2, part; 1877 p 173 §§ 1, 2, part; 1871 p 51 § 1, part; RRS § 8884, part.]

RCW 35.02.070 Public hearing by county legislative authority--Establishment of boundaries--Limitations.

(1) If a county legislative authority holds a public hearing on a proposed incorporation, it shall establish and define the boundaries of the proposed city or town, being authorized to decrease or increase the area proposed in the petition under the same restrictions that a boundary review board may modify the proposed boundaries. The county legislative authority, or the boundary review board if it takes jurisdiction, shall determine the number of inhabitants within the boundaries it has established.

(2) A county legislative authority shall disapprove the proposed incorporation if, without decreasing the area proposed in the petition, it does not conform with RCW 35.02.010. A county legislative authority may not otherwise disapprove a proposed incorporation.

(3) A county legislative authority or boundary review board has jurisdiction only over that portion of a proposed city or town located within the boundaries of the county.

[1994 c 216 § 17; 1986 c 234 § 9; 1975 1st ex.s. c 220 § 3; 1965 c 7 § 35.02.070. Prior: 1963 c 57 § 2; 1957 c 173 § 7; prior: 1890 p 131 § 2, part; 1888 p 221 §§ 1, 2, part; 1877 p 173 §§ 1, 2, part; 1871 p 51 § 1, part; RRS § 8884, part.]

Notes:

Effective date--1994 c 216: See note following RCW 35.02.015.

Legislative finding, intent--1975 1st ex.s. c 220: See note following RCW 35.02.170.

Incorporation subject to approval by boundary review board: RCW 36.93.090.

RCW 35.02.078 Elections--Question of incorporation--Nomination and election of officers.

An election shall be held in the area proposed to be incorporated to determine whether the proposed city or town shall be incorporated when the boundary review board takes action on the proposal other than disapproving the proposal, or if the county legislative authority does not disapprove the proposal as provided in RCW 35.02.070. Voters at this election shall determine if the area is to be incorporated.

The initial election on the question of incorporation shall be held at the next special election date specified in RCW 29.13.020 that occurs sixty or more days after the final public hearing by the county legislative authority or authorities, or action by the boundary review board or boards. The county legislative authority or authorities shall call for this election and, if the incorporation is approved, shall call for other elections to elect the elected officials as provided in this section. If the vote in favor of the incorporation receives forty percent or less of the total vote on the question of incorporation, no new election on the question of incorporation for the area or any portion of the area proposed to be incorporated may be held for a period of three years from the date of the election in which the incorporation failed.

If the incorporation is authorized as provided by RCW 35.02.120, separate elections shall be held to nominate and elect persons to fill the various elective offices prescribed by law for the population and type of city or town, and to which it will belong. The primary election to nominate candidates for these elective positions shall be held at the next special election date, as specified in RCW 29.13.020, that occurs sixty or more days after the election on the question of incorporation. The election to fill these elective positions shall be held at the next special election date, as specified in RCW 29.13.020, that occurs thirty or more days after certification of the results of the primary election.

[1994 c 216 § 18; 1986 c 234 § 10.]

Notes:

Effective date--1994 c 216: See note following RCW 35.02.015.

RCW 35.02.086 Elections--Candidates--Filing--Withdrawal--Ballot position.

Each candidate for a city or town elective position shall file a declaration of candidacy with the county auditor of the county in which all or the major portion of the city or town is located, not more than forty-five nor less than thirty days prior to the primary election at which the initial elected officials are nominated. The elective positions shall be as provided in law for the type of city or town and form or plan of government specified in the petition to incorporate, and for the population of the city or town as determined by the county legislative authority or boundary review board where applicable. Any candidate may withdraw his or her declaration at any time within five days after the last day allowed for filing declaration of candidacy. All names

of candidates to be voted upon shall be printed upon the ballot alphabetically in groups under the designation of the respective titles of offices for which they are candidates. Names of candidates printed upon the ballot need not be rotated.

[1986 c 234 § 11; 1965 c 7 § 35.02.086. Prior: 1953 c 219 § 9.]

RCW 35.02.090 Elections--Conduct--Voters' qualifications.

The elections on the proposed incorporation and for the nomination and election of the initial elected officials shall be conducted in accordance with the general election laws of the state, except as provided in this chapter. No person is entitled to vote thereat unless he or she is a qualified elector of the county, or any of the counties in which the proposed city or town is located, and has resided within the limits of the proposed city or town for at least thirty days next preceding the date of election.

[1986 c 234 § 12; 1965 c 7 § 35.02.090. Prior: 1890 p 133 § 3, part; RRS § 8885, part.]

RCW 35.02.100 Election on question of incorporation--Notice--Contents.

The notice of election on the question of the incorporation shall be given as provided by RCW 29.27.080 but shall further describe the boundaries of the proposed city or town, its name, and the number of inhabitants ascertained by the county legislative authority or the boundary review board to reside in it.

[1986 c 234 § 13; 1965 c 7 § 35.02.100. Prior: 1957 c 173 § 9; prior: 1953 c 219 § 5; 1890 p 131 § 2, part; 1888 p 221 §§ 1, 2, part; 1877 p 173 §§ 1, 2, part; 1871 p 51 § 1, part; RRS § 8884, part.]

RCW 35.02.110 Election on question of incorporation--Ballots.

The ballots in the initial election on the question of incorporation shall contain the words "for incorporation" and "against incorporation" or words equivalent thereto.

[1986 c 234 § 14; 1965 c 7 § 35.02.110. Prior: 1957 c 173 § 10; prior: 1890 p 131 § 2, part; 1888 p 221 §§ 1, 2, part; 1877 p 173 §§ 1, 2, part; 1871 p 51 § 1, part; RRS § 8884, part.]

RCW 35.02.120 Election on question of incorporation--Certification of results.

If the results reveal that a majority of the votes cast are for incorporation, the city or town shall become incorporated as provided in RCW 35.02.130. If the proposed city or town is located in more than one county, the auditors of the county or counties in which the smaller portion or portions of the proposed city or town is located shall forward a certified copy of the election results to the auditor of the county within which the major portion is located. This auditor shall add these totals to the totals in his or her county and certify the results to each of the county legislative authorities.

[1986 c 234 § 15; 1965 c 7 § 35.02.120. Prior: 1953 c 219 § 6; 1890 p 133 § 3, part; RRS § 8885, part.]

Notes:
Canvassing returns, generally: Chapter 29.62 RCW.
Conduct of elections--Canvass: RCW 29.13.040.

RCW 35.02.125 Newly incorporated city or town--Liability for costs of elections.

A newly incorporated city or town shall be liable for its proportionate share of the costs of all elections, after the election on whether the area should be incorporated, at which an issue relating to the city or town is placed before the voters, as if the city or town was in existence after the election at which voters authorized the area to incorporate.

[1991 c 360 § 2.]

RCW 35.02.130 Newly incorporated city or town--Effective date of incorporation--Powers during interim period--Terms of elected officers--First municipal election.

The city or town officially shall become incorporated at a date from one hundred eighty days to three hundred sixty days after the date of the election on the question of incorporation. An interim period shall exist between the time the newly elected officials have been elected and qualified and this official date of incorporation. During this interim period, the newly elected officials are authorized to adopt ordinances and resolutions which shall become effective on or after the official date of incorporation, and to enter into contracts and agreements to facilitate the transition to becoming a city or town and to ensure a continuation of governmental services after the official date of incorporation. Periods of time that would be required to elapse between the enactment and effective date of such ordinances, including but not limited to times for publication or for filing referendums, shall commence upon the date of such enactment as though the city or town were officially incorporated.

During this interim period, the city or town governing body may adopt rules establishing policies and procedures under the state environmental policy act, chapter 43.21C RCW, and may use these rules and procedures in making determinations under the state environmental policy act, chapter 43.21C RCW.

During this interim period, the newly formed city or town and its governing body shall be subject to the following as though the city or town were officially incorporated: RCW 4.24.470 relating to immunity; chapter 42.17 RCW relating to open government; chapter 40.14 RCW relating to the preservation and disposition of public records; chapters 42.20 and 42.23 RCW relating to ethics and conflicts of interest; chapters 42.30 and 42.32 RCW relating to open public meetings and minutes; RCW 35.22.288, 35.23.221, 35.27.300, 35A.12.160, as appropriate, and chapter 35A.65 RCW relating to the publication of notices and ordinances; RCW 35.21.875 and 35A.21.230 relating to the designation of an official newspaper; RCW 36.16.138 relating to liability insurance; RCW 35.22.620, 35.23.352, and 35A.40.210, as appropriate, and statutes referenced therein relating to public contracts and bidding; and chapter 39.34 RCW relating to interlocal cooperation. Tax anticipation or revenue anticipation notes or warrants and other

short-term obligations may be issued and funds may be borrowed on the security of these instruments during this interim period, as provided in chapter 39.50 RCW. Funds also may be borrowed from federal, state, and other governmental agencies in the same manner as if the city or town were officially incorporated.

RCW 84.52.020 and 84.52.070 shall apply to the extent that they may be applicable, and the governing body of such city or town may take appropriate action by ordinance during the interim period to adopt the property tax levy for its first full calendar year following the interim period.

The governing body of the new city or town may acquire needed facilities, supplies, equipment, insurance, and staff during this interim period as if the city or town were in existence. An interim city manager or administrator, who shall have such administrative powers and duties as are delegated by the governing body, may be appointed to serve only until the official date of incorporation. After the official date of incorporation the governing body of such a new city organized under the council manager form of government may extend the appointment of such an interim manager or administrator with such limited powers as the governing body determines, for up to ninety days. This governing body may submit ballot propositions to the voters of the city or town to authorize taxes to be collected on or after the official date of incorporation, or authorize an annexation of the city or town by a fire protection district or library district to be effective immediately upon the effective date of the incorporation as a city or town.

The boundaries of a newly incorporated city or town shall be deemed to be established for purposes of RCW 84.09.030 on the date that the results of the initial election on the question of incorporation are certified or the first day of January following the date of this election if the newly incorporated city or town does not impose property taxes in the same year that the voters approve the incorporation.

The newly elected officials shall take office immediately upon their election and qualification with limited powers during this interim period as provided in this section. They shall acquire their full powers as of the official date of incorporation and shall continue in office until their successors are elected and qualified at the next general municipal election after the official date of incorporation: PROVIDED, That if the date of the next general municipal election is less than twelve months after the date of the first election of councilmembers, those initially elected councilmembers shall serve until their successors are elected and qualified at the next following general municipal election as provided in RCW 29.04.170. For purposes of this section, the general municipal election shall be the date on which city and town general elections are held throughout the state of Washington, pursuant to RCW 29.13.020.

In any newly incorporated city that has adopted the council-manager form of government, the term of office of the mayor, during the interim period only, shall be set by the council, and thereafter shall be as provided by law.

The official date of incorporation shall be on a date from one hundred eighty to three hundred sixty days after the date of the election on the question of incorporation, as specified in a resolution adopted by the governing body during this interim period. A copy of the resolution shall be filed with the county legislative authority of the county in which all or the major portion

of the newly incorporated city or town is located. If the governing body fails to adopt such a resolution, the official date of incorporation shall be three hundred sixty days after the date of the election on the question of incorporation. The county legislative authority of the county in which all or the major portion of the newly incorporated city or town is located shall file a notice with the county assessor that the city or town has been authorized to be incorporated immediately after the favorable results of the election on the question of incorporation have been certified. The county legislative authority shall file a notice with the secretary of state that the city or town is incorporated as of the official date of incorporation.

[1997 c 361 § 11; 1994 c 154 § 308; 1991 c 360 § 3; 1986 c 234 § 16; 1965 c 7 § 35.02.130. Prior: 1953 c 219 § 7; 1890 p 133 § 3, part; RRS § 8885, part.]

Notes:

Parts and captions not law--Effective date--Severability--1994 c 154: See RCW 42.52.902, 42.52.904, and 42.52.905.

Times for holding elections: Chapter 29.13 RCW.

RCW 35.02.132 Newly incorporated city or town--Budgets.

The newly elected officials shall adopt an interim budget for the interim period or until January 1 of the following year, whichever occurs first. A second interim budget shall be adopted for any period between January 1 and the official date of incorporation. These interim budgets shall be adopted in consultation with the state auditor.

The governing body shall adopt a budget for the newly incorporated city or town for the period between the official date of incorporation and January 1 of the following year. The mayor or governing body, whichever is appropriate shall prepare or the governing body may direct the interim city manager to prepare a preliminary budget in detail to be made public at least sixty days before the official date of incorporation as a recommendation for the final budget. The mayor, governing body, or the interim city manager shall submit as a part of the preliminary budget a budget message that contains an explanation of the budget document, an outline of the recommended financial policies and programs of the city or town for the ensuing fiscal year, and a statement of the relation of the recommended appropriation to such policies and programs. Immediately following the release of the preliminary budget, the governing body shall cause to be published a notice once each week for two consecutive weeks of a public hearing to be held at least twenty days before the official date of incorporation on the fixing of the final budget. Any taxpayer may appear and be heard for or against any part of the budget. The governing body may make such adjustments and changes as it deems necessary and may adopt the final budget at the conclusion of the public hearing or at any time before the official date of incorporation.

[1995 c 301 § 33; 1991 c 360 § 4.]

RCW 35.02.135 Newly incorporated city or town--May borrow from municipal sales and use tax equalization account.

Upon the certification of election of officers, the governing body may by resolution

borrow money from the municipal sales and use tax equalization account, up to one hundred thousand dollars or five dollars per capita based on the population estimate required by RCW 35.02.030, whichever is less.

The loan authorized by this section shall be repaid over a three-year period. The state treasurer shall withhold moneys from the funds otherwise payable to the city or town that has obtained such a loan, either from the municipal sales and use tax equalization account or from sales and use tax entitlements otherwise distributable to such city or town, so that the account is fully reimbursed over the three-year period. The state treasurer shall adopt by rule procedures to accomplish the purpose of this section on a reasonable and equitable basis over the three-year period.

[1991 c 360 § 5.]

RCW 35.02.137 Newly incorporated city or town--Moratoria on development permits and approvals.

During the interim period, the governing body of the newly formed city or town may adopt resolutions establishing moratoria during the interim transition period on the filing of applications with the county for development permits or approvals, including, but not limited [to], subdivision approvals, short subdivision approvals, and building permits.

[1991 c 360 § 11.]

RCW 35.02.139 Newly incorporated city or town--First general election of councilmembers or commissioners--Initial, subsequent terms.

An election shall be held to elect city or town elected officials at the next municipal general election occurring more than twelve months after the date of the first election of councilmembers or commissioners. Candidates shall run for specific council or commission positions. The staggering of terms of members of the city or town council shall be established at this election, where the simple majority of the persons elected as councilmembers receiving the greatest numbers of votes shall be elected to four-year terms of office and the remainder of the persons elected as councilmembers shall be elected to two-year terms of office. Newly elected councilmembers or newly elected commissioners shall serve until their successors are elected and qualified. The terms of office of newly elected commissioners shall not be staggered, as provided in chapter 35.17 RCW. All councilmembers and commissioners who are elected subsequently shall be elected to four-year terms of office and shall serve until their successors are elected and qualified and assume office in accordance with RCW 29.04.170.

[1994 c 223 § 9.]

RCW 35.02.140 Disposition of uncollected road district taxes.

Whenever in any territory forming a part of an incorporated city or town which is part of

a road district, and road district regular property taxes are collectable on any property within such territory, the same shall, when collected by the county treasurer, be paid to such city or town and placed in the city or town street fund by the city or town; except that road district taxes that are delinquent before the date of incorporation shall be paid to the county and placed in the county road fund. This section shall not apply to excess property tax levies securing general indebtedness or any special assessments due in behalf of such property.

[2001 c 299 § 1; 1986 c 234 § 20; 1965 c 7 § 35.02.140. Prior: 1957 c 180 § 1.]

NOTES:
County road districts: RCW 36.75.060.

RCW 35.02.150 Pending final disposition of petition no other petition for incorporation to be acted upon--Withdrawal or substitution--Action on petition for annexation authorized.

After the filing of any petition for incorporation with the county auditor, and pending its final disposition as provided for in this chapter, no other petition for incorporation which embraces any of the territory included therein shall be acted upon by the county auditor, the county legislative authority, or the boundary review board, or by any other public official or body that might otherwise be empowered to receive or act upon such a petition: PROVIDED, That any petition for incorporation may be withdrawn by a majority of the signers thereof at any time before such petition has been certified by the county auditor to the county legislative authority: PROVIDED FURTHER, That a new petition may be substituted therefor that embraces other or different boundaries, incorporation as a city or town operating under a different title of law, or for incorporation as a city or town operating under a different plan or form of government, by a majority of the signers of the original incorporation petition, at any time before the original petition has been certified by the county auditor to the county legislative authority, in which case the same proceedings shall be taken as in the case of an original petition. A boundary review board, county auditor, county legislative authority, or any other public official or body may act upon a petition for annexation before considering or acting upon a petition for incorporation which embraces some or all of the same territory, without regard to priority of filing.

[1986 c 234 § 23; 1982 c 220 § 3; 1973 1st ex.s. c 164 § 1; 1965 c 7 § 35.02.150. Prior: 1961 c 200 § 1.]

Notes:

Severability--1982 c 220: See note following RCW 36.93.100.

RCW 35.02.155 Effect of proposed annexation on petition.

For a period of ninety days after a petition proposing the incorporation of a city or town is filed with the county auditor, a petition or resolution proposing the annexation of any portion of the territory included in the incorporation proposal may be filed or adopted and the proposed annexation may continue following the applicable statutory procedures. Territory that ultimately is annexed, as a result of the filing of such an annexation petition or adoption of such an

annexation resolution during this ninety-day period, shall be withdrawn from the incorporation proposal.

A proposed annexation of a portion of the territory included within the proposed incorporation, that is initiated by the filing of an annexation petition or adoption of an annexation resolution after this ninety-day period, shall be held in abeyance and may not occur unless: (1) The boundary review board modifies the boundaries of the proposed incorporation to remove the territory from the proposed incorporation; (2) the boundary review board rejects the proposed incorporation and the proposed city or town has a population of less than seven thousand five hundred; or (3) voters defeat the ballot proposition authorizing the proposed incorporation.

[1994 c 216 § 5.]

Notes:

Effective date--1994 c 216: See note following RCW 35.02.015.

RCW 35.02.160 Cancellation, acquisition of franchise or permit for operation of public service business in territory incorporated--Regulation of solid waste collection.

The incorporation of any territory as a city or town shall cancel, as of the effective date of such incorporation, any franchise or permit theretofore granted to any person, firm or corporation by the state of Washington, or by the governing body of such incorporated territory, authorizing or otherwise permitting the operation of any public transportation, garbage disposal or other similar public service business or facility within the limits of the incorporated territory, but the holder of any such franchise or permit canceled pursuant to this section shall be forthwith granted by the incorporating city or town a franchise to continue such business within the incorporated territory for a term of not less than the remaining term of the original franchise or permit, or not less than seven years, whichever is the shorter period, and the incorporating city or town, by franchise, permit or public operation, shall not extend similar or competing services to the incorporated territory except upon a proper showing of the inability or refusal of such person, firm or corporation to adequately service said incorporated territory at a reasonable price: PROVIDED, That the provisions of this section shall not preclude the purchase by the incorporating city or town of said franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise or permit. In the event that any person, firm or corporation whose franchise or permit has been canceled by the terms of this section shall suffer any measurable damages as a result of any incorporation pursuant to the provisions of chapter 35.02 RCW, such person, firm or corporation shall have a right of action against any city or town causing such damages.

After the incorporation of any city or town, the utilities and transportation commission shall continue to regulate solid waste collection within the limits of the incorporated city or town until such time as the city or town notifies the commission, in writing, of its decision to contract for solid waste collection or provide solid waste collection itself pursuant to RCW 81.77.020. In the event the incorporated city or town at any time decides to contract for solid waste collection

or decides to undertake solid waste collection itself, the holder of any such franchise or permit that is so canceled in whole or in part shall be forthwith granted by the incorporated city or town a franchise to continue such business within the incorporated territory for a term of not less than the remaining term of the original franchise or permit, or not less than seven years, whichever is the shorter period, and the incorporated city or town, by franchise, permit, or public operation, shall not extend similar or competing services to the incorporated territory except upon a proper showing of the inability or refusal of such person, firm, or corporation to adequately service the incorporated territory at a reasonable price. Upon the effective date specified by the city or town council's ordinance or resolution to have the city or town contract for solid waste collection or undertake solid waste collection itself, the transition period specified in this section begins to run. This section does not preclude the purchase by the incorporated city or town of the franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise or permit. In the event that any person, firm, or corporation whose franchise or permit has been canceled in whole or in part by the terms of this section suffers any measurable damages as a result of any incorporation pursuant to this chapter, such person, firm, or corporation has a right of action against any city or town causing such damages.

[1997 c 171 § 1; 1986 c 234 § 24; 1965 ex.s. c 42 § 1.]

Notes:

Severability--1997 c 171: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1997 c 171 § 5.]

RCW 35.02.170 Use of right of way line as corporate boundary--When right of way may be included.

The right of way line of any public street, road or highway, or any segment thereof, may be used to define a part of a corporate boundary in an incorporation proceeding. The boundaries of a newly incorporated city or town shall not include a portion of the right of way of any public street, road or highway except where the boundary runs from one edge of the right of way to the other edge of the right of way.

[1989 c 84 § 7; 1986 c 234 § 25; 1975 1st ex.s. c 220 § 2.]

Notes:

Legislative finding, intent--1975 1st ex.s. c 220: "The legislature finds that the use of centerlines of public streets, roads and highways as boundaries of incorporated cities and towns has resulted in divided jurisdiction over such public ways causing inefficiencies and waste in their construction, improvement and maintenance and impairing effective traffic law enforcement. It is the intent of this act to preclude the use of highway centerlines as corporate boundaries in the future and to encourage counties and cities and towns by agreement to revise existing highway centerline boundaries to coincide with highway right of way lines." [1975 1st ex.s. c 220 § 1.] For codification of 1975 1st ex.s. c 220, see Codification Tables, Volume 0.

Revision of corporate boundary by substituting right of way lines: RCW 35.21.790.

RCW 35.02.180 Ownership of county roads to revert to city or town--Territory within city or town to be removed from fire protection, road, and library districts.

The ownership of all county roads located within the boundaries of a newly incorporated city or town shall revert to the city or town and become streets as of the official date of incorporation. However, any special assessments attributable to these county roads shall continue to exist and be collected as if the incorporation had not occurred. Property within the newly incorporated city or town shall continue to be subject to any indebtedness attributable to these roads and any related property tax levies.

The territory included within the newly incorporated city or town shall be removed from the road district as of the official date of incorporation. The territory included within the newly incorporated city or town shall be removed from a fire protection district or districts or library district or districts in which it was located, as of the official date of incorporation, unless the fire protection district or districts have annexed the city or town during the interim period as provided in *RCW 52.04.160 through 52.04.200, or the library district or districts have annexed the city or town during the interim period as provided in **RCW 27.12.260 through 27.12.290.

[1986 c 234 § 17.]

Notes:

Reviser's note: *(1) RCW 52.04.160 has been decodified and RCW 52.04.170 through 52.04.200 have been recodified as RCW 52.04.061 through 52.04.101, pursuant to 1984 c 230 § 89.

**(2) The reference to "RCW 27.12.260 through 27.12.290" appears to be erroneous. RCW 27.12.360 through 27.12.395 relates to annexation of a city or town by a library district.

RCW 35.02.190 Annexation/incorporation of fire protection district--Transfer of assets when at least sixty percent of assessed valuation is annexed or incorporated in city or town.

If a portion of a fire protection district including at least sixty percent of the assessed valuation of the real property of the district is annexed to or incorporated into a city or town, ownership of all of the assets of the district shall be vested in the city or town, or, if the city or town has been annexed by another fire protection district, in the other fire protection district, upon payment in cash, properties or contracts for fire protection services to the district within one year of the date on which the city or town withdraws from the fire protection district pursuant to RCW 52.04.161, of a percentage of the value of said assets equal to the percentage of the value of the real property in entire district remaining outside the incorporated or annexed area. The fire protection district may elect, by a vote of a majority of the persons residing outside the annexed or incorporated area who vote on the proposition, to require the annexing or incorporating city or town or fire protection district to assume responsibility for the provision of fire protection, and for the operation and maintenance of the district's property, facilities, and equipment throughout the district and to pay the city or town or fire protection district a reasonable fee for such fire protection, operation, and maintenance. When at least sixty percent, but less than one hundred percent, valuation of the real estate of a district is annexed to or incorporated into a city or town, a proportionate share of the liabilities of the district at the time

of such annexation or incorporation, equal to the percentage of the total assessed valuation of the real estate of the district that has been annexed or incorporated, shall be transferred to the annexing or incorporating city or town.

If all of a fire protection district is included in an area that incorporates as a city or town or is annexed to a city or town or fire protection district, all of the assets and liabilities of the fire protection district shall be transferred to the newly incorporated city or town on the date on which the fire protection district ceases to provide fire protection services pursuant to RCW 52.04.161 or to the city or town or fire protection district upon the annexation.

[1993 c 262 § 3; 1989 c 76 § 2; 1986 c 234 § 18; 1981 c 332 § 5; 1965 c 7 § 35.13.247. Prior: 1963 c 231 § 3. Formerly RCW 35.13.247.]

Notes:

Severability--1981 c 332: See note following RCW 35.13.165.

RCW 35.02.200 Annexation/incorporation of fire protection district--Ownership of assets of fire protection district--When less than sixty percent.

(1) If a portion of a fire protection district including less than sixty percent of the assessed value of the real property of the district is annexed to or incorporated into a city or town, the ownership of all assets of the district shall remain in the district and the district shall pay to the city or town, or, if the city or town has been annexed by another fire protection district, to the other fire protection district within one year or within such period of time as the district continues to collect taxes in such incorporated or annexed areas, in cash, properties or contracts for fire protection services, a percentage of the value of said assets equal to the percentage of the value of the real property in the entire district lying within the area so incorporated or annexed: PROVIDED, That if the area annexed or incorporated includes less than five percent of the area of the district, no payment shall be made to the city or town or fire protection district except as provided in RCW 35.02.205.

(2) As provided in RCW 35.02.210, the fire protection district from which territory is removed as a result of an incorporation or annexation shall provide fire protection to the incorporated or annexed area for such period as the district continues to collect taxes levied in such annexed or incorporated area.

(3) For the purposes of this section, the word "assets" shall mean the total assets of the fire district, reduced by its liabilities, including bonded indebtedness, the same to be determined by usual and accepted accounting methods. The amount of said liability shall be determined by reference to the fire district's balance sheet, produced in the regular course of business, which is nearest in time to the certification of the annexation of fire district territory by the city or town.

[1997 c 245 § 2. Prior: 1989 c 267 § 1; 1989 c 76 § 3; 1986 c 234 § 19; 1967 c 146 § 1; 1965 c 7 § 35.13.248; prior: 1963 c 231 § 4. Formerly RCW 35.13.248.]

RCW 35.02.202 Annexation/incorporation of fire protection district--Delay of transfer.

During the interim period, the governing body of the newly formed city or town and the board of fire commissioners may by written agreement delay the transfer of the district's assets and liabilities, and the city's or town's responsibility for the provision of fire protection, that would otherwise occur under RCW 35.02.190 or 35.02.200 for up to one year after the official date of incorporation. During the one-year period, the fire protection district may annex the city or town pursuant to chapter 52.04 RCW and retain the responsibility for fire protection.

[1991 c 360 § 7.]

RCW 35.02.205 Annexation/incorporation of fire protection district--Distribution of assets of district when less than five percent of district annexed--Distribution agreement--Arbitration.

(1) A distribution of assets from the fire protection district to the city or town shall occur as provided in this section upon the annexation or, in the case of an incorporation, on the date on which the city or town withdraws from the fire protection district pursuant to RCW 52.04.161, of an area by the city or town that constitutes less than five percent of the area of the fire protection district upon the adoption of a resolution by the city or town finding that the annexation or incorporation will impose a significant increase in the fire suppression responsibilities of the city or town with a corresponding reduction in fire suppression responsibilities by the fire protection district. Such a resolution must be adopted within sixty days of the effective date of the annexation, or within sixty days of the official date of incorporation of the city. If the fire protection district does not concur in the finding within sixty days of when a copy of the resolution is submitted to the board of commissioners, arbitration shall proceed under subsection (3) of this section over this issue.

(2) An agreement on the distribution of assets from the fire protection district to the city or town shall be entered into by the city or town and the fire protection district within ninety days of the concurrence by the fire protection district under subsection (1) of this section, or within ninety days of a decision by the arbitrators under subsection (3) of this section that a significant increase in the fire protection responsibilities will be imposed upon the city or town as a result of the incorporation or annexation. A distribution shall be based upon the extent of the increased fire suppression responsibilities with a corresponding reduction in fire suppression responsibilities by the fire protection district, and shall consider the impact of any debt obligation that may exist on the property that is so annexed or incorporated. If an agreement is not entered into after this ninety-day period, arbitration shall proceed under subsection (3) of this section concerning this issue unless both parties have agreed to an extension of this period.

(3) Arbitration shall proceed under this subsection over the issue of whether a significant increase in the fire protection responsibilities will be imposed upon the city or town as a result of the annexation or incorporation with a corresponding reduction in fire suppression responsibilities by the fire protection district, or over the distribution of assets from the fire protection district to the city or town if such a significant increase in fire protection responsibilities will be imposed. A board of arbitrators shall be established for an arbitration that is required under this section. The board of arbitrators shall consist of three persons, one of

whom is appointed by the city or town within sixty days of the date when arbitration is required, one of whom is appointed by the fire protection district within sixty days of the date when arbitration is required, and one of whom is appointed by agreement of the other two arbitrators within thirty days of the appointment of the last of these other two arbitrators who is so appointed. If the two are unable to agree on the appointment of the third arbitrator within this thirty-day period, then the third arbitrator shall be appointed by a judge in the superior court of the county within which all or the greatest portion of the area that was so annexed or incorporated lies. The determination by the board of arbitrators shall be binding on both the city or town and the fire protection district.

[1993 c 262 § 4; 1989 c 267 § 3.]

RCW 35.02.210 Fire protection district and library district--Continuation of services at option of city or town.

At the option of the governing body of a newly incorporated city or town, any fire protection district or library district serving any part of the area so incorporated shall continue to provide services to such area until the city or town receives its own property tax receipts.

[1991 c 360 § 8; 1986 c 234 § 21; 1967 ex.s. c 119 § 35A.03.160. Formerly RCW 35A.03.160.]

RCW 35.02.220 Duty of county and road, library, and fire districts to continue services during transition period--Road maintenance and law enforcement services.

The approval of an incorporation by the voters of a proposed city or town, and the existence of a transition period to become a city or town, shall not remove the responsibility of any county, road district, library district, or fire district, within which the area is located, to continue providing services to the area until the official date of the incorporation.

A county shall continue to provide the following services to a newly incorporated city or town, or that portion of the county within which the newly incorporated city or town is located, at the preincorporation level as follows:

(1) Law enforcement services shall be provided for a period not to exceed sixty days from the official date of the incorporation or until the city or town is receiving or could have begun receiving sales tax distributions under RCW 82.14.030(1), whichever is the shortest time period.

(2) Road maintenance shall be for a period not to exceed sixty days from the official date of the incorporation or until forty percent of the anticipated annual tax distribution from the road district tax levy is made to the newly incorporated city or town pursuant to RCW 35.02.140, whichever is the shorter time period.

[1991 c 360 § 9; 1986 c 234 § 22; 1985 c 143 § 1. Formerly RCW 35.21.763.]

RCW 35.02.225 County may contract to provide essential services.

It is the desire of the legislature that the citizens of newly incorporated cities or towns receive uninterrupted and adequate services in the period prior to the city or town government attaining the ability to provide such service levels. In addition to the services provided under RCW 35.02.220, it is the purpose of this section to permit the county or counties in which a newly incorporated city or town is located to contract with the newly incorporated city or town for the continuation of essential services until the newly incorporated city or town has attained the ability to provide such services at least at the levels provided by the county before the incorporation. These essential services may include but are not limited to, law enforcement, road and street maintenance, drainage, and other utility services previously provided by the county before incorporation. The contract should be negotiated on the basis of the county's cost to provide services without consideration of capital assets which do not continue to be amortized for principal and interest or depreciated by the county. The exception for not considering capital assets which are no longer amortized for principal and interest or depreciated is recognition of the preexisting financial investment of citizens of the newly incorporated city or town have made in county capital assets.

Nothing in this section limits the ability of the county and the newly incorporated city or town to contract for higher service levels or for other time periods than those imposed by this section.

[1985 c 332 § 7. Formerly RCW 35.21.764.]

RCW 35.02.230 Incorporation of city or town located in more than one county--Powers and duties of county after incorporation--Costs.

After incorporation of a city or town located in more than one county, all purposes essential to the maintenance, operation, and administration of the city or town whenever any action is required or may be performed by the county, county legislative authority, or any county officer or board, such action shall be performed by the respective county, county legislative authority, officer, or board of the county of that part of the city or town in which the largest number of inhabitants reside as of the date of the incorporation of the proposed city or town except as provided in RCW 35.02.240, and all costs incurred shall be borne proportionately by each county in that ratio which the number of inhabitants residing in that part of each county forming a part of the proposed city or town bears to the total number of inhabitants residing within the whole of the city or town.

[1986 c 234 § 26; 1965 c 7 § 35.04.150. Prior: 1955 c 345 § 15. Formerly RCW 35.04.150.]

RCW 35.02.240 Incorporation of city or town located in more than one county--Taxes--Powers and duties of county after incorporation--Costs.

In the case of evaluation, assessment, collection, apportionment, and any other allied power or duty relating to taxes in connection with the city or town, the action shall be performed by the county, county legislative authority, or county officer or board of the county for that area of the city or town which is located within the respective county, and all materials, information,

and other data and all moneys collected shall be submitted to the proper officer of the county of that part of the city or town in which the largest number of inhabitants reside. Any power which may be or duty which shall be performed in connection therewith shall be performed by the county, county legislative authority, officer, or board receiving such as though only a city or town in a single county were concerned. All moneys collected from such area constituting a part of such city or town that should be paid to such city or town shall be delivered to the treasurer thereof, and all other materials, information, or data relating to the city or town shall be submitted to the appropriate city or town officials.

Any costs or expenses incurred under this section shall be borne proportionately by each county involved.

[1986 c 234 § 27; 1965 c 7 § 35.04.160. Prior: 1955 c 345 § 16. Formerly RCW 35.04.160.]

RCW 35.02.250 Corporate powers in dealings with federal government.

Any city or town incorporated as provided in this chapter shall, in addition to all other powers, duties and benefits of a city or town of the same type or class, be authorized to purchase, acquire, lease, or administer any property, real or personal, or property rights and improvements thereon owned by the federal government on such terms and conditions as may be mutually agreed upon, when authorized to do so by the United States government, and thereafter to sell, transfer, exchange, lease, or otherwise dispose of any such property, and to execute contracts with the federal government with respect to supplying water and for other utility services.

[1986 c 234 § 28; 1965 c 7 § 35.04.170. Prior: 1955 c 345 § 17. Formerly RCW 35.04.170.]

RCW 35.02.260 Duty of department of community, trade, and economic development to assist newly incorporated cities and towns.

The department of community, trade, and economic development shall identify federal, state, and local agencies that should receive notification that a new city or town is about to incorporate and shall assist newly formed cities and towns during the interim period before the official date of incorporation in providing such notification to the identified agencies.

[1995 c 399 § 34; 1991 c 360 § 6.]

RCW 35.02.270 Other local governments and state agencies--May assist newly incorporated cities and towns.

Cities, towns, counties, and other local government agencies and state agencies may make loans of staff and equipment, and technical and financial assistance to the newly formed city or town during the interim period to facilitate the transition to an incorporated city or town. Such loans and assistance may be without compensation.

[1991 c 360 § 12.]

Chapter 35.06 RCW
ADVANCEMENT OF CLASSIFICATION

Sections

35.06.010 Population requirements for advance in classification.
35.06.070 Procedure for advancement--Ballot proposition--Notification of secretary of state.
35.06.080 Election of new officers.

Notes:
Municipal corporations classified: Chapter 35.01 RCW.
Population determinations: Chapter 43.62 RCW.

RCW 35.06.010 Population requirements for advance in classification.

A city or town which has at least ten thousand inhabitants may become a first class city by adopting a charter under Article XI, section 10, of the state Constitution in chapter 35.22 RCW.

A town which has at least fifteen hundred inhabitants may reorganize and advance its classification to become a second class city as provided in this chapter.

[1994 c 81 § 7; 1965 c 7 § 35.06.010. Prior: 1955 c 319 § 6; prior: (i) 1907 c 248 § 1, part; 1890 p 140 § 12, part; RRS § 8933, part. (ii) 1890 p 141 § 14; RRS § 8936.]

RCW 35.06.070 Procedure for advancement--Ballot proposition--Notification of secretary of state.

A ballot proposition authorizing an advancement in classification of a town to a second class city shall be submitted to the voters of the town if either: (1) Petitions proposing the advancement are submitted to the town clerk that have been signed by voters of the town equal in number to at least ten percent of the voters of the town voting at the last municipal general election; or (2) the town council adopts a resolution proposing the advancement. The clerk shall immediately forward the petitions to the county auditor who shall review the signatures and certify the sufficiency of the petitions.

A ballot proposition authorizing an advancement shall be submitted to the town voters at the next municipal general election occurring forty-five or more days after the petitions are submitted if the county auditor certifies the petitions as having sufficient valid signatures. The town shall be advanced to a second class city if the ballot proposition is approved by a simple majority vote, effective when the corporation is actually reorganized and the new officers are elected and qualified. The county auditor shall notify the secretary of state if the advancement of a town to a second class city is approved.

[1994 c 81 § 8; 1965 c 7 § 35.06.070. Prior: 1890 p 142 § 21; RRS § 8942.]

RCW 35.06.080 Election of new officers.

The first election of officers of the new corporation after the advancement of classification is approved shall be at the next general municipal election and the officers of the old corporation, as altered by the election when the advancement was approved, shall remain in office until the officers of the new corporation are elected and qualified and assume office in accordance with RCW 29.04.170. A primary shall be held where necessary to nominate candidates for the elected offices of the corporation as a second class city. Candidates for city council positions shall run for specific council positions. The council of the old corporation may adopt a resolution providing that the offices of city attorney, clerk, and treasurer are appointive.

The three persons who are elected to council positions one through six receiving the greatest number of votes shall be elected to four-year terms of office and the other three persons who are elected to council positions one through six, and the person elected to council position seven, shall be elected to two-year terms of office. The person elected as mayor and the persons elected to any other elected office shall be elected to four-year terms of office. All successors to all elected positions, other than council position number seven, shall be elected to four-year terms of office and successors to council position number seven shall be elected to two-year terms of office.

There shall be no election of town offices at this election when the first officers of the new corporation are elected and the offices of the town shall expire when the officers of the new corporation assume office.

The ordinances, bylaws, and resolutions adopted by the old corporation shall, as far as consistent with the provisions of this title, continue in force until repealed by the council of the new corporation.

The council and officers of the town shall, upon demand, deliver to the proper officers of the new corporation all books of record, documents, and papers in their possession belonging to the old corporation.

[1994 c 81 § 9; 1965 c 106 § 1; 1965 c 7 § 35.06.080. Prior: 1890 p 143 § 22; RRS § 8942.]

Chapter 35.07 RCW
DISINCORPORATION

Sections

35.07.001 Actions subject to review by boundary review board.
35.07.010 Authority for disincorporation.
35.07.020 Petition--Requisites.
35.07.040 Calling election--Receiver.
35.07.050 Notice of election.
35.07.060 Ballots.
35.07.070 Conduct of election.
35.07.080 Canvass of returns.
35.07.090 Effect of disincorporation--Powers--Officers.

35.07.100 Effect of disincorporation--Existing contracts.
35.07.110 Effect of disincorporation--Streets.
35.07.120 Receiver--Qualification--Bond.
35.07.130 Elected receiver--Failure to qualify--Court to appoint.
35.07.140 No receiver elected though indebtedness exists--Procedure.
35.07.150 Duties of receiver--Claims--Priority.
35.07.160 Receiver may sue and be sued.
35.07.170 Receiver--Power to sell property.
35.07.180 Receiver--Power to levy taxes.
35.07.190 Receiver's compensation.
35.07.200 Receiver--Removal for cause.
35.07.210 Receiver--Successive appointments.
35.07.220 Receiver--Final account and discharge.
35.07.230 Involuntary dissolution of towns--Authorized.
35.07.240 Involuntary dissolution of towns--Notice of hearing.
35.07.250 Involuntary dissolution of towns--Hearing.
35.07.260 Involuntary dissolution of towns--Alternative forms of order.

Notes:
Census to be made in decennial periods: State Constitution Art. 2 § 3.
Obligations of contract: State Constitution Art. 1 § 23.
Population determinations: Chapter 43.62 RCW.

RCW 35.07.001 Actions subject to review by boundary review board.

Actions taken under chapter 35.07 RCW may be subject to potential review by a boundary review board under chapter 36.93 RCW.

[1989 c 84 § 26.]

RCW 35.07.010 Authority for disincorporation.

Cities and towns may disincorporate.

[1994 c 81 § 10; 1965 c 7 § 35.07.010. Prior: 1897 c 69 § 1; RRS § 8914.]

RCW 35.07.020 Petition--Requisites.

The petition for disincorporation must be signed by a majority of the registered voters thereof and filed with the city or town council.

[1965 c 7 § 35.07.020. Prior: 1897 c 69 § 2, part; RRS § 8915, part.]

RCW 35.07.040 Calling election--Receiver.

The council shall cause an election to be called upon the proposition of disincorporation. If the city or town has any indebtedness or outstanding liabilities, it shall order the election of a

receiver at the same time.

[1997 c 361 § 4; 1965 c 7 § 35.07.040. Prior: 1897 c 69 § 2, part; RRS § 8915, part.]

RCW 35.07.050 Notice of election.

Notice of such election shall be given as provided in RCW 29.27.080.

[1965 c 7 § 35.07.050. Prior: 1897 c 69 § 3; RRS § 8916.]

RCW 35.07.060 Ballots.

The ballots for the election shall be printed at the expense of the municipality and there shall be printed thereon the words "for dissolution" in one line and the words "against dissolution" in another line and in other and separate lines, the names of each of the lawfully nominated candidates for receiver. In all other respects the ballots shall be in conformity with the law regulating elections in such cities and towns.

[1965 c 7 § 35.07.060. Prior: 1897 c 69 § 4; RRS § 8917.]

RCW 35.07.070 Conduct of election.

The election shall be conducted as other elections are required by law to be conducted in the city or town except as in this chapter otherwise provided.

[1965 c 7 § 35.07.070. Prior: 1897 c 69 § 5; RRS § 8918.]

Notes:
Conduct of elections--Canvass: RCW 29.13.040.

RCW 35.07.080 Canvass of returns.

The result of the election, together with the ballots cast, shall be certified by the canvassing authority to the council which shall meet within one week thereafter and shall declare the result which shall be made a matter of record in the journal of the council proceedings. If the vote "For dissolution" be a majority of the registered voters of such city or town voting at such election, such corporation shall be deemed dissolved.

[1965 c 7 § 35.07.080. Prior: 1933 c 128 § 1, part; 1897 c 69 § 6, part; Rem. Supp. §8919, part.]

Notes:
Canvassing returns, generally: Chapter 29.62 RCW.

RCW 35.07.090 Effect of disincorporation--Powers--Officers.

Upon disincorporation of a city or town, its powers and privileges as such, are surrendered to the state and it is absolved from any further duty to the state or its own inhabitants and all the offices appertaining thereto shall cease to exist immediately upon the entry of the

result: PROVIDED, That if a receiver is required, the officers shall continue in the exercise of all their powers until a receiver has qualified as such, and thereupon shall surrender to him all property, money, vouchers, records and books of the city or town including those in any manner pertaining to its business.

[1965 c 7 § 35.07.090. Prior: 1933 c 128 § 1, part; 1897 c 69 § 6, part; RRS § 8919, part.]

RCW 35.07.100 Effect of disincorporation--Existing contracts.

Disincorporation shall not impair the obligation of any contract. If any franchise lawfully granted has not expired at the time of disincorporation, the disincorporation does not impair any right thereunder and does not imply any authority to interfere therewith to any greater extent than the city or town might have, if it had remained incorporated.

[1965 c 7 § 35.07.100. Prior: 1897 c 69 § 18; RRS § 8931.]

Notes:

Obligations of contract shall not be impaired: State Constitution Art. 1 § 23.

RCW 35.07.110 Effect of disincorporation--Streets.

Upon disincorporation of a city or town, its streets and highways pass to the control of the state and shall remain public highways until closed in pursuance of law; and the territory embraced therein shall be made into a new road district or annexed to adjoining districts as may be ordered by the board of county commissioners of the county embracing such city or town.

[1965 c 7 § 35.07.110. Prior: 1897 c 69 § 17; RRS § 8930.]

RCW 35.07.120 Receiver--Qualification--Bond.

The receiver must qualify within ten days after he has been declared elected, by filing with the county auditor a bond equal in penalty to the audited indebtedness and the established liabilities of the city or town with sureties approved by the board of county commissioners, or if the board is not in session, by the judge of the superior court of the county. The bond shall run to the state and shall be conditioned for the faithful performance of his duties as receiver and the prompt payment in the order of their priority of all lawful claims finally established as the funds come into his hands to discharge them. The bond shall be filed with the county auditor and shall be a public record and shall be for the benefit of every person who may be injured by the receiver's failure to discharge his duty.

[1965 c 7 § 35.07.120. Prior: 1897 c 69 § 7; RRS § 8920.]

RCW 35.07.130 Elected receiver--Failure to qualify--Court to appoint.

If the person elected receiver fails to qualify as such within the prescribed time, the council shall file in the superior court of the county a petition setting forth the fact of the

election, its result and the failure of the person elected receiver to qualify within the prescribed time and praying for the appointment of another person as receiver. Notice of the filing of the petition and of the time fixed for hearing thereon must be served upon the person elected receiver at least three days before the time fixed for the hearing. If he cannot be found within the county, no notice need be served, and the court may proceed with full jurisdiction to determine the matter upon the hearing. Unless good cause to the contrary is shown, the court shall appoint some suitable person to act as receiver, who shall qualify as required by RCW 35.07.120 within ten days from the date of his appointment.

If the council fails to procure the appointment of a receiver, any person qualified to vote in the city or town may file such a petition and make such application.

[1965 c 7 § 35.07.130. Prior: 1897 c 69 § 8; RRS § 8921.]

RCW 35.07.140 No receiver elected though indebtedness exists--Procedure.

If no receiver is elected upon the supposition that no indebtedness existed and it transpires that the municipality does have indebtedness or an outstanding liability, any interested person may file a petition in the superior court asking for the appointment of a receiver, and unless the indebtedness or liability is discharged, the court shall appoint some suitable person to act as receiver who shall qualify as required of any other receiver hereunder, within ten days from the date of his appointment.

[1965 c 7 § 35.07.140. Prior: 1897 c 69 § 15; RRS § 8928.]

RCW 35.07.150 Duties of receiver--Claims--Priority.

The receiver, upon qualifying, shall take possession of all the property, money, vouchers, records and books of the former municipality including those in any manner pertaining to its business and proceed to wind up its affairs. He shall have authority to pay:

(1) All outstanding warrants and bonds in the order of their maturity with due regard to the fund on which they are properly a charge;

(2) All lawful claims against the corporation which have been audited and allowed by the council;

(3) All lawful claims which may be presented to him within the time limited by law for the presentation of such claims, but no claim shall be allowed or paid which is not presented within six months from the date of the disincorporation election;

(4) All claims that by final adjudication may come to be established as lawful claims against the corporation.

As between warrants, bonds and other claims, their priority shall be determined with regard to the fund on which they are properly a charge.

[1965 c 7 § 35.07.150. Prior: 1897 c 69 § 9; RRS § 8922.]

Notes:

Accident claims, audits: Chapter 35.31 RCW, RCW 35.23.261.

RCW 35.07.160 Receiver may sue and be sued.

The receiver shall have the right to sue and be sued in all cases necessary or proper for the purpose of winding up the affairs of the former city or town and shall be subject to suit in all cases wherein the city or town might have been sued, subject to the limitations provided in this chapter.

[1965 c 7 § 35.07.160. Prior: 1897 c 69 § 12; RRS § 8925.]

RCW 35.07.170 Receiver--Power to sell property.

The receiver shall be authorized to sell at public auction after such public notice as the sheriff is required to give of like property sold on execution, all the property of the former municipality except such as is necessary for his use in winding up its affairs, and excepting also such as has been dedicated to public use.

Personal property shall be sold for cash.

Real property may be sold for all cash, or for one-half cash and the remainder in deferred payments, the last payment not to be later than one year from date of sale. Title shall not pass until all deferred payments have been fully paid.

[1965 c 7 § 35.07.170. Prior: 1897 c 69 § 10, part; RRS § 8923.]

RCW 35.07.180 Receiver--Power to levy taxes.

In the same manner and to the same extent as the proper authorities of the former city or town could have done had it not been disincorporated, the receiver shall be authorized to levy taxes on all taxable property, to receive the taxes when collected and to apply them together with the proceeds arising from sales to the extinguishment of the obligations of the former city or town.

After all the lawful claims against the former city or town have been paid excepting bonds not yet due, no levy greater than fifty cents per thousand dollars of assessed value shall be made; nor shall the levy be greater than sufficient to meet the accruing interest until the bonds mature.

[1973 1st ex.s. c 195 § 11; 1965 c 7 § 35.07.180. Prior: 1897 c 69 § 10, part; RRS § 8923, part.]

Notes:

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 35.07.190 Receiver's compensation.

The receiver shall be entitled to deduct from any funds coming into his hands a commission of six percent on the first thousand dollars, five percent on the second thousand and four percent on any amount over two thousand dollars as his full compensation exclusive of necessary traveling expenses and necessary disbursements, but not exclusive of attorney's fees.

[1965 c 7 § 35.07.190. Prior: 1897 c 69 § 11; RRS § 8924.]

RCW 35.07.200 Receiver--Removal for cause.

The receiver shall proceed to wind up the affairs of the corporation with diligence and for negligence or misconduct in the discharge of his duties may be removed by the superior court upon a proper showing made by a taxpayer of the former city or town or by an unsatisfied creditor thereof.

[1965 c 7 § 35.07.200. Prior: 1897 c 69 § 13, part; RRS § 8926, part.]

RCW 35.07.210 Receiver--Successive appointments.

In the case of removal, death, or resignation of a receiver, the court may appoint a new receiver to take charge of the affairs of the former city or town.

[1965 c 7 § 35.07.210. Prior: 1897 c 69 § 13, part; RRS § 8926, part.]

RCW 35.07.220 Receiver--Final account and discharge.

Upon the final payment of all lawful demands against the former city or town, the receiver shall file a final account, together with all vouchers, with the clerk of the superior court. Any funds remaining in his hands shall be paid to the county treasurer for the use of the school district in which the former city or town was situated; and thereupon the receivership shall be at an end.

[1965 c 7 § 35.07.220. Prior: 1897 c 69 § 14; RRS § 8927.]

RCW 35.07.230 Involuntary dissolution of towns--Authorized.

If any town fails for two successive years to hold its regular municipal election, or if the officers elected at the regular election of any town fail for two successive years to qualify and the government of the town ceases to function by reason thereof, the state auditor may petition the superior court of the county for an order, dissolving the town. In addition to stating the facts which would justify the entry of such an order, the petition shall set forth a detailed statement of the assets and liabilities of the town insofar as they can be ascertained.

[1995 c 301 § 34; 1965 c 7 § 35.07.230. Prior: 1925 ex.s. c 76 § 1; RRS § 8931-1.]

RCW 35.07.240 Involuntary dissolution of towns--Notice of hearing.

Upon the filing of a petition for the involuntary dissolution of a town, the superior court shall enter an order fixing the time for hearing thereon at a date not less than thirty days from date of filing. The state auditor shall give notice of the hearing by publication in a newspaper of general circulation in the county, once a week for three successive weeks, and by posting in three

public places in the town, stating therein the purpose of the petition and the date and place of hearing thereon.

[1985 c 469 § 18; 1965 c 7 § 35.07.240. Prior: 1925 ex.s. c 76 § 2; RRS § 8931-2.]

RCW 35.07.250 Involuntary dissolution of towns--Hearing.

Any person owning property in or qualified to vote in the town may appear at the hearing and file written objections to the granting of the petition. If the court finds that the town has failed for two successive years to hold its regular municipal election or that its officers elected at a regular election have failed to qualify for two successive years thereby causing the government of the town to cease to function, it shall enter an order for disincorporation of the town.

[1965 c 7 § 35.07.250. Prior: 1925 ex.s. c 76 § 3, part; RRS § 8931-3, part.]

RCW 35.07.260 Involuntary dissolution of towns--Alternative forms of order.

(1) If the court finds that the town has no indebtedness and no assets, the order of dissolution shall be effective forthwith.

(2) If the court finds that the town has assets, but no indebtedness or liabilities, it shall order a sale of the assets other than cash by the sheriff in the manner provided by law for the sale of property on execution. The proceeds of the sale together with any money on hand in the treasury of the town, after deducting the costs of the proceeding and sale, shall be paid into the county treasury and placed to the credit of the school district in which the town is located.

(3) If the court finds that the town has indebtedness or liabilities and assets other than cash, it shall order the sale of the assets as provided in subsection (2) hereof and that the proceeds thereof and the cash on hand shall be applied to the payment of the indebtedness and liabilities.

(4) If the court finds that the town has indebtedness or liabilities, but no assets or that the assets are insufficient to pay the indebtedness and liabilities, it shall order the board of county commissioners to levy from year to year a tax on the taxable property within the boundaries of the former town until the indebtedness and liabilities are paid. All taxes delinquent at the date of dissolution when collected shall be applied to the payment of the indebtedness and liabilities. Any balance remaining from the collection of delinquent taxes and taxes levied under order of the court, after payment of the indebtedness and liabilities shall be placed to the credit of the school district in which the town is located.

[1965 c 7 § 35.07.260. Prior: 1925 ex.s. c 76 § 3, part; RRS § 8931-3, part.]

Chapter 35.10 RCW
CONSOLIDATION AND ANNEXATION OF CITIES AND TOWNS

Sections

35.10.001 Actions subject to review by boundary review board.

35.10.203 Purpose.
35.10.207 "City" defined.
35.10.217 Methods for annexation.
35.10.240 Annexation--Canvass of votes.
35.10.265 Annexation--When effective--Ordinance.
35.10.300 Disposition of property and assets following consolidation or annexation.
35.10.310 Assets and liabilities of component cities--Taxation to pay claims.
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35.10.317 Receipt of state funds.
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35.10.360 Annexation--Transfer of fire department employees.
35.10.365 Annexation--Transfer of fire department employees--Rights and benefits.
35.10.370 Annexation--Transfer of fire department employees--Notice--Time limitation.
35.10.400 Consolidation.
35.10.410 Consolidation--Submission of ballot proposal--Initiation by resolution of legislative body.
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35.10.430 Consolidation--Form of government.
35.10.440 Consolidation--Assumption of general obligation indebtedness.
35.10.450 Consolidation--Public meetings on proposal--Role of boundary review board.
35.10.460 Consolidation--Ballot questions.
35.10.470 Consolidation--Canvass of votes.
35.10.480 Consolidation--Elections of officials--Effective date of consolidation.
35.10.490 Consolidation--Name of city.
35.10.500 Consolidation--Costs of election and public meetings.
35.10.510 Consolidation--Transfer of fire department employees.
35.10.520 Consolidation--Transfer of fire department employees--Rights and benefits.
35.10.530 Consolidation--Transfer of fire department employees--Notice--Time limitation.
35.10.540 Consolidation--Creation of community municipal corporation.
35.10.550 Consolidation--Wards.
35.10.900 Severability--1969 ex.s. c 89.
35.10.905 Severability--1985 c 281.

Notes:
Census to be conducted in decennial periods: State Constitution Art. 2 § 3.
Consolidation and annexation exempt from state environmental policy act: RCW 43.21C.225.
Population determinations: Chapter 43.62 RCW.
Procedure to attack consolidation or annexation affecting a city of the second class: RCW 35.23.545.

RCW 35.10.001 Actions subject to review by boundary review board.

Actions taken under chapter 35.10 RCW may be subject to potential review by a boundary review board under chapter 36.93 RCW.

[1989 c 84 § 27.]

RCW 35.10.203 Purpose.

The purpose of this chapter is to establish clear and uniform provisions of law governing the consolidation of all types and classes of cities.

[1985 c 281 § 1.]

RCW 35.10.207 "City" defined.

As used in this chapter, the term "city" means any city or town.

[1985 c 281 § 2.]

RCW 35.10.217 Methods for annexation.

The following methods are available for the annexation of all or a part of a city or town to another city or town:

(1) A petition for an election to vote upon the annexation, which proposed annexation is approved by the legislative body of the city or town from which the territory will be taken, may be submitted to the legislative body of the city or town to which annexation is proposed. An annexation under this subsection shall otherwise conform with the requirements for and procedures of a petition and election method of annexing unincorporated territory under chapter 35.13 RCW, except for the requirement for the approval of the annexation by the city or town from which the territory would be taken.

(2) The legislative body of a city or town may on its own initiative by resolution indicate its desire to be annexed to a city or town either in whole or in part, or the legislative body of a city or town proposing to annex all or part of another city or town may initiate the annexation by adopting a resolution indicating that desire. In case such resolution is passed, such resolution shall be transmitted to the other affected city or town. The annexation is effective if the other city or town adopts a resolution concurring in the annexation, unless the owners of property in the area proposed to be annexed, equal in value to sixty percent or more of the assessed valuation of the property in the area, protest the proposed annexation in writing to the legislative body of the city or town proposing to annex the area, within thirty days of the adoption of the second resolution accepting the annexation. Notices of the public hearing at which the second resolution is adopted shall be mailed to the owners of the property within the area proposed to be annexed in the same manner that notices of a hearing on a proposed local improvement district are required to be mailed by a city or town as provided in chapter 35.43 RCW. An annexation under this subsection shall be potentially subject to review by a boundary review board or other annexation review board after the adoption of the initial resolution, and the second resolution may not be adopted until the proposed annexation has been approved by the board.

(3) The owners of property located in a city or town may petition for annexation to another city or town. An annexation under this subsection shall conform with the requirements for and procedures of a direct petition method of annexing unincorporated territory, except that the legislative body of the city or town from which the territory would be taken must approve the

annexation before it may proceed.

(4) All annexations under this section are subject to potential review by the local boundary review board or annexation review board.

[1986 c 253 § 1; 1985 c 281 § 15; 1969 ex.s. c 89 § 4.]

RCW 35.10.240 Annexation--Canvass of votes.

In all cases of annexation, the county canvassing board or boards shall canvass the votes cast thereat.

In an election on the question of the annexation of all or a part of a city to another city, the votes cast in the city or portion thereof to be annexed shall be canvassed, and if a majority of the votes cast be in favor of annexation, the results shall be included in a statement indicating the total number of votes cast.

A proposition for the assumption of indebtedness outside the constitutional and/or statutory limits by the other city or cities in which the indebtedness did not originate shall be deemed approved if a majority of at least three-fifths of the voters of each city in which the indebtedness did not originate votes in favor thereof, and the number of persons voting on such proposition constitutes not less than forty percent of the total number of votes cast in such cities in which indebtedness did not originate at the last preceding general election: PROVIDED, HOWEVER, That if general obligation bond indebtedness was incurred by action by the city legislative body, a proposition for the assumption of such indebtedness by the other city or cities in which such indebtedness did not originate shall be deemed approved if a majority of the voters of each city in which such indebtedness did not originate votes in favor thereof.

A duly certified copy of such statement of an annexation election shall be filed with the legislative body of each of the cities affected and recorded upon its minutes, and it shall be the duty of the clerk, or other officer performing the duties of clerk, of each of such legislative bodies, to transmit to the secretary of state and the office of financial management a duly certified copy of the record of such statement.

[1985 c 281 § 16; 1981 c 157 § 1; 1973 1st ex.s. c 195 § 12; 1969 ex.s. c 89 § 7; 1967 c 73 § 17; 1965 c 7 § 35.10.240. Prior: 1929 c 64 § 5; RRS § 8909-5. Formerly RCW 35.10.070.]

Notes:

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Validating--1929 c 64: "That the attempted consolidation of two or more contiguous municipal corporations pursuant to the provisions of either chapter 167 of the Laws of 1927 or chapter 293 of the Laws of 1927 be, and any such consolidation of any such cities or towns, is hereby in all respects validated." [1929 c 64 § 16.]

Canvassing returns, generally: Chapter 29.62 RCW.

Conduct of elections--Canvass: RCW 29.13.040.

RCW 35.10.265 Annexation--When effective--Ordinance.

Immediately after the filing of the statement of an annexation election, the legislative

body of the annexing city may, if it deems it wise or expedient, adopt an ordinance providing for the annexation. Upon the date fixed in the ordinance of annexation, the area annexed shall become a part of the annexing city. The clerk of the annexing city shall transmit a certified copy of this ordinance to the secretary of state and the office of financial management.

[1985 c 281 § 17; 1981 c 157 § 3; 1969 ex.s. c 89 § 10.]

RCW 35.10.300 Disposition of property and assets following consolidation or annexation.

Upon the consolidation of two or more cities, or the annexation of any city to another city, as provided in this chapter, the title to all property and assets owned by, or held in trust for, such former city shall vest in such consolidated city, or annexing city, as the case may be: PROVIDED, That if any such former city, shall be indebted, the proceeds of the sale of any such property and assets not required for the use of such consolidated city, or annexing city, shall be applied to the payment of such indebtedness, if any exist at the time of such sale.

[1985 c 281 § 18; 1969 ex.s. c 89 § 12; 1965 c 7 § 35.10.300. Prior: 1929 c 64 § 11; RRS § 8909-11. Formerly RCW 35.10.100 and 35.11.080, part.]

RCW 35.10.310 Assets and liabilities of component cities--Taxation to pay claims.

Such consolidation, or annexation, shall in no wise affect or impair the validity of claim or chose in action existing in favor of or against, any such former city so consolidated or annexed, or any proceeding pending in relation thereto, but such consolidated or annexing city shall collect such claims in favor of such former cities, and shall apply the proceeds to the payment of any just claims against them respectively, and shall when necessary levy and collect taxes against the taxable property within any such former city sufficient to pay all just claims against it.

[1985 c 281 § 19; 1969 ex.s. c 89 § 13; 1965 c 7 § 35.10.310. Prior: 1929 c 64 § 12; RRS § 8909-12. Formerly RCW 35.10.110, 35.10.130, part, and 35.11.080, part.]

RCW 35.10.315 Adoption of final budget and levy of property taxes.

Upon the consolidation of two or more cities, or the annexation of any city after March 1st and prior to the date of adopting the final budget and levying the property tax dollar rate in that year for the next calendar year, the legislative body of the consolidated city or the annexing city is authorized to adopt the final budget and to levy the property tax dollar rate for the consolidated cities and any city annexed.

[1985 c 281 § 20; 1973 1st ex.s. c 195 § 13; 1969 ex.s. c 89 § 14.]

Notes:

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 35.10.317 Receipt of state funds.

Upon the consolidation of two or more cities, or the annexation of any city, the consolidated or annexing city shall receive all state funds to which the component cities would have been entitled to receive during the year when such consolidation or annexation became effective.

[1985 c 281 § 21; 1969 ex.s. c 89 § 15.]

RCW 35.10.320 Continuation of ordinances.

All ordinances in force within any such former city or cities, at the time of consolidation or annexation, not in conflict with the laws governing the consolidated city, or with the ordinances of the former city having the largest population, as shown by the last determination of the office of financial management shall remain in full force and effect until superseded or repealed by the legislative body of the consolidated or annexing city, and shall be enforced by such city, but all ordinances of such former cities, in conflict with such ordinances shall be deemed repealed by, and from and after, such consolidation or annexation, but nothing in this section shall be construed to discharge any person from any liability, civil or criminal, for any violation of any ordinance of such former city or cities incurred prior to such consolidation or annexation.

[1985 c 281 § 22; 1981 c 157 § 4; 1969 ex.s. c 89 § 16; 1965 c 7 § 35.10.320. Prior: 1929 c 64 § 13; RRS § 8909-13. Formerly RCW 35.10.120 and 35.11.080, part.]

RCW 35.10.331 Unassumed indebtedness.

Unless indebtedness approved by the voters, contracted, or incurred prior to the date of consolidation or annexation as provided herein has been assumed by the voters in the other city or cities in which such indebtedness did not originate, such indebtedness continues to be the obligation of the city in which it originated, and the legislative body of the consolidated or annexing city shall continue to levy the necessary taxes within the former city that incurred this indebtedness to amortize such indebtedness.

[1985 c 281 § 23; 1969 ex.s. c 89 § 17.]

RCW 35.10.350 Cancellation, acquisition of franchise or permit for operation of public service business in territory annexed.

See RCW 35.13.280.

RCW 35.10.360 Annexation--Transfer of fire department employees.

Upon the annexation of two or more cities or code cities, any employee of the fire department of the former city or cities who (1) was at the time of annexation employed

exclusively or principally in performing the powers, duties, and functions which are to be performed by the fire department of the annexed city or code city, as the case may be, (2) will, as a direct consequence of annexation, be separated from the employ of the former city, code city or town, and (3) can perform the duties and meet the minimum requirements of the position to be filled, then such employee may transfer employment to the fire department of the annexing city, as provided in this section and RCW 35.10.365 and 35.10.370.

For purposes of this section and RCW 35.10.365 and 35.10.370, employee means an individual whose employment has been terminated because of annexation by a city, code city or town.

[1986 c 254 § 4.]

RCW 35.10.365 Annexation--Transfer of fire department employees--Rights and benefits.

(1) An eligible employee may transfer into the civil service system of the annexing city, code city, or town by filing a written request with the city, code city, or town civil service commission. Upon receipt of such request by the civil service commission the transfer of employment shall be made. The employee so transferring will (a) be on probation for the same period as are new employees in the position filled, but if the transferring employee has already completed a probationary period as a fire fighter prior to the transfer, then the employee may only be terminated during the probationary period for failure to adequately perform assigned duties, not meeting the minimum qualifications of the position, or behavior that would otherwise be subject to disciplinary action, (b) be eligible for promotion no later than after completion of the probationary period, (c) receive a salary at least equal to that of other new employees in the position filled, and (d) in all other matters, such as retirement, sick leave, and vacation, have, within the city, code city, or town civil service system, all the rights, benefits, and privileges to which he or she would have been entitled as a member of the annexed city, code city, or town fire department from the beginning of his or her employment with the former city or code city fire department: PROVIDED, That for purposes of layoffs by the annexing city or code city, only the time of service accrued with the annexing city or code city shall apply unless an agreement is reached between the collective bargaining representatives of the employees of the annexing and annexed fire agencies and the annexing and annexed fire agencies. A record of the employee's service with the former city or code city fire department shall be transmitted to the applicable civil service commission which shall be credited to such employee as a part of the period of employment in the annexed city, code city, or town fire department. All accrued benefits are transferable provided that the recipient agency provides comparable benefits. All benefits shall then accrue based on the combined seniority of each employee in the recipient agency.

(2) As many of the transferring employees shall be placed upon the payroll of the annexing city, code city, or town fire department as the department determines are needed to provide services. These needed employees shall be taken in order of seniority and the remaining employees who transfer as provided in this section and RCW 35.10.360 and 35.10.370 shall head

the list for employment in the civil service system in order of their seniority, to the end that they shall be the first to be reemployed in the city, code city, or town fire department when appropriate positions become available: PROVIDED, That employees who are not immediately hired by the city, code city, or town shall be placed on a reemployment list for a period not to exceed thirty-six months unless a longer period is authorized by an agreement reached between the collective bargaining representatives of the employees of the annexing and annexed fire agencies and the annexing and annexed fire agencies.

[1994 c 73 § 1; 1986 c 254 § 5.]

Notes:

Effective date--1994 c 73: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 23, 1994]." [1994 c 73 § 6.]

RCW 35.10.370 Annexation--Transfer of fire department employees--Notice--Time limitation.

If, as a result of annexation of two or more cities, or code cities any employee is laid off who is eligible to transfer to the city, code city or town fire department under this section and RCW 35.10.360 and 35.10.365 the fire department shall notify the employee of the right to transfer and the employee shall have ninety days to transfer employment to the annexing city or code city fire department.

[1986 c 254 § 6.]

RCW 35.10.400 Consolidation.

Two or more contiguous cities located in the same or different counties may consolidate into one city by proceedings in conformity with the provisions of this chapter. When cities are separated by water and/or tide or shore lands they shall be deemed contiguous for all the purposes of this chapter and, upon a consolidation of such cities under the provisions of this chapter, any such intervening water and/or tide or shore lands shall become a part of the consolidated city. The consolidated city shall become a noncharter code city operating under Title 35A RCW.

[1985 c 281 § 3.]

RCW 35.10.410 Consolidation--Submission of ballot proposal--Initiation by resolution of legislative body.

The submission of a ballot proposal to the voters of two or more contiguous cities for the consolidation of these contiguous cities may be caused by the adoption of a joint resolution, by a majority vote of each city legislative body, seeking consolidation of such contiguous cities. The joint resolution shall provide for submission of the question to the voters at the next general municipal election, if one is to be held more than ninety days but not more than one hundred

eighty days after the passage of the joint resolution, or shall call for a special election to be held for that purpose at the next special election date, as specified in RCW 29.13.020, that occurs ninety or more days after the passage of the joint resolution. The legislative bodies of the cities also shall notify the county legislative authority of each county in which the cities are located of the proposed consolidation.

[1985 c 281 § 4.]

RCW 35.10.420 Consolidation--Submission of ballot proposal--Initiation by petition.

The submission of a ballot proposal to the voters of two or more contiguous cities for the consolidation of these contiguous cities may also be caused by the filing of a petition with the legislative body of each such city, signed by the voters of each city in number equal to not less than ten percent of voters who voted in the city at the last general municipal election therein, seeking consolidation of such contiguous cities. A copy of the petition shall be forwarded immediately by each city to the auditor of the county or counties within which that city is located.

The county auditor or auditors shall determine the sufficiency of the signatures in each petition within ten days of receipt of the copies and immediately notify the cities proposed to be consolidated of the sufficiency. If each of the petitions is found to have sufficient valid signatures, the auditor or auditors shall call a special election at which the question of whether such cities shall consolidate shall be submitted to the voters of each of such cities. If a general election is to be held more than ninety days but not more than one hundred eighty days after the filing of the last petition, the question shall be submitted at that election. Otherwise the question shall be submitted at a special election to be called for that purpose at the next special election date, as specified in RCW 29.13.020, that occurs ninety or more days after the date when the last petition was filed.

If each of the petitions is found to have sufficient valid signatures, the auditor or auditors also shall notify the county legislative authority of each county in which the cities are located of the proposed consolidation.

Petitions shall conform with the requirements for form prescribed in RCW 35A.01.040, except different colored paper may be used on petitions circulated in the different cities. A legal description of the cities need not be included in the petitions.

[1995 c 196 § 7; 1985 c 281 § 5.]

RCW 35.10.430 Consolidation--Form of government.

A joint resolution or petition shall prescribe the form or plan of government of the proposed consolidated city, or shall provide that a ballot proposition to determine the form or plan of government shall be submitted to the voters of the cities proposed to be consolidated. The plans or forms of government include: Mayor/council, council/manager, and commission. If a commission form or plan of government is prescribed or chosen by the voters, the commission shall be subject to chapter 35.17 RCW and the noncharter code city shall be assumed to have had

a commission plan or form of government prior to its becoming a noncharter code city, as provided in RCW 35A.02.130. However, three commissioners would be elected at the election provided in RCW 35.10.480.

[1985 c 281 § 6.]

RCW 35.10.440 Consolidation--Assumption of general obligation indebtedness.

A joint resolution or a petition may contain a proposal that a general obligation indebtedness of one or more of the cities proposed to be consolidated shall be assumed by the proposed consolidated city, in which event, the joint resolution or petition shall specify the improvement or service for which such general obligation indebtedness was incurred and state the amount of any such indebtedness then outstanding and the rate of interest payable thereon.

[1985 c 281 § 7.]

RCW 35.10.450 Consolidation--Public meetings on proposal--Role of boundary review board.

The county legislative authority, or the county legislative authorities jointly, shall set the date, time, and place for one or more public meetings on the proposed consolidation, and name a person or persons to chair the meetings. There shall be at least one public meeting in each county in which one or more of the cities proposed to be consolidated is located. A county legislative authority may name the members of the boundary review board, if one exists in the county, to chair one or more of the public meetings held in that county. In addition to any meeting held by the county, a boundary review board, if requested by a majority of the county legislative authority, may hold a public meeting on proposed consolidation of cities. The meeting shall be limited to receiving comments and written materials from citizens and city officials on the proposed consolidation of that portion of cities located in the county which the boundary review board serves. The record and proceedings of the boundary review board are supplemental and advisory to the consolidation of cities. If a boundary review board meets pursuant to this section, the boundary review board may include, as part of its record, comments pertaining to the probable environmental impact of the proposed consolidation. The record of the meeting and advisory comments of the board, if any, must be filed with the county legislative authority no later than twenty days before the date of the election at which the question of consolidating the cities is presented to the voters. The boundary review board shall not have any authority or jurisdiction on city consolidations under chapter 36.93 RCW. A public meeting shall be held at each specified date, time, and place. The public meetings of the county or the boundary review board shall be held at least twenty but not more than forty-five days before the date of the election at which the question of consolidating the cities is presented to the voters.

At each public meeting, each city proposed to be consolidated shall present testimony and written materials concerning the following topics: (1) The rate or rates of property taxes imposed by the city, and the purposes of these levies; (2) the excise taxes imposed by the city, including the tax bases and rates; and (3) the indebtedness of the city, including general

indebtedness, both voter-approved and nonvoter-approved, as well as the city's special indebtedness, such as revenue bond indebtedness. Any interested person, including the officials of the cities proposed to be consolidated, may present information concerning the proposed consolidation and testify for or against the proposed consolidations.

Notice of each public meeting shall be published by the county within whose boundaries the public meeting is held in the normal manner notices of county hearings are published.

[1985 c 281 § 8.]

RCW 35.10.460 Consolidation--Ballot questions.

If a proposal for assumption of indebtedness is to be submitted to the voters of a city in which the indebtedness did not originate, the proposal shall be separately stated and the ballots shall contain, as a separate proposition to be voted on, the words "For Assumption of Indebtedness to be paid by the levy of annual property taxes in excess of regular property taxes" and "Against Assumption of Indebtedness to be paid by the levy of annual property taxes in excess of regular property taxes" or words equivalent thereto. If the question of the form or plan of government is to be submitted to the voters, the question shall be separately stated and the ballots shall contain, as a separate proposition to be voted on, the option of a voter to select one of the three forms or plans of government. If the question of the name of the proposed consolidated city is to be submitted to the voters, the question shall be separately stated and the ballots shall contain, as a separate proposition to be voted on, the option of a voter to select one of the names of the proposed consolidated city.

[1995 c 196 § 1; 1985 c 281 § 9.]

RCW 35.10.470 Consolidation--Canvass of votes.

The county canvassing board in each county involved shall canvass the returns in each election. The votes cast in each of such cities shall be canvassed separately, and the statement shall show the whole number of votes cast, the number of votes cast in each city for consolidation, and the number of votes cast in each city against such consolidation. If a proposal for assumption or indebtedness was voted upon in a city in which the indebtedness did not originate, the statement shall show the number of votes cast in such a city for assumption of indebtedness and the number of votes cast against assumption of indebtedness. If a question of the form or plan of government was voted upon, the statement shall show the number of votes cast in each city for each of the optional forms or plans of government. If a name for the proposed consolidated city was voted upon, the statement shall show the number of votes cast in each city for each optional name. A certified copy of such statement shall be filed with the legislative body of each of the cities proposed to be consolidated.

If it appears from such statement of canvass that a majority of the votes cast in each of the cities were in favor of consolidation, the consolidation shall be authorized and shall be effective when the newly elected legislative body members assume office, as provided in RCW 35.10.480.

If a question of the form or plan of government was voted upon, that form or plan receiving the greatest combined number of votes shall become the form or plan of government for the consolidated city. If two or three of the forms or plans of government received the same highest number of votes, the form or plan of government shall be chosen by lot between those receiving the same highest number, where the mayor of the largest of the cities proposed to be consolidated draws the lot at a public meeting.

If a proposition to assume indebtedness was submitted to voters of a city in which the indebtedness did not originate, the proposition shall be deemed approved if approved by a majority of at least three-fifths of the voters of the city, and the number of persons voting on the proposition constitutes not less than forty percent of the number of votes cast in the city at the last preceding general election. Approval of the proposition authorizes annual property taxes to be levied on the property within the city in which the indebtedness did not originate that are in excess of regular property taxes. However, if the general indebtedness in question was incurred by action of a city legislative body, a proposition for assuming the indebtedness need only be approved by a simple majority vote of the voters of the city in which such indebtedness did not originate.

If a question of the name of the proposed consolidated city was voted upon, that name receiving the greatest combined number of votes shall become the name of the consolidated city. If two proposed names receive the same number of votes, the name shall be chosen by lot, where the mayor of the largest of the cities proposed to be consolidated draws the lot at a public meeting.

[1995 c 196 § 2; 1985 c 281 § 10.]

RCW 35.10.480 Consolidation--Elections of officials--Effective date of consolidation.

If the voters of each of the cities proposed to consolidate approve the consolidation, elections to nominate and elect the elected officials of the consolidated city shall be held at times specified in RCW 35A.02.050. If the joint resolution or the petitions prescribe that councilmembers of the consolidated city shall be elected from wards, then the councilmembers shall be elected from wards under RCW 35A.12.180. Terms shall be established as if the city is initially incorporating.

The newly elected officials shall take office immediately upon their qualification. The effective date of the consolidation shall be when a majority of the newly elected members of the legislative body assume office. The clerk of the newly consolidated city shall transmit a duly certified copy of an abstract of the votes to authorize the consolidation and of the election of the newly elected city officials to the secretary of state and the office of financial management.

[1995 c 196 § 3; 1985 c 281 § 11.]

RCW 35.10.490 Consolidation--Name of city.

A joint resolution or the petitions may prescribe the name of the proposed consolidated city or may provide that a ballot proposition to determine the name of the proposed consolidated

city be submitted to the voters of the cities proposed to be consolidated. If two alternative names are submitted, the name receiving the simple majority vote of the voters voting on the question shall become the name of the consolidated city. If the name for the proposed consolidated city is not prescribed by the joint resolution or petition, or a proposition on the name is not submitted to the voters of the cities proposed to be consolidated, then the newly consolidated city shall be known as the city of . . . . . (listing the names of the cities that were consolidated in alphabetical order). The legislative body of the newly consolidated city may present another name or two names for the newly consolidated city to the city voters for their approval or rejection at the next municipal general election held after the effective date of the consolidation. If only one alternative name is submitted, this alternative name shall become the name of the consolidated city if approved by a simple majority vote of the voters voting on the question. If two alternative names are submitted, the name receiving the simple majority vote of the voters voting on the question shall become the name of the consolidated city.

[1995 c 196 § 4; 1985 c 281 § 12.]

RCW 35.10.500 Consolidation--Costs of election and public meetings.

If consolidation is authorized, the costs of such election and the public meetings shall be borne by the city formed by such consolidation. If the consolidation is not authorized, the costs of election and the public meetings shall be borne proportionately by each city affected, in that ratio in which the number of inhabitants residing in the total area in which the election was held, as shown by the figures released at the most recent state or federal census or by a determination of the office of financial management.

[1985 c 281 § 13.]

RCW 35.10.510 Consolidation--Transfer of fire department employees.

Upon the consolidation of two or more cities or code cities, any employee of the fire department of the former city or cities who (1) was at the time of consolidation employed exclusively or principally in performing the powers, duties, and functions which are to be performed by the fire department of the consolidated city or code city, as the case may be, (2) will, as a direct consequence of consolidation, be separated from the employ of the former city, code city or town, and (3) can perform the duties and meet the minimum requirements of the position to be filled, then such employee may transfer employment to the fire department of the consolidated city, as provided in this section and RCW 35.10.520 and 35.10.530.

For purposes of this section and RCW 35.10.520 and 35.10.530, employee means an individual whose employment has been terminated because of a consolidation of two or more cities, code cities or towns.

[1986 c 254 § 1.]

Notes:

Effective date--Legislative study--1986 c 254 §§ 1-3: "Sections 1 through 3 of this act shall take effect

July 1, 1987. The appropriate committees of the senate and house of representatives shall conduct a study of the transfer rights of employees during the consolidation of cities and code cities and make recommendations to the legislature at the start of the 1987 legislative session." [1986 c 254 § 16.]

RCW 35.10.520 Consolidation--Transfer of fire department employees--Rights and benefits.

(1) An eligible employee may transfer into the civil service system of the consolidated city or code city by filing a written request with the civil service commission of the consolidated city. Upon receipt of such request by the civil service commission the transfer of employment shall be made. The employee so transferring will (a) be on probation for the same period as are new employees in the position filled, but if the transferring employee has already completed a probationary period as a fire fighter prior to the transfer, then the employee may only be terminated during the probationary period for failure to adequately perform assigned duties, not meeting the minimum qualifications of the position, or behavior that would otherwise be subject to disciplinary action, (b) be eligible for promotion no later than after completion of the probationary period, (c) receive a salary at least equal to that of other new employees in the position filled, and (d) in all other matters, such as retirement, sick leave, and vacation, have, within the city or code city civil service system, all the rights, benefits, and privileges to which he or she would have been entitled as a member of the consolidated city fire department from the beginning of his or her employment with the former city or code city fire department: PROVIDED, That for purposes of layoffs by the consolidated city or code city, only the time of service accrued with the consolidated city or code city shall apply unless an agreement is reached between the collective bargaining representatives of the employees of the consolidating fire agencies and consolidated agencies and the consolidating and consolidated fire agencies. A record of the employee's service with the former city or code city fire department shall be transmitted to the applicable civil service commission and shall be credited to such employee as a part of the period of employment in the consolidated city fire department. All accrued benefits are transferable provided that the recipient agency provides comparable benefits. All benefits shall then accrue based on the combined seniority of each employee in the recipient agency.

(2) As many of the transferring employees shall be placed upon the payroll of the consolidated city or code city fire department as the department determines are needed to provide services. These needed employees shall be taken in order of greatest seniority from any of the seniority lists of the consolidating city or code city and the remaining employees who transfer as provided in this section and RCW 35.10.510 and 35.10.530 shall head the list for employment in the civil service system in order of their seniority, to the end that they shall be the first to be reemployed in the fire department when appropriate positions become available: PROVIDED, That employees who are not immediately hired by the city, code city, or town shall be placed on a reemployment list for a period not to exceed thirty-six months unless a longer period is authorized by an agreement reached between the collective bargaining representatives of the employees of the consolidating fire agencies and consolidated fire agency and the consolidating and consolidated fire agencies.

(3) The consolidated city or code city shall retain the right to select the fire chief and

assistant fire chiefs regardless of seniority.

[1994 c 73 § 2; 1986 c 254 § 2.]

Notes:

Effective date--1994 c 73: See note following RCW 35.10.365.

Effective date--Legislative study--1986 c 254 §§ 1-3: See note following RCW 35.10.510.

RCW 35.10.530 Consolidation--Transfer of fire department employees--Notice--Time limitation.

If, as a result of consolidation of two or more cities, or code cities, any employee is laid off who is eligible to transfer to the city fire department pursuant to this section and RCW 35.10.510 and 35.10.520, the city fire department shall notify the employee of the right to so transfer and the employee shall have ninety days to transfer employment to the consolidating city, or code city fire department.

[1986 c 254 § 3.]

Notes:

Effective date--Legislative study--1986 c 254 §§ 1-3: See note following RCW 35.10.510.

RCW 35.10.540 Consolidation--Creation of community municipal corporation.

Voters of one or more of the cities that are proposed to be consolidated may have a ballot proposition submitted to them authorizing the simultaneous creation of a community municipal corporation and election of community council members as provided for under chapter 35.14 RCW. The joint resolution that initiates a consolidation under RCW 35.10.410 may provide for the question of whether a community municipal corporation shall be created to be submitted to the voters of one or more of the cities that are proposed to be consolidated as a separate ballot measure from the ballot measure authorizing the consolidation or as part of the same ballot measure authorizing the consolidation. The petitions that are signed by the voters of each of the cities that are proposed to be consolidated under RCW 35.10.420 may provide for the question of whether to create a community municipal corporation to be submitted to the voters of that city as a separate ballot measure from the ballot measure authorizing the consolidation or as part of the same ballot measure authorizing the consolidation.

The ballots shall contain the words "For consolidation and creation of community municipal corporation" and "Against consolidation and creation of community municipal corporation," or "For creation of community municipal corporation" and "Against creation of community municipal corporation," as the case may be. Approval of either optional ballot proposition shall be by simple majority vote of the voters voting on the proposition, but the consolidation must be authorized by the voters of each city proposed to be consolidated before a community municipal corporation is created.

[1993 c 75 § 2.]

RCW 35.10.550 Consolidation--Wards.

Unless a commission form of government is prescribed or submitted to the voters under RCW 35.10.430, a joint resolution or petition may prescribe that wards be used to elect the councilmembers of the consolidated city. The joint resolution or petition must contain a map of the proposed consolidated city that clearly delineates the boundaries of each ward. Each ward in the proposed consolidated city shall contain approximately the same population. To the greatest extent possible, the integrity of the boundaries of the cities that are proposed to be consolidated shall be respected when the wards are drawn so that the territory within each city is: (1) Included within the fewest number of wards, to the extent the city has a population that is greater than the maximum population established for each ward; or (2) included wholly within one ward, to the extent the city has a population that is equal to or less than the maximum population established for each ward. After the election specified in RCW 35.10.480, election wards may be modified in the manner specified in RCW 35A.12.180.

[1995 c 196 § 6.]

RCW 35.10.900 Severability--1969 ex.s. c 89.

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

[1969 ex.s. c 89 § 19.]

RCW 35.10.905 Severability--1985 c 281.

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

[1985 c 281 § 31.]

Chapter 35.13 RCW
ANNEXATION OF UNINCORPORATED AREAS

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35.13.320 Boundary line adjustment--When adjustment required--Limitation--Not subject to review.

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35.13.340 Boundary line adjustment--Inclusion or exclusion of remaining portion of parcel--When subject to review--Definition.
35.13.350 Providing annexation information to public.
35.13.360 Transfer of county sheriff's employees--Purpose.
35.13.370 Transfer of county sheriff's employees--When authorized.
35.13.380 Transfer of county sheriff's employees--Conditions, limitations.
35.13.390 Transfer of county sheriff's employees--Rules.
35.13.400 Transfer of county sheriff's employees--Notification of right to transfer--Time for filing transfer request.
35.13.900 Application of chapter to annexations involving water or sewer service.

Notes:
Annexation of fire protection district territory: RCW 35.02.190 through 35.02.205.
Consolidation and annexation of cities and towns: Chapter 35.10 RCW.
Local governmental organizations, actions affecting boundaries, review by boundary review board: Chapter 36.93 RCW.
Population determinations: Chapter 43.62 RCW.
Procedure to attack consolidation or annexation affecting a city of the second class: RCW 35.23.545.
Provisions relating to city annexation review boards not applicable where boundary review board created: RCW 36.93.220.

RCW 35.13.001 Actions subject to review by boundary review board.

Actions taken under chapter 35.13 RCW may be subject to potential review by a boundary review board under chapter 36.93 RCW.

[1989 c 84 § 28.]

RCW 35.13.005 Annexations beyond urban growth areas prohibited.

No city or town located in a county in which urban growth areas have been designated under RCW 36.70A.110 may annex territory beyond an urban growth area.

[1990 1st ex.s. c 17 § 30.]

Notes:
Severability--Part, section headings not law--1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

RCW 35.13.010 Authority for annexation--Consent of county commissioners for certain property.

Any portion of a county not incorporated as part of a city or town but lying contiguous thereto may become a part of the city or town by annexation: PROVIDED, That property owned by a county, and used for the purpose of an agricultural fair as provided in chapter 15.76 RCW or chapter 36.37 RCW shall not be subject to annexation without the consent of the majority of

the board of county commissioners. An area proposed to be annexed to a city or town shall be deemed contiguous thereto even though separated by water or tide or shore lands on which no bona fide residence is maintained by any person.

[1965 c 7 § 35.13.010. Prior: 1959 c 311 § 1; prior: (i) 1937 c 110 § 1; 1907 c 245 § 1; RRS § 8896. (ii) 1945 c 128 § 1; Rem. Supp. 1945 § 8909-10.]

Notes:

Validation--1961 ex.s. c 16: Validation of certain incorporations and annexations--Municipal corporations of the fourth class: See note following RCW 35.21.010.

RCW 35.13.015 Election method--Resolution for election--Contents of resolution.

In addition to the method prescribed by RCW 35.13.020 for the commencement of annexation proceedings, the legislative body of any city or town may, whenever it shall determine by resolution that the best interests and general welfare of such city or town would be served by the annexation of unincorporated territory contiguous to such city or town, file a certified copy of the resolution with the board of county commissioners of the county in which said territory is located. The resolution of the city or town initiating such election shall, subject to RCW 35.02.170, describe the boundaries of the area to be annexed, as nearly as may be state the number of voters residing therein, pray for the calling of an election to be held among the qualified voters therein upon the question of annexation, and provide that said city or town will pay the cost of the annexation election. The resolution may require that there also be submitted to the electorate of the territory sought to be annexed a proposition that all property within the area annexed shall, upon annexation, be assessed and taxed at the same rate and on the same basis as the property of such annexing city or town is assessed and taxed to pay for all or any portion of the then outstanding indebtedness of the city or town to which said area is annexed, approved by the voters, contracted, or incurred prior to, or existing at, the date of annexation. Whenever a city or town has prepared and filed a comprehensive plan for the area to be annexed as provided for in RCW 35.13.177 and 35.13.178, the resolution initiating the election may also provide for the simultaneous adoption of the comprehensive plan upon approval of annexation by the electorate of the area to be annexed. The resolution initiating the election may also provide for the simultaneous creation of a community municipal corporation and election of community council members as provided for in RCW 35.14.010 through 35.14.060 upon approval of annexation by the electorate of the area to be annexed. In cities under the optional municipal code the resolution initiating the election may also provide for the simultaneous inclusion of the annexed area into a named existing community municipal corporation. The proposition for the creation of a community municipal corporation may be submitted as part of the annexation proposition or may be submitted as a separate proposition. The proposition for inclusion within a named existing community municipal corporation shall be submitted as part of the annexation proposition.

[1975 1st ex.s. c 220 § 6; 1973 1st ex.s. c 164 § 2; 1970 ex.s. c 52 § 6; 1967 c 73 § 7; 1965 ex.s. c 88 § 3; 1965 c 7 § 35.13.015. Prior: 1961 c 282 § 1.]

Notes:

Legislative finding, intent--1975 1st ex.s. c 220: See note following RCW 35.02.170.
Community municipal corporations: Chapter 35.14 RCW.

RCW 35.13.020 Election method--Petition for election--Signers--Rate of assessment in annexed area--Comprehensive plan--Community municipal corporation--Filing and approval--Costs.

A petition for an election to vote upon the annexation of a portion of a county to a contiguous city or town signed by qualified voters resident in the area equal in number to twenty percent of the votes cast at the last election may be filed in the office of the board of county commissioners: PROVIDED, That any such petition shall first be submitted to the prosecuting attorney who shall, within twenty-one days after submission, certify or refuse to certify the petition as set forth in *RCW 35.13.025. If the prosecuting attorney certifies the petition, it shall be filed with the legislative body of the city or town to which the annexation is proposed, and such legislative body shall, by resolution entered within sixty days from the date of presentation, notify the petitioners, either by mail or by publication in the same manner notice of hearing is required by RCW 35.13.040 to be published, of its approval or rejection of the proposed action. The petition may also provide for the simultaneous creation of a community municipal corporation and election of community council members as provided for in RCW 35.14.010 through 35.14.060. In approving the proposed action, the legislative body may require that there also be submitted to the electorate of the territory to be annexed, a proposition that all property within the area to be annexed shall, upon annexation be assessed and taxed at the same rate and on the same basis as the property of such annexing city or town is assessed and taxed to pay for all or any portion of the then outstanding indebtedness of the city or town to which said area is annexed, approved by the voters, contracted, or incurred prior to, or existing at, the date of annexation. Only after the legislative body has completed preparation and filing of a comprehensive plan for the area to be annexed as provided for in RCW 35.13.177 and 35.13.178, the legislative body in approving the proposed action, may require that the comprehensive plan be simultaneously adopted upon approval of annexation by the electorate of the area to be annexed. The approval of the legislative body shall be a condition precedent to the filing of such petition with the board of county commissioners as hereinafter provided. The costs of conducting such election shall be a charge against the city or town concerned. The proposition or questions provided for in this section may be submitted to the voters either separately or as a single proposition.

[1981 c 332 § 3; 1973 1st ex.s. c 164 § 3; 1967 c 73 § 8; 1965 ex.s. c 88 § 4; 1965 c 7 § 35.13.020. Prior: 1961 c 282 § 7; prior: 1951 c 248 § 6; 1907 c 245 § 2, part; RRS § 8897, part.]

Notes:

***Reviser's note:** RCW 35.13.025 was repealed by 1989 c 351 § 10.
Severability--1981 c 332: See note following RCW 35.13.165.

RCW 35.13.030 Election method--Petition for election--Content.

A petition filed with the county commissioners to call an annexation election shall, subject to RCW 35.02.170, particularly describe the boundaries of the area proposed to be annexed, state the number of voters residing therein as nearly as may be, state the provisions, if any there be, relating to assumption of debt by the owners of property of the area proposed to be annexed, and/or the simultaneous adoption of a comprehensive plan for the area proposed to be annexed, and shall pray for the calling of an election to be held among the qualified voters therein upon the question of annexation. If the petition also provides for the creation of a community municipal corporation and election of community council members, the petition shall also describe the boundaries of the proposed service area, state the number of voters residing therein as nearly as may be, and pray for the election of community council members by the qualified voters residing in the service area.

[1975 1st ex.s. c 220 § 7; 1967 c 73 § 9; 1965 ex.s. c 88 § 5; 1965 c 7 § 35.13.030. Prior: 1961 c 282 § 8; prior: 1907 c 245 § 2, part; RRS § 8897, part.]

Notes:

Legislative finding, intent--1975 1st ex.s. c 220: See note following RCW 35.02.170.

RCW 35.13.040 Election method--Hearing--Notice.

Upon the filing of approval by the review board of a twenty percent annexation petition under the election method to call an annexation election, the board of county commissioners at its next meeting shall fix a date for hearing thereon to be held not less than two weeks nor more than four weeks thereafter, of which hearing the petitioners must give notice by publication once each week at least two weeks prior thereto in some newspaper of general circulation in the area proposed to be annexed. Upon the day fixed, the board shall hear the petition, and if it complies with the requirements of law and has been approved by the review board, shall grant it. The hearing may be continued from time to time for an aggregate period not exceeding two weeks.

[1973 1st ex.s. c 164 § 4; 1965 c 7 § 35.13.040. Prior: 1961 c 282 § 9; prior: 1907 c 245 § 2, part; RRS § 8897, part.]

RCW 35.13.050 Election method--Petition or resolution for election--Others covering same area barred from consideration, withdrawal.

After the filing with the board of county commissioners of a petition or resolution pursuant to RCW 35.13.015 to call an annexation election, pending the hearing under the twenty percent annexation petition under the election method and pending the election to be called thereunder, the board of county commissioners shall not consider any other petition or resolution involving any portion of the territory embraced therein: PROVIDED, That the petition or resolution may be withdrawn or a new petition or resolution embracing other or different boundaries substituted therefor by a majority of the signers thereof, or in the case of a resolution, by the legislative body of the city or town, and the same proceeding shall be taken as in the case of an original petition or resolution.

[1973 1st ex.s. c 164 § 5; 1965 c 7 § 35.13.050. Prior: 1961 c 282 § 10; prior: 1907 c 245 § 2, part; RRS § 8897,

part.]

RCW 35.13.060 Election method--Fixing date of election.

Upon granting the petition under the twenty percent annexation petition under the election method, and after the auditor has certified the petition as being sufficient, the legislative body of the city or town shall indicate to the county auditor its preference for the date of the election on the annexation to be held, which shall be one of the dates for special elections provided under RCW 29.13.020 that is sixty or more days after the date the preference is indicated. The county auditor shall call the special election at the special election date indicated by the city or town.

[1989 c 351 § 2; 1973 1st ex.s. c 164 § 6; 1965 c 7 § 35.13.060. Prior: 1961 c 282 § 12; prior: 1907 c 245 § 3, part; RRS § 8898, part.]

Notes:
Election method, date for annexation election if review board's determination favorable: RCW 35.13.174.

RCW 35.13.070 Election method--Conduct of election.

An annexation election shall be held in accordance with the general election laws of the state, and only registered voters who have resided in the area proposed to be annexed for ninety days immediately preceding the election shall be allowed to vote therein.

[1965 c 7 § 35.13.070. Prior: 1961 c 282 § 15; prior: 1907 c 245 § 4, part; RRS § 8899, part.]

Notes:
Conduct of elections: RCW 29.13.040.

RCW 35.13.080 Election method--Notice of election.

Notice of an annexation election shall particularly describe the boundaries of the area proposed to be annexed, describe the boundaries of the proposed service area if the simultaneous creation of a community municipal corporation is provided for, state the objects of the election as prayed in the petition or as stated in the resolution and require the voters to cast ballots which shall contain the words "For annexation" and "Against annexation" or words equivalent thereto, or contain the words "For annexation and adoption of comprehensive plan" and "Against annexation and adoption of comprehensive plan" or words equivalent thereto in case the simultaneous adoption of a comprehensive plan is proposed, and, if appropriate, the words "For creation of community municipal corporation" and "Against creation of community municipal corporation" or words equivalent thereto, or contain the words "For annexation and creation of community municipal corporation" and "Against annexation and creation of community municipal corporation" or words equivalent thereto in case the simultaneous creation of a community municipal corporation is proposed, and which in case the assumption of indebtedness is proposed, shall contain as a separate proposition, the words "For assumption of indebtedness" and "Against assumption of indebtedness" or words equivalent thereto and if only a portion of

the indebtedness of the annexing city or town is to be assumed, an appropriate separate proposition for and against the assumption of such portion of the indebtedness shall be submitted to the voters. If the creation of a community municipal corporation and election of community council members is provided for, the notice shall also require the voters within the service area to cast ballots for candidates for positions on such council. The notice shall be posted for at least two weeks prior to the date of election in four public places within the area proposed to be annexed and published in accordance with the notice required by RCW 29.27.080 prior to the date of election in a newspaper of general circulation in the area proposed to be annexed.

[1973 1st ex.s. c 164 § 7; 1967 c 73 § 10; 1965 ex.s. c 88 § 6; 1965 c 7 § 35.13.080. Prior: 1961 c 282 § 13; prior: 1907 c 245 § 3, part; RRS § 8898, part.]

RCW 35.13.090 Election method--Vote required--Proposition for assumption of indebtedness--Certification.

(1) The proposition for or against annexation or for or against annexation and adoption of the comprehensive plan, or for or against creation of a community municipal corporation, or any combination thereof, as the case may be, shall be deemed approved if a majority of the votes cast on that proposition are cast in favor of annexation or in favor of annexation and adoption of the comprehensive plan, or for creation of the community municipal corporation, or any combination thereof, as the case may be.

(2) If a proposition for or against assumption of all or any portion of indebtedness was submitted to the registered voters, it shall be deemed approved if a majority of at least three-fifths of the registered voters of the territory proposed to be annexed voting on such proposition vote in favor thereof, and the number of registered voters voting on such proposition constitutes not less than forty percent of the total number of votes cast in such territory at the last preceding general election.

(3) If either or both propositions were approved by the registered voters, the county auditor shall on completion of the canvassing of the returns transmit to the county legislative authority and to the clerk of the city or town to which annexation is proposed a certificate of the election results, together with a certified abstract of the vote showing the whole number who voted at the election, the number of votes cast for annexation and the number cast against annexation or for annexation and adoption of the comprehensive plan and the number cast against annexation and adoption of the comprehensive plan or for creation of a community municipal corporation and the number cast against creation of a community municipal corporation, or any combination thereof, as the case may be.

(4) If a proposition for assumption of all or of any portion of indebtedness was submitted to the registered voters, the abstract shall include the number of votes cast for assumption of indebtedness and the number of votes cast against assumption of indebtedness, together with a statement of the total number of votes cast in such territory at the last preceding general election.

(5) If the proposition for creation of a community municipal corporation was submitted and approved, the abstract shall include the number of votes cast for the candidates for community council positions and certificates of election shall be issued pursuant to RCW

29.27.100 to the successful candidates who shall assume office as soon as qualified.

[1996 c 286 § 1; 1973 1st ex.s. c 164 § 8; 1967 c 73 § 11; 1965 ex.s. c 88 § 7; 1965 c 7 § 35.13.090. Prior: 1961 c 282 § 16; prior: 1907 c 245 § 4, part; RRS § 8899, part.]

RCW 35.13.095 Election method--Vote required for annexation with assumption of indebtedness--Without assumption of indebtedness.

A city or town may cause a proposition authorizing an area to be annexed to the city or town to be submitted to the qualified voters of the area proposed to be annexed in the same ballot proposition as the question to authorize an assumption of indebtedness. If the measures are combined, the annexation and the assumption of indebtedness shall be authorized only if the proposition is approved by at least three-fifths of the voters of the area proposed to be annexed voting on the proposition, and the number of persons voting on the proposition constitutes not less than forty percent of the total number of votes cast in the area at the last preceding general election.

However, the city or town council may adopt a resolution accepting the annexation, without the assumption of indebtedness, where the combined ballot proposition is approved by a simple majority vote of the voters voting on the proposition.

[1989 c 84 § 22.]

RCW 35.13.100 Election method--Ordinances required upon voter approval--Assumption of indebtedness.

If a proposition relating to annexation or annexation and adoption of the comprehensive plan or creation of a community municipal corporation, or both, as the case may be was submitted to the voters and such proposition was approved, the legislative body shall adopt an ordinance providing for the annexation or adopt ordinances providing for the annexation and adoption of the comprehensive plan, or adopt an ordinance providing for the annexation and creation of a community municipal corporation, as the case may be. If a proposition for annexation or annexation and adoption of the comprehensive plan or creation of a community municipal corporation, as the case may be, and a proposition for assumption of all or of any portion of indebtedness were both submitted, and were approved, the legislative body shall adopt an ordinance providing for the annexation or annexation and adoption of the comprehensive plan or annexation and creation of a community municipal corporation including the assumption of all or of any portion of indebtedness. If the propositions were submitted and only the annexation or annexation and adoption of the comprehensive plan or annexation and creation of a community municipal corporation proposition was approved, the legislative body may, if it deems it wise or expedient, adopt an ordinance providing for the annexation or adopt ordinances providing for the annexation and adoption of the comprehensive plan, or adopt ordinances providing for the annexation and creation of a community municipal corporation, as the case may be.

[1996 c 286 § 2; 1973 1st ex.s. c 164 § 9; 1967 c 73 § 12; 1965 ex.s. c 88 § 8; 1965 c 7 § 35.13.100. Prior: 1961 c

282 § 17; 1957 c 239 § 2; prior: 1907 c 245 § 5, part; RRS § 8900, part.]

RCW 35.13.110 Election method--Effective date of annexation or annexation and comprehensive plan or annexation and creation of community municipal corporation, taxation of area annexed.

Upon the date fixed in the ordinance of annexation, the area annexed shall become a part of the city or town. Upon the date fixed in the ordinances of annexation and adoption of the comprehensive plan, the area annexed shall become a part of the city or town and property in the annexed area shall be subject to and a part of the comprehensive plan, as prepared and filed as provided for in RCW 35.13.177 and 35.13.178. Upon the date fixed in the ordinances of annexation and creation of a community municipal corporation, the area annexed shall become a part of the city or town, the community municipal corporation shall be deemed organized, and property in the service area shall be deemed subject to the powers granted to such corporation as provided for in *this 1967 amendatory act. All property within the territory hereafter annexed shall, if the proposition approved by the people so provides after June 12, 1957, be assessed and taxed at the same rate and on the same basis as the property of such annexing city is assessed and taxed to pay for all or any portion of the then outstanding indebtedness of the city or town to which said area is annexed, approved by the voters, contracted, or incurred prior to, or existing at, the date of annexation.

[1973 1st ex.s. c 164 § 10; 1967 c 73 § 13; 1965 ex.s. c 88 § 9; 1965 c 7 § 35.13.110. Prior: 1957 c 239 § 3; prior: 1907 c 245 § 5, part; RRS § 8900, part.]

Notes:

***Reviser's note:** The language "this 1967 amendatory act" first appeared in the amendment to this section by section 13, chapter 73, Laws of 1967. For the codification of chapter 73, Laws of 1967, see note following RCW 35.14.010.

RCW 35.13.120 Election method is alternative.

The method of annexation provided for in RCW 35.13.020 to 35.13.110 shall be an alternative method, not superseding any other.

[1965 c 7 § 35.13.120. Prior: 1937 c 110 § 2; 1907 c 245 § 6; RRS § 8901.]

RCW 35.13.125 Direct petition method--Commencement of proceedings--Notice to legislative body--Meeting--Assumption of indebtedness--Comprehensive plan.

Proceedings for the annexation of territory pursuant to RCW 35.13.130, 35.13.140, 35.13.150, 35.13.160 and 35.13.170 shall be commenced as provided in this section. Prior to the circulation of a petition for annexation, the initiating party or parties who, except as provided in RCW 28A.335.110, shall be either not less than ten percent of the residents of the area to be annexed or the owners of not less than ten percent in value, according to the assessed valuation for general taxation of the property for which annexation is petitioned, shall notify the legislative body of the city or town in writing of their intention to commence annexation proceedings. The

legislative body shall set a date, not later than sixty days after the filing of the request, for a meeting with the initiating parties to determine whether the city or town will accept, reject, or geographically modify the proposed annexation, whether it shall require the simultaneous adoption of the comprehensive plan if such plan has been prepared and filed for the area to be annexed as provided for in RCW 35.13.177 and 35.13.178, and whether it shall require the assumption of all or of any portion of existing city or town indebtedness by the area to be annexed. If the legislative body requires the assumption of all or of any portion of indebtedness and/or the adoption of a comprehensive plan, it shall record this action in its minutes and the petition for annexation shall be so drawn as to clearly indicate this fact. There shall be no appeal from the decision of the legislative body.

[1990 c 33 § 565; 1989 c 351 § 3; 1973 1st ex.s. c 164 § 11; 1971 c 69 § 1; 1965 ex.s. c 88 § 10; 1965 c 7 § 35.13.125. Prior: 1961 c 282 § 18.]

Notes:

Purpose--Statutory references--Severability--1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability--1971 c 69: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 c 69 § 5.]

RCW 35.13.130 Direct petition method--Petition--Signers--Content.

A petition for annexation of an area contiguous to a city or town may be made in writing addressed to and filed with the legislative body of the municipality to which annexation is desired. Except where all the property sought to be annexed is property of a school district, and the school directors thereof file the petition for annexation as in RCW 28A.335.110 authorized, the petition must be signed by the owners of not less than seventy-five percent in value according to the assessed valuation for general taxation of the property for which annexation is petitioned: PROVIDED, That in cities and towns with populations greater than one hundred sixty thousand located east of the Cascade mountains, the owner of tax exempt property may sign an annexation petition and have the tax exempt property annexed into the city or town, but the value of the tax exempt property shall not be used in calculating the sufficiency of the required property owner signatures unless only tax exempt property is proposed to be annexed into the city or town. The petition shall set forth a description of the property according to government legal subdivisions or legal plats which is in compliance with RCW 35.02.170, and shall be accompanied by a plat which outlines the boundaries of the property sought to be annexed. If the legislative body has required the assumption of all or of any portion of city or town indebtedness by the area annexed, and/or the adoption of a comprehensive plan for the area to be annexed, these facts, together with a quotation of the minute entry of such requirement or requirements shall be set forth in the petition.

[1990 c 33 § 566; 1981 c 66 § 1; 1975 1st ex.s. c 220 § 8; 1973 1st ex.s. c 164 § 12; 1971 c 69 § 2; 1965 ex.s. c 88 § 11; 1965 c 7 § 35.13.130. Prior: 1961 c 282 § 19; 1945 c 128 § 3; Rem. Supp. 1945 § 8908-12.]

Notes:

Purpose--Statutory references--Severability--1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability--1981 c 66: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 66 § 2.]

Legislative finding, intent--1975 1st ex.s. c 220: See note following RCW 35.02.170.

Severability--1971 c 69: See note following RCW 35.13.125.

RCW 35.13.140 Direct petition method--Notice of hearing.

Whenever a petition for annexation is filed with the city or town council, or commission in those cities having a commission form of government, which meets the requirements herein specified, of which fact satisfactory proof may be required by the council or commission, the council or commission may entertain the same, fix a date for a public hearing thereon and cause notice of the hearing to be published in one issue of a newspaper of general circulation in the city or town. The notice shall also be posted in three public places within the territory proposed for annexation, and shall specify the time and place of hearing and invite interested persons to appear and voice approval or disapproval of the annexation. The expense of publication and posting of the notice shall be borne by the signers of the petition.

[1965 c 7 § 35.13.140. Prior: 1945 c 128 § 2; Rem. Supp. 1945 § 8908-11.] [SLC-RO-8.]

RCW 35.13.150 Direct petition method--Ordinance providing for annexation.

Following the hearing, the council or commission shall determine by ordinance whether annexation shall be made. Subject to RCW 35.02.170, they may annex all or any portion of the proposed area but may not include in the annexation any property not described in the petition. Upon passage of the ordinance a certified copy shall be filed with the board of county commissioners of the county in which the annexed property is located.

[1975 1st ex.s. c 220 § 9; 1965 c 7 § 35.13.150. Prior: 1957 c 239 § 5; prior: 1945 c 128 § 4, part; Rem. Supp. 1945 § 8908-13, part.]

Notes:

Legislative finding, intent--1975 1st ex.s. c 220: See note following RCW 35.02.170.

RCW 35.13.160 Direct petition method--Effective date of annexation or annexation and comprehensive plan--Assessment, taxation of territory annexed.

Upon the date fixed in the ordinance of annexation the area annexed shall become part of the city or town. All property within the territory hereafter annexed shall, if the annexation petition so provided, be assessed and taxed at the same rate and on the same basis as the property of such annexing city or town is assessed and taxed to pay for all or of any portion of the then outstanding indebtedness of the city or town to which said area is annexed, approved by the voters, contracted, or incurred prior to, or existing at, the date of annexation. If the annexation petition so provided, all property in the annexed area shall be subject to and a part of the comprehensive plan as prepared and filed as provided for in RCW 35.13.177 and 35.13.178.

[1973 1st ex.s. c 164 § 13; 1965 ex.s. c 88 § 12; 1965 c 7 § 35.13.160. Prior: 1961 c 282 § 20; 1957 c 239 § 6; prior: (i) 1945 c 128 § 4, part; Rem. Supp. 1945 § 8908-13, part. (ii) 1945 c 128 § 5; Rem. Supp. 1945 § 8908-14.]

RCW 35.13.165 Termination of annexation proceedings in cities over four hundred thousand--Declarations of termination filed by property owners.

At any time before the date is set for an annexation election under RCW 35.13.060 or 35.13.174, all further proceedings to annex shall be terminated upon the filing of verified declarations of termination signed by:

(1) Owners of real property consisting of at least sixty percent of the assessed valuation in the area proposed to be annexed; or

(2) Sixty percent of the owners of real property in the area proposed to be annexed.

As used in this subsection, the term "owner" shall include individuals and corporate owners. In determining who is a real property owner for purposes of this section, all owners of a single parcel shall be considered as one owner. No owner may be entitled to sign more than one declaration of termination.

Following the termination of such proceedings, no other petition for annexation affecting any portion of the same property may be considered by any government body for a period of five years from the date of filing.

The provisions of this section shall apply only to cities with a population greater than four hundred thousand.

[1989 c 351 § 7; 1981 c 332 § 2.]

Notes:

Severability--1981 c 332: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 332 § 11.]

RCW 35.13.170 Direct petition method is alternative.

The method of annexation provided for in RCW 35.13.130 to 35.13.160 shall be an alternative method, not superseding any other.

[1965 c 7 § 35.13.170. Prior: 1945 c 128 § 6; Rem. Supp. 1945 § 8908-15.]

RCW 35.13.171 Review board--Convening--Composition.

Within thirty days after the filing of a city's or town's annexation resolution pursuant to RCW 35.13.015 with the board of county commissioners or within thirty days after filing with the county commissioners a petition calling for an election on annexation, as provided in RCW 35.13.020, or within thirty days after approval by the legislative body of a city or town of a petition of property owners calling for annexation, as provided in RCW 35.13.130, the mayor of the city or town concerned that is not subject to the jurisdiction of a boundary review board under chapter 36.93 RCW, shall convene a review board composed of the following persons:

(1) The mayor of the city or town initiating the annexation by resolution, or the mayor in the event of a twenty percent annexation petition pursuant to RCW 35.13.020, or an alternate designated by the mayor;

(2) The chairman of the board of county commissioners of the county wherein the property to be annexed is situated, or an alternate designated by him or her;

(3) The director of community, trade, and economic development, or an alternate designated by the director;

Two additional members to be designated, one by the mayor of the annexing city, which member shall be a resident property owner of the city, and one by the chairman of the county legislative authority, which member shall be a resident of and a property owner or a resident or a property owner if there be no resident property owner in the area proposed to be annexed, shall be added to the original membership and the full board thereafter convened upon call of the mayor: PROVIDED FURTHER, That three members of the board shall constitute a quorum.

[1995 c 399 § 35; 1985 c 6 § 2; 1973 1st ex.s. c 164 § 14; 1965 c 7 § 35.13.171. Prior: 1961 c 282 § 2.]

RCW 35.13.172 When review procedure may be dispensed with.

Whenever a petition is filed as provided in RCW 35.13.020 or a resolution is adopted by the city or town council, as provided in RCW 35.13.015, and the area proposed for annexation is less than ten acres and less than eight hundred thousand dollars in assessed valuation, such review procedures shall be dispensed with.

[1981 c 260 § 6. Prior: 1973 1st ex.s. c 195 § 14; 1973 1st ex.s. c 164 § 15; 1965 c 7 § 35.13.172; prior: 1961 c 282 § 3.]

Notes:

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 35.13.173 Determination by review board--Factors considered--Filing of findings.

The review board shall by majority action, within three months, determine whether the property proposed to be annexed is of such character that such annexation would be in the public interest and for the public welfare, and in the best interest of the city, county, and other political subdivisions affected. The governing officials of the city, county, and other political subdivisions of the state shall assist the review board insofar as their offices can, and all relevant information and records shall be furnished by such offices to the review board. In making their determination the review board shall be guided, but not limited, by their findings with respect to the following factors:

(1) The immediate and prospective populations of the area to be annexed;

(2) The assessed valuation of the area to be annexed, and its relationship to population;

(3) The history of and prospects for construction of improvements in the area to be annexed;

(4) The needs and possibilities for geographical expansion of the city;

(5) The present and anticipated need for governmental services in the area proposed to be annexed, including but not limited to water supply, sewage and garbage disposal, zoning, streets and alleys, curbs, sidewalks, police and fire protection, playgrounds, parks, and other municipal services, and transportation and drainage;

(6) The relative capabilities of the city, county, and other political subdivisions to provide governmental services when the need arises;

(7) The existence of special districts except school districts within the area proposed to be annexed, and the impact of annexation upon such districts;

(8) The elimination of isolated unincorporated areas existing without adequate economical governmental services;

(9) The immediate and potential revenues that would be derived by the city as a result of annexation, and their relation to the cost of providing service to the area.

Whether the review board determines for or against annexation, its reasons therefor, along with its findings on the specified factors and other material considerations shall:

(1) In the case of a petition signed by registered voters calling for an election on annexation, be filed with the board of county commissioners;

(2) In the case of a resolution of a city or town initiating annexation proceedings pursuant to RCW 35.13.015, be filed with the board of county commissioners.

Such findings need not include specific data on every point listed, but shall indicate that all factors were considered.

A favorable determination by the review board is an essential condition precedent to the annexation of territory to a city or town under either the resolution method pursuant to RCW 35.13.015, or under the twenty percent annexation petition under the election method.

[1973 1st ex.s. c 164 § 16; 1965 c 7 § 35.13.173. Prior: 1961 c 282 § 4.]

RCW 35.13.174 Date for annexation election if review board's determination favorable.

Upon receipt by the board of county commissioners of a determination by a majority of the review board favoring annexation of the proposed area that has been initiated by resolution pursuant to RCW 35.13.015 by the city or town legislative body, the board of county commissioners, or the city or town legislative body for any city or town within an urban growth area designated under RCW 36.70A.110, shall fix a date on which an annexation election shall be held, which date will be not less than thirty days nor more than sixty days thereafter.

[1997 c 429 § 38; 1973 1st ex.s. c 164 § 17; 1965 c 7 § 35.13.174. Prior: 1961 c 282 § 5.]

Notes:

Severability--1997 c 429: See note following RCW 36.70A.3201.

Petition method--Fixing date of annexation election: RCW 35.13.060.

Times for holding elections: Chapter 29.13 RCW.

RCW 35.13.176 Territory subject to annexation proposal--When annexation by another city or incorporation allowed.

After a petition proposing an annexation by a city or town is filed with the city or town or the governing body of the city or town, or after a resolution proposing an annexation by a city or town has been adopted by the city or town governing body, no territory included in the proposed annexation may be annexed by another city or town or incorporated into a city or town unless: (1) The boundary review board modifies the boundaries of the proposed annexation and removes the territory; (2) the boundary review board or review board created under RCW 35.13.171 rejects the proposed annexation; or (3) the city or town governing body rejects the proposed annexation or voters defeat the ballot proposition authorizing the annexation.

[1994 c 216 § 7.]

Notes:

Effective date--1994 c 216: See note following RCW 35.02.015.

RCW 35.13.177 Comprehensive land use plan for area to be annexed--Contents--Purpose.

The legislative body of any city or town acting through a planning commission created pursuant to chapter 35.63 RCW, or pursuant to its granted powers, may prepare a comprehensive land use plan to become effective upon the annexation of any area which might reasonably be expected to be annexed by the city or town at any future time. Such comprehensive plan, to the extent deemed reasonably necessary by the legislative body to be in the interest of health, safety, morals and the general welfare may provide, among other things, for:

(1) The regulation and restriction within the area to be annexed of the location and the use of buildings, structures and land for residence, trade, industrial and other purposes; the height, number of stories, size, construction and design of buildings and other structures; the size of yards, courts and other open spaces on the lot or tract; the density of population; the set-back of buildings along highways, parks or public water frontages; and the subdivision and development of land;

(2) The division of the area to be annexed into districts or zones of any size or shape, and within such districts or zones regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land;

(3) The appointment of a board of adjustment, to make, in appropriate cases and subject to appropriate conditions and safeguards established by ordinance, special exceptions in harmony with the general purposes and intent of the comprehensive plan; and

(4) The time interval following an annexation during which the ordinance or resolution adopting any such plan or regulations, or any part thereof must remain in effect before it may be amended, supplemented or modified by subsequent ordinance or resolution adopted by the annexing city or town.

All such regulations and restrictions shall be designed, among other things, to encourage the most appropriate use of land throughout the area to be annexed; to lessen traffic congestion and accidents; to secure safety from fire; to provide adequate light and air; to prevent

overcrowding of land; to avoid undue concentration of population; to promote a coordinated development of the unbuilt areas; to encourage the formation of neighborhood or community units; to secure an appropriate allotment of land area in new developments for all the requirements of community life; to conserve and restore natural beauty and other natural resources; to facilitate the adequate provision of transportation, water, sewerage and other public uses and requirements.

[1965 ex.s. c 88 § 1.]

RCW 35.13.178 Comprehensive land use plan for area to be annexed--Hearings on proposed plan--Notice--Filing.

The legislative body of the city or town shall hold two or more public hearings, to be held at least thirty days apart, upon the proposed comprehensive plan, giving notice of the time and place thereof by publication in a newspaper of general circulation in the annexing city or town and the area to be annexed. A copy of the ordinance or resolution adopting or embodying such proposed plan or any part thereof or any amendment thereto, duly certified as a true copy by the clerk of the annexing city or town, shall be filed with the county auditor. A like certified copy of any map or plat referred to or adopted by the ordinance or resolution shall likewise be filed with the county auditor. The auditor shall record the ordinance or resolution and keep on file the map or plat.

[1965 ex.s. c 88 § 2.]

RCW 35.13.180 Annexation for municipal purposes.

City and town councils of second class cities and towns may by a majority vote annex new unincorporated territory outside the city or town limits, whether contiguous or noncontiguous for park, cemetery, or other municipal purposes when such territory is owned by the city or town or all of the owners of the real property in the territory give their written consent to the annexation.

[1994 c 81 § 11; 1983 1st ex.s. c 68 § 1; 1981 c 332 § 4; 1965 c 7 § 35.13.180. Prior: 1907 c 228 § 4; RRS § 9202.]

Notes:

Severability--1981 c 332: See note following RCW 35.13.165.

RCW 35.13.182 Annexation of unincorporated island of territory--Resolution--Notice of hearing.

(1) The legislative body of a city or town planning under chapter 36.70A RCW as of June 30, 1994, may resolve to annex territory to the city or town if there is, within the city or town, unincorporated territory containing residential property owners within the same county and within the same urban growth area designated under RCW 36.70A.110 as the city or town:

(a) Containing less than one hundred acres and having at least eighty percent of the

boundaries of such area contiguous to the city or town; or

(b) Of any size and having at least eighty percent of the boundaries of the area contiguous to the city if the area existed before June 30, 1994.

(2) The resolution shall describe the boundaries of the area to be annexed, state the number of voters residing in the area as nearly as may be, and set a date for a public hearing on the resolution for annexation. Notice of the hearing shall be given by publication of the resolution at least once a week for two weeks before the date of the hearing in one or more newspapers of general circulation within the city or town and one or more newspapers of general circulation within the area to be annexed.

(3) For purposes of subsection (1)(b) of this section, territory bounded by a river, lake, or other body of water is considered contiguous to a city that is also bounded by the same river, lake, or other body of water.

[1998 c 286 § 1; 1997 c 429 § 37.]

Notes:

Severability--1997 c 429: See note following RCW 36.70A.3201.

RCW 35.13.1821 Annexation of unincorporated island of territory--Referendum--Election.

The annexation ordinance provided for in RCW 35.13.182 is subject to referendum for forty-five days after its passage. Upon the filing of a timely and sufficient referendum petition with the legislative body, signed by qualified electors in number equal to not less than ten percent of the votes cast in the last general state election in the area to be annexed, the question of annexation shall be submitted to the voters of the area in a general election if one is to be held within ninety days or at a special election called for that purpose not less than forty-five days nor more than ninety days after the filing of the referendum petition. Notice of the election shall be given as provided in RCW 35.13.080 and the election shall be conducted as provided in the general election law. The annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto.

After the expiration of the forty-fifth day from but excluding the date of passage of the annexation ordinance, if no timely and sufficient referendum petition has been filed, the area annexed shall become a part of the city or town upon the date fixed in the ordinance of annexation.

[1998 c 286 § 2.]

RCW 35.13.1822 Annexation of unincorporated island of territory--Notice, hearing.

On the date set for hearing as provided in RCW 35.13.182(2), residents or property owners of the area included in the resolution for annexation shall be afforded an opportunity to be heard. The legislative body may provide by ordinance for annexation of the territory described in the resolution, but the effective date of the ordinance shall be not less than forty-five

days after the passage thereof. The legislative body shall cause notice of the proposed effective date of the annexation, together with a description of the property to be annexed, to be published at least once each week for two weeks subsequent to passage of the ordinance, in one or more newspapers of general circulation within the city and in one or more newspapers of general circulation within the area to be annexed. If the annexation ordinance provides for assumption of indebtedness or adoption of a proposed zoning regulation, the notice shall include a statement of such requirements.

[1998 c 286 § 3.]

RCW 35.13.185 Annexation of federal areas by first class city.

Any unincorporated area contiguous to a first class city may be annexed thereto by an ordinance accepting a gift, grant, lease or cession of jurisdiction from the government of the United States of the right to occupy or control it.

[1965 c 7 § 35.13.185. Prior: 1957 c 239 § 7.]

RCW 35.13.190 Annexation of federal areas by second class cities and towns.

Any unincorporated area contiguous to a second class city or town may be annexed thereto by an ordinance accepting a gift, grant, or lease from the government of the United States of the right to occupy, control, improve it or sublet it for commercial, manufacturing, or industrial purposes: PROVIDED, That this shall not apply to any territory more than four miles from the corporate limits existing before such annexation.

[1994 c 81 § 12; 1965 c 7 § 35.13.190. Prior: 1915 c 13 § 1, part; RRS § 8906, part.]

Notes:

Validating--1915 c 13: "All ordinances heretofore passed by the legislative authority of any such incorporated city for the purpose of accepting any gift, grant or lease of or annexing any territory as hereinabove provided are hereby validated." [1915 c 13 § 3.]

RCW 35.13.200 Annexation of federal areas by second class cities and towns--Annexation ordinance--Provisions.

In the ordinance annexing territory pursuant to a gift, grant, or lease from the government of the United States, a second class city or town may include such tide and shore lands as may be necessary or convenient for the use thereof, may include in the ordinance an acceptance of the terms and conditions attached to the gift, grant, or lease and may provide in the ordinance for the annexed territory to become a separate ward of the city or town or part or parts of adjacent wards.

[1994 c 81 § 13; 1965 c 7 § 35.13.200. Prior: (i) 1915 c 13 § 1, part; RRS § 8906, part. (ii) 1915 c 13 § 2, part; RRS § 8907, part.]

RCW 35.13.210 Annexation of federal areas by second class cities and

towns--Authority over annexed territory.

A second class city or town may cause territory annexed pursuant to a gift, grant, or lease of the government of the United States to be surveyed, subdivided and platted into lots, blocks, or tracts and lay out, reserve for public use, and improve streets, roads, alleys, slips, and other public places. It may grant or sublet any lot, block, or tract therein for commercial, manufacturing, or industrial purposes and reserve, receive and collect rents therefrom. It may expend the rents received therefrom in making and maintaining public improvements therein, and if any surplus remains at the end of any fiscal year, may transfer it to the city's or town's current expense fund.

[1994 c 81 § 14; 1965 c 7 § 35.13.210. Prior: 1915 c 13 § 2, part; RRS § 8907, part.]

RCW 35.13.215 Annexation of fire districts--Transfer of employees.

If any portion of a fire protection district is annexed to or incorporated into a city, code city or town, any employee of the fire protection district who (1) was at the time of such annexation or incorporation employed exclusively or principally in performing the powers, duties, and functions which are to be performed by the city, code city or town fire department (2) will, as a direct consequence of annexation or incorporation, be separated from the employ of the fire protection district, and (3) can perform the duties and meet the minimum requirements of the position to be filled, then such employee may transfer employment to the civil service system of the city, code city or town fire department as provided for in this section and RCW 35.13.225 and 35.13.235.

For purposes of this section and RCW 35.13.225 and 35.13.235, employee means an individual whose employment with a fire protection district has been terminated because the fire protection district was annexed by a city, code city or town for purposes of fire protection.

[1986 c 254 § 7.]

RCW 35.13.225 Annexation of fire districts--Transfer of employees--Rights and benefits.

(1) An eligible employee may transfer into the civil service system of the city, code city, or town fire department by filing a written request with the city, code city, or town civil service commission and by giving written notice thereof to the board of commissioners of the fire protection district. Upon receipt of such request by the civil service commission the transfer of employment shall be made. The employee so transferring will (a) be on probation for the same period as are new employees of the city, code city, or town fire department in the position filled, but if the transferring employee has already completed a probationary period as a fire fighter prior to the transfer, then the employee may only be terminated during the probationary period for failure to adequately perform assigned duties, not meeting the minimum qualifications of the position, or behavior that would otherwise be subject to disciplinary action, (b) be eligible for promotion no later than after completion of the probationary period, (c) receive a salary at least equal to that of other new employees of the city, code city, or town fire department in the

position filled, and (d) in all other matters, such as retirement, sick leave, and vacation, have, within the city, code city, or town civil service system, all the rights, benefits, and privileges to which he or she would have been entitled as a member of the city, code city, or town fire department from the beginning of employment with the fire protection district: PROVIDED, That for purposes of layoffs by the annexing fire agency, only the time of service accrued with the annexing agency shall apply unless an agreement is reached between the collective bargaining representatives of the employees of the annexing and annexed fire agencies and the annexing and annexed fire agencies. The board of commissioners of the fire protection district shall, upon receipt of such notice, transmit to any applicable civil service commission a record of the employee's service with the fire protection district which shall be credited to such employee as a part of the period of employment in the city, code city, or town fire department. All accrued benefits are transferable provided that the recipient agency provides comparable benefits. All benefits shall then accrue based on the combined seniority of each employee in the recipient agency.

(2) As many of the transferring employees shall be placed upon the payroll of the city, code city, or town fire department as the department determines are needed to provide services. These needed employees shall be taken in order of seniority and the remaining employees who transfer as provided in this section and RCW 35.13.215 and 35.13.235 shall head the list for employment in the civil service system in order of their seniority, to the end that they shall be the first to be reemployed in the city, code city, or town fire department when appropriate positions become available: PROVIDED, That employees who are not immediately hired by the city, code city, or town shall be placed on a reemployment list for a period not to exceed thirty-six months unless a longer period is authorized by an agreement reached between the collective bargaining representatives of the employees of the annexing and annexed fire agencies and the annexing and annexed fire agencies.

[1994 c 73 § 3; 1986 c 254 § 8.]

Notes:

Effective date--1994 c 73: See note following RCW 35.10.365.

RCW 35.13.235 Annexation of fire districts--Transfer of employees--Notice--Time limitation.

If any portion of a fire protection district is annexed to or incorporated into a city, code city or town, and as a result any employee is laid off who is eligible to transfer to the city, code city or town fire department under this section and RCW 35.13.215 and 35.13.225 the fire protection district shall notify the employee of the right to transfer and the employee shall have ninety days to transfer employment to the city, code city or town fire department.

[1986 c 254 § 9.]

RCW 35.13.249 Annexation of fire districts--Ownership of assets of fire protection district--Outstanding indebtedness not affected.

When any portion of a fire protection district is annexed by or incorporated into a city or town, any outstanding indebtedness, bonded or otherwise, shall remain an obligation of the taxable property annexed or incorporated as if the annexation or incorporation had not occurred.

[1965 c 7 § 35.13.249. Prior: 1963 c 231 § 5.]

RCW 35.13.260 Determining population of annexed territory--Certificate--As basis for allocation of state funds--Revised certificate.

Whenever any territory is annexed to a city or town, a certificate as hereinafter provided shall be submitted in triplicate to the office of financial management, hereinafter in this section referred to as "the office", within thirty days of the effective date of annexation specified in the relevant ordinance. After approval of the certificate, the office shall retain the original copy in its files, and transmit the second copy to the department of transportation and return the third copy to the city or town. Such certificates shall be in such form and contain such information as shall be prescribed by the office. A copy of the complete ordinance containing a legal description and a map showing specifically the boundaries of the annexed territory shall be attached to each of the three copies of the certificate. The certificate shall be signed by the mayor and attested by the city clerk. Upon request, the office shall furnish certification forms to any city or town.

The resident population of the annexed territory shall be determined by, or under the direction of, the mayor of the city or town. Such population determination shall consist of an actual enumeration of the population which shall be made in accordance with practices and policies, and subject to the approval of, the office. The population shall be determined as of the effective date of annexation as specified in the relevant ordinance.

Until an annexation certificate is filed and approved as provided herein, such annexed territory shall not be considered by the office in determining the population of such city or town.

Upon approval of the annexation certificate, the office shall forward to each state official or department responsible for making allocations or payments to cities or towns, a revised certificate reflecting the increase in population due to such annexation. Upon and after the date of the commencement of the next quarterly period, the population determination indicated in such revised certificate shall be used as the basis for the allocation and payment of state funds to such city or town.

For the purposes of this section, each quarterly period shall commence on the first day of the months of January, April, July, and October. Whenever a revised certificate is forwarded by the office thirty days or less prior to the commencement of the next quarterly period, the population of the annexed territory shall not be considered until the commencement of the following quarterly period.

[1979 c 151 § 25; 1975 1st ex.s. c 31 § 1; 1969 ex.s. c 50 § 1; 1967 ex.s. c 42 § 2; 1965 c 7 § 35.13.260. Prior: 1961 c 51 § 1; 1957 c 175 § 14; prior: 1951 c 248 § 5, part.]

Notes:

Effective date--1967 ex.s. c 42: See note following RCW 3.30.010.

Savings--1967 ex.s. c 42: See note following RCW 3.30.010.

Allocations to cities and towns from motor vehicle fund: RCW 46.68.110.
Census to be conducted in decennial periods: State Constitution Art. 2 § 3.
Population determinations, office of financial management: Chapter 43.62 RCW.

RCW 35.13.270 Road district taxes collected in annexed territory--Disposition--Notification of annexation.

Whenever any territory is annexed to a city or town which is part of a road district of the county and road district taxes have been levied but not collected on any property within the annexed territory, the same shall when collected by the county treasurer be paid to the city or town and by the city or town placed in the city or town street fund; except that road district taxes that are delinquent before the date of annexation shall be paid to the county and placed in the county road fund. This section shall not apply to any special assessments due in behalf of such property. The city or town is required to provide notification, by certified mail, that includes a list of annexed parcel numbers, to the county treasurer and assessor at least thirty days before the effective date of the annexation. The county treasurer is only required to remit to the city or town those road taxes collected thirty days or more after receipt of the notification.

[2001 c 299 § 2; 1998 c 106 § 1; 1965 c 7 § 35.13.270. Prior: 1957 c 175 § 15; prior: 1951 c 248 § 5, part.]

RCW 35.13.280 Cancellation, acquisition of franchise or permit for operation of public service business in territory annexed--Regulation of solid waste collection.

The annexation by any city or town of any territory pursuant to those provisions of chapter 35.10 RCW which relate to the annexation of a city or town to a city or town, or pursuant to the provisions of chapter 35.13 RCW shall cancel, as of the effective date of such annexation, any franchise or permit theretofore granted to any person, firm or corporation by the state of Washington, or by the governing body of such annexed territory, authorizing or otherwise permitting the operation of any public transportation, garbage disposal or other similar public service business or facility within the limits of the annexed territory, but the holder of any such franchise or permit canceled pursuant to this section shall be forthwith granted by the annexing city or town a franchise to continue such business within the annexed territory for a term of not less than seven years from the date of issuance thereof, and the annexing city or town, by franchise, permit or public operation, shall not extend similar or competing services to the annexed territory except upon a proper showing of the inability or refusal of such person, firm or corporation to adequately service said annexed territory at a reasonable price: PROVIDED, That the provisions of this section shall not preclude the purchase by the annexing city or town of said franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise or permit. In the event that any person, firm or corporation whose franchise or permit has been canceled by the terms of this section shall suffer any measurable damages as a result of any annexation pursuant to the provisions of the laws above-mentioned, such person, firm or corporation shall have a right of action against any city or town causing such damages.

After an annexation by a city or town, the utilities and transportation commission shall continue to regulate solid waste collection within the limits of the annexed territory until such time as the city or town notifies the commission, in writing, of its decision to contract for solid waste collection or provide solid waste collection itself pursuant to RCW 81.77.020. In the event the annexing city or town at any time decides to contract for solid waste collection or decides to undertake solid waste collection itself, the holder of any such franchise or permit that is so canceled in whole or in part shall be forthwith granted by the annexing city or town a franchise to continue such business within the annexed territory for a term of not less than the remaining term of the original franchise or permit, or not less than seven years, whichever is the shorter period, and the city or town, by franchise, permit, or public operation, shall not extend similar or competing services to the annexed territory except upon a proper showing of the inability or refusal of such person, firm, or corporation to adequately service the annexed territory at a reasonable price. Upon the effective date specified by the city or town council's ordinance or resolution to have the city or town contract for solid waste collection or undertake solid waste collection itself, the transition period specified in this section begins to run. This section does not preclude the purchase by the annexing city or town of the franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise or permit. In the event that any person, firm, or corporation whose franchise or permit has been canceled by the terms of this section suffers any measurable damages as a result of any annexation pursuant to this chapter, such person, firm, or corporation has a right of action against any city or town causing such damages.

[1997 c 171 § 2; 1994 c 81 § 15; 1983 c 3 § 54; 1965 c 7 § 35.13.280. Prior: 1957 c 282 § 1.]

Notes:

Severability--1997 c 171: See note following RCW 35.02.160.

RCW 35.13.290 When right of way may be included--Use of right of way line as corporate boundary.

The boundaries of a city or town arising from an annexation of territory shall not include a portion of the right of way of any public street, road, or highway except where the boundary runs from one edge of the right of way to the other edge of the right of way. However, the right of way line of any public street, road, or highway, or any segment thereof, may be used to define a part of a corporate boundary in an annexation proceeding.

[1989 c 84 § 8.]

RCW 35.13.300 Boundary line adjustment--Purpose--Definition.

The purpose of RCW 35.13.300 through 35.13.330 is to establish a process for the adjustment of existing or proposed city boundary lines to avoid a situation where a common boundary line is or would be located within a right of way of a public street, road, or highway, or

a situation where two cities are separated or would be separated by only the right of way of a public street, road, or highway, other than situations where a boundary line runs from one edge of the right of way to the other edge of the right of way.

As used in RCW 35.13.300 through 35.13.330, "city" includes every city or town in the state, including a code city operating under Title 35A RCW.

[1989 c 84 § 12.]

RCW 35.13.310 Boundary line adjustment--Agreement--Not subject to review.

(1) This section provides a method to adjust the boundary lines between two cities where the two cities share a common boundary within a right of way of a public street, road, or highway, or the two cities have a portion of their boundaries separated only by all or part of the right of way of a public street, road, or highway. However, this section does not apply to situations where a boundary line runs from one edge of the right of way to the other edge of the right of way.

(2) The councils of any two cities in a situation described in subsection (1) of this section may enter into an agreement to alter those portions of their boundaries that are necessary to eliminate this situation and create a partial common boundary on either edge of the right of way of the public street, road, or highway. An agreement made under this section shall include only boundary line adjustments between the two cities that are necessary to eliminate the situation described in subsection (1) of this section.

A boundary line adjustment under this section is not subject to potential review by a boundary review board.

[1989 c 84 § 13.]

RCW 35.13.320 Boundary line adjustment--When adjustment required--Limitation--Not subject to review.

The councils of any two cities that will be in a situation described in RCW 35.13.310(1) as the result of a proposed annexation by one of the cities may enter into an agreement to adjust those portions of the annexation proposal and the boundaries of the city that is not proposing the annexation. Such an agreement shall not be effective unless the annexation is made.

The annexation proposal shall proceed if such an agreement were not made, but any resulting boundaries between the two cities that meet the descriptions of RCW 35.13.310(1) shall be adjusted by agreement between the two cities within one hundred eighty days of the effective date of the annexation, or the county legislative authority of the county within which the right of way is located shall adjust the boundaries within a sixty-day period immediately following the one hundred eightieth day.

An agreement or adjustment made by a county under this section shall include only boundary line adjustments between the two cities that are necessary to eliminate the situation described in RCW 35.13.310(1).

A boundary line adjustment under this section is not subject to potential review by a

boundary review board.

[1989 c 84 § 14.]

RCW 35.13.330 Boundary line adjustment--Agreement pending incorporation--Limitation--Not subject to review.

(1) The purpose of this section is to avoid situations arising where the boundaries of an existing city and a newly incorporated city would create a situation described in RCW 35.13.310(1).

(2) A boundary review board that reviews the boundaries of a proposed incorporation may enter into an agreement with the council of a city, that would be in a situation described in subsection (1) of this section as the result of a proposed incorporation of a city, to adjust the boundary line of the city and those of the city proposed to be incorporated to avoid this situation described in subsection (1) of this section if the incorporation were to be approved by the voters. Such an agreement shall not be effective unless the incorporation occurs.

The incorporation proposal shall proceed if such an agreement were not made, but any resulting boundaries between the two cities that meet create a situation described in RCW 35.13.310(1) shall be adjusted by agreement between the two cities within one hundred eighty days of the official date of the incorporation, or the county legislative authority of the county within which the right of way is located shall adjust the boundaries within a sixty-day period immediately following the one hundred eightieth day.

An agreement or adjustment made by a county under this section shall include only boundary line adjustments between the two cities that are necessary to eliminate the situation described in RCW 35.13.310(1).

A boundary line adjustment under this section is not subject to potential review by a boundary review board.

[1989 c 84 § 15.]

RCW 35.13.340 Boundary line adjustment--Inclusion or exclusion of remaining portion of parcel--When subject to review--Definition.

The boundaries of a city shall be adjusted to include or exclude the remaining portion of a parcel of land located partially within and partially without *of the boundaries of that city upon the governing body of the city adopting a resolution approving such an adjustment that was requested in a petition signed by the owner of the parcel. A boundary adjustment made pursuant to this section shall not be subject to potential review by the boundary review board of the county within which the parcel is located if the remaining portion of the parcel to be included or excluded from the city is located in the unincorporated area of the county and the adjustment is approved by resolution of the county legislative authority or in writing by a county official or employee of the county who is designated by ordinance of the county to make such approvals.

Where part of a single parcel of land is located within the boundaries of one city, and the remainder of the parcel is located within the boundaries of a second city that is located

immediately adjacent to the first city, the boundaries of the two cities may be adjusted so that all of the parcel is located within either of the cities, if the adjustment was requested in a petition signed by the property owner and is approved by both cities. Approval by a city may be through either resolution of its city council, or in writing by an official or employee of the city who has been designated by ordinance of the city to make such approvals. Such an adjustment is not subject to potential review by the boundary review board of the county in which the parcel is located.

Whenever a portion of a public right of way is located on such a parcel, the boundary adjustment shall be made in such a manner as to include all or none of that portion of the public right of way within the boundaries of the city.

As used in this section, "city" shall include any city or town, including a code city.

[1989 c 84 § 24.]

Notes:

***Reviser's note:** The word "of" appears to be unnecessary.

RCW 35.13.350 Providing annexation information to public.

A city or town can provide factual public information on the effects of a pending annexation proposed for the city or town.

[1989 c 351 § 8.]

RCW 35.13.360 Transfer of county sheriff's employees--Purpose.

It is the purpose of RCW 35.13.360 through 35.13.400 to require the lateral transfer of any qualified county sheriff's employee who, by reason of annexation or incorporation of an unincorporated area of a county, will or is likely to be laid off due to sheriff's department cutbacks resulting from the loss of the unincorporated law enforcement responsibility.

[1993 c 189 § 2.]

RCW 35.13.370 Transfer of county sheriff's employees--When authorized.

When any portion of an unincorporated area of a county is to be annexed or incorporated into a city, code city, or town, any employee of the sheriff's office of the county may transfer his or her employment to the police department of the city, code city, or town as provided in RCW 35.13.360 through 35.13.400 if the employee: (1) Was, at the time the annexation or incorporation occurred, employed exclusively or principally in performing the powers, duties, and functions of the county sheriff's office; (2) will, as a direct consequence of the annexation or incorporation, be separated from the employ of the county; and (3) can perform the duties and meets the city's, code city's or town's minimum standards and qualifications of the position to be filled within their police department.

Nothing in this section or RCW 35.13.380 requires a city, code city, or town to accept the voluntary transfer of employment of a person who will not be laid off due to his or her seniority

status.

[1993 c 189 § 3.]

RCW 35.13.380 Transfer of county sheriff's employees--Conditions, limitations.

(1) An eligible employee under RCW 35.13.370 may transfer into the civil service system for the police department by filing a written request with the civil service commission of the affected city, code city, or town and by giving written notice thereof to the legislative authority of the county. Upon receipt of such request by the civil service commission the transfer shall be made. The employee so transferring will: (a) Be on probation for the same period as are new employees in the same classification of the police department; (b) be eligible for promotion after completion of the probationary period in compliance with existing civil service rules pertaining to lateral transfers based upon combined service time; (c) receive a salary at least equal to that of other new employees in the same classification of the police department; and (d) in all other matters, such as sick leave and vacation, have, within the civil service system, all the rights, benefits, and privileges that the employee would have been entitled to had he or she been a member of the police department from the beginning of his or her employment with the county. The county is responsible for compensating an employee for benefits accrued while employed with the sheriff's office unless a different agreement is reached between the county and the city, code city, or town. No accrued benefits are transferable to the recipient agency unless the recipient agency agrees to accept the accrued benefits. All benefits shall then accrue based on the combined seniority of each employee in the recipient agency. The county shall, upon receipt of such notice, transmit to the civil service commission a record of the employee's service with the county which shall be credited to the employee as a part of his or her period of employment in the police department. For purposes of layoffs by the city, code city, or town, only the time of service accrued with the city, code city, or town shall apply unless an agreement is reached between the collective bargaining representatives of the police department and sheriff's office employees and the police department and sheriff's office.

(2) Only as many of the transferring employees shall be placed upon the payroll of the police department as the city, code city, or town determines are needed to provide an adequate level of law enforcement service. The needed employees shall be taken in order of seniority and the remaining employees who transfer as provided in RCW 35.13.360 through 35.13.400 shall head the list of their respective class or job listing exclusive of rank in the civil service system in order of their seniority, so that they shall be the first to be employed in the police department as vacancies become available. Employees who are not immediately hired by the city, code city, or town shall be placed on a reemployment list for a period not to exceed thirty-six months unless a longer period is authorized by an agreement reached between the collective bargaining representatives of the police department and sheriff's office employees and the police department and sheriff's office. The county sheriff's office must rehire former employees who are placed on the city's reemployment list before it can hire anyone else to perform the same duties previously performed by these employees who were laid off.

(3) The thirty-six month period contained in subsection (2) of this section shall

commence:

(a) On the effective date of the annexation in cases of annexation; and

(b) On the date when the city creates its own police department in cases of incorporation.

(4) The city, code city, or town shall retain the right to select the police chief regardless of seniority.

[1993 c 189 § 4.]

RCW 35.13.390 Transfer of county sheriff's employees--Rules.

In addition to its other duties prescribed by law, the civil service commission shall make rules necessary to provide for the orderly integration of employees of a county sheriff's office to the police department of the city, code city, or town pursuant to RCW 35.13.360 through 35.13.400.

[1993 c 189 § 5.]

RCW 35.13.400 Transfer of county sheriff's employees--Notification of right to transfer--Time for filing transfer request.

When any portion of an unincorporated area of a county is to be annexed or incorporated into a city, code city, or town and layoffs will result in the county sheriff's office, employees so affected shall be notified of their right to transfer. The affected employees shall have ninety days after the commencement of the thirty-six month period as specified in RCW 35.13.380(3) to file a request to transfer their employment to the police department of the city, code city, or town under RCW 35.13.360 through 35.13.400.

[1993 c 189 § 6.]

RCW 35.13.900 Application of chapter to annexations involving water or sewer service.

Nothing in this chapter precludes or otherwise applies to an annexation by a city or town of unincorporated territory as authorized by RCW 57.24.170, 57.24.190, and 57.24.210.

[1996 c 230 § 1601; 1995 c 279 § 3.]

Notes:

Part headings not law--Effective date--1996 c 230: See notes following RCW 57.02.001.

Chapter 35.13A RCW
WATER OR SEWER DISTRICTS--ASSUMPTION OF JURISDICTION

Sections

35.13A.010 Definitions.
35.13A.020 Assumption authorized--Disposition of properties and rights--Outstanding

indebtedness--Management and control.
35.13A.030 Assumption of control if sixty percent or more of area or valuation within city.
35.13A.0301 Assumption of water-sewer district before July 1, 1999--Limitations.
35.13A.040 Assumption of control if less than sixty percent of area or valuation within city.
35.13A.050 Territory containing facilities within or without city--Duties of city or district--Rates and charges--Assumption of responsibility--Outstanding indebtedness--Properties and rights.
35.13A.060 District in more than one city--Assumption of responsibilities--Duties of cities.
35.13A.070 Contracts.
35.13A.080 Dissolution of water district or sewer district.
35.13A.090 Employment and rights of district employees.
35.13A.100 Assumption of substandard water system--Limited immunity from liability.
35.13A.900 Severability--1971 ex.s. c 95.

RCW 35.13A.010 Definitions.

Whenever used in this chapter, the following words shall have the following meanings:

(1) The words "district," "water district," and "sewer district" shall mean a "water-sewer district" as that term is used in Title 57 RCW.

(2) The word "city" shall mean a city or town of any class and shall also include any code city as defined in chapter 35A.01 RCW.

(3) The word "indebtedness" shall include general obligation, revenue, and special indebtedness and temporary, emergency, and interim loans.

[1998 c 326 § 1; 1971 ex.s. c 95 § 1.]

Notes:

Effective date--1998 c 326: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 3, 1998]." [1998 c 326 § 4.]

RCW 35.13A.020 Assumption authorized--Disposition of properties and rights--Outstanding indebtedness--Management and control.

(1) Whenever all of the territory of a district is included within the corporate boundaries of a city, the city legislative body may adopt a resolution or ordinance to assume jurisdiction over all of the district.

(2) Upon the assumption, all real and personal property, franchises, rights, assets, taxes levied but not collected for the district for other than indebtedness, water, sewer, and drainage facilities, and all other facilities and equipment of the district shall become the property of the city subject to all financial, statutory, or contractual obligations of the district for the security or performance of which the property may have been pledged. The city, in addition to its other powers, shall have the power to manage, control, maintain, and operate the property, facilities and equipment and to fix and collect service and other charges from owners and occupants of properties so served by the city, subject, however, to any outstanding indebtedness, bonded or otherwise, of the district payable from taxes, assessments, or revenues of any kind or nature and to any other contractual obligations of the district.

(3) The city may by resolution or ordinance of its legislative body, assume the obligation of paying such district indebtedness and of levying and of collecting or causing to be collected

the district taxes, assessments, and utility rates and charges of any kind or nature to pay and secure the payment of the indebtedness, according to all of the terms, conditions and covenants incident to the indebtedness, and shall assume and perform all other outstanding contractual obligation of the district in accordance with all of their terms, conditions, and covenants. An assumption shall not be deemed to impair the obligation of any indebtedness or other contractual obligation. During the period until the outstanding indebtedness of the district has been discharged, the territory of the district and the owners and occupants of property therein, shall continue to be liable for its and their proportionate share of the indebtedness, including any outstanding assessments levied within any local improvement district or utility local improvement district thereof. The city shall assume the obligation of causing the payment of the district's indebtedness, collecting the district's taxes, assessments, and charges, and observing and performing the other district contractual obligations. The legislative body of the city shall act as the officers of the district for the purpose of certifying the amount of any property tax to be levied and collected therein, and causing service and other charges and assessments to be collected from the property or owners or occupants thereof, enforcing the collection and performing all other acts necessary to ensure performance of the district's contractual obligations in the same manner and by the same means as if the territory of the district had not been included within the boundaries of a city.

When a city assumes the obligation of paying the outstanding indebtedness, and if property taxes or assessments have been levied and service and other charges have accrued for this purpose but have not been collected by the district prior to the assumption, the same when collected shall belong and be paid to the city and be used by the city so far as necessary for payment of the indebtedness of the district existing and unpaid on the date the city assumes the indebtedness. Any funds received by the city which have been collected for the purpose of paying any bonded or other indebtedness of the district, shall be used for the purpose for which they were collected and for no other purpose. Any outstanding indebtedness shall be paid as provided in the terms, conditions, and covenants of the indebtedness. All funds of the district on deposit with the county treasurer at the time of title transfer shall be used by the city solely for the benefit of the assumed utility and shall not be transferred to or used for the benefit of the city's general fund.

[1999 c 153 § 28; 1998 c 326 § 2; 1971 ex.s. c 95 § 2.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

Effective date--1998 c 326: See note following RCW 35.13A.010.

RCW 35.13A.030 Assumption of control if sixty percent or more of area or valuation within city.

Whenever a portion of a district equal to at least sixty percent of the area or sixty percent of the assessed valuation of the real property lying within such district, is included within the corporate boundaries of a city, the city may assume by ordinance the full and complete management and control of that portion of the entire district not included within another city,

whereupon the provisions of RCW 35.13A.020 shall be operative; or the city may proceed directly under the provisions of RCW 35.13A.050.

[1999 c 153 § 29; 1971 ex.s. c 95 § 3.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

RCW 35.13A.0301 Assumption of water-sewer district before July 1, 1999--Limitations.

During the period commencing with April 3, 1998, and running through July 1, 1999, a city may not assume jurisdiction of all or a portion of a water-sewer district under RCW 35.13A.030 or 35.13A.040, unless voters of the entire water-sewer district approve a ballot proposition authorizing the assumption under general election law with the city paying for the election costs, and during the same period a water-sewer district may not:

(1) Merge or consolidate with another water-sewer district unless each city that is partially included within any of the districts proposing to merge or consolidate indicates that it has no interest in assuming jurisdiction of the district; or

(2) Take any action that would establish different contractual obligations, requirements for retiring indebtedness, authority to issue debt in parity with the district's existing outstanding indebtedness, rates of compensation, or terms of employment contracts, if a city assumes jurisdiction of all or a portion of the district. Nothing in this subsection shall be construed to prevent a district from issuing obligations on a parity with its outstanding obligations, to repeat terms and conditions of obligations provided with respect to earlier parity obligations, or to provide covenants that are customary for obligations of similar utilities whether those utilities are operated by cities or special purpose districts.

[1998 c 326 § 3.]

Notes:

Effective date--1998 c 326: See note following RCW 35.13A.010.

RCW 35.13A.040 Assumption of control if less than sixty percent of area or valuation within city.

Whenever the portion of a district included within the corporate boundaries of a city is less than sixty percent of the area of the district and less than sixty percent of the assessed valuation of the real property within the district, the city may elect to proceed under the provisions of RCW 35.13A.050.

[1999 c 153 § 30; 1971 ex.s. c 95 § 4.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

RCW 35.13A.050 Territory containing facilities within or without city--Duties of city or district--Rates and charges--Assumption of responsibility--Outstanding indebtedness--Properties and rights.

When electing under RCW 35.13A.030 or 35.13A.040 to proceed under this section, the city may assume, by ordinance, jurisdiction of the district's responsibilities, property, facilities and equipment within the corporate limits of the city: PROVIDED, That if on the effective date of such an ordinance the territory of the district included within the city contains any facilities serving or designed to serve any portion of the district outside the corporate limits of the city or if the territory lying within the district and outside the city contains any facilities serving or designed to serve territory included within the city (which facilities are hereafter in this section called the "serving facilities"), the city or district shall for the economically useful life of any such serving facilities make available sufficient capacity therein to serve the sewage or water requirements of such territory, to the extent that such facilities were designed to serve such territory at a rate charged to the municipality being served which is reasonable to all parties.

In the event a city proceeds under this section, the district may elect upon a favorable vote of a majority of all voters within the district voting upon such propositions to require the city to assume responsibility for the operation and maintenance of the district's property, facilities and equipment throughout the entire district and to pay the city a charge for such operation and maintenance which is reasonable under all of the circumstances.

A city acquiring property, facilities and equipment under the provisions of this section shall acquire such property, facilities and equipment, and fix and collect service and other charges from owners and occupants of properties served by the city, subject, to any contractual obligations of the district which relate to the property, facilities, or equipment so acquired by the city or which are secured by taxes, assessments or revenues from the territory of the district included within the city. In such cases, the property included within the city and the owners and occupants thereof shall continue to be liable for payment of its and their proportionate share of any outstanding district indebtedness. The district and its officers shall continue to levy taxes and assessments on and to collect service and other charges from such property, or owners or occupants thereof, to enforce such collections, and to perform all other acts necessary to insure performance of the district's contractual obligations in the same manner and by the same means as if the territory of the district had not been included within the boundaries of a city.

[1971 ex.s. c 95 § 5.]

RCW 35.13A.060 District in more than one city--Assumption of responsibilities--Duties of cities.

Whenever more than one city, in whole or in part, is included within a district, the city which has within its boundaries sixty percent or more of the area of the assessed valuation of the district (in this section referred to as the "principal city") may, with the approval of any other city containing part of such district, assume responsibility for operation and maintenance of the district's property, facilities and equipment within such other city and make and enforce such charges for operation, maintenance and retirement of indebtedness as may be reasonable under all the circumstances.

Any other city having less than sixty percent in area or assessed valuation of such district, within its boundaries may install facilities and create local improvement districts or

otherwise finance the cost of installation of such facilities and if such facilities have been installed in accordance with reasonable standards fixed by the principal city, such other city may connect such facilities to the utility system of such district operated by the principal city upon providing for payment by the owners or occupants of properties served thereby, of such charges established by the principal city as may be reasonable under the circumstances.

[1999 c 153 § 31; 1971 ex.s. c 95 § 6.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

RCW 35.13A.070 Contracts.

Notwithstanding any provision of this chapter to the contrary, one or more cities and one or more districts may, through their legislative authorities, authorize a contract with respect to the rights, powers, duties, and obligation of such cities, or districts with regard to the use and ownership of property, the providing of services, the maintenance and operation of facilities, allocation of cost, financing and construction of new facilities, application and use of assets, disposition of liabilities and debts, the performance of contractual obligations, and any other matters arising out of the inclusion, in whole or in part, of the district or districts within any city or cities, or the assumption by the city of jurisdiction of a district under *RCW 35.13A.110. The contract may provide for the furnishing of services by any party thereto and the use of city or district facilities or real estate for such purpose, and may also provide for the time during which such district or districts may continue to exercise any rights, privileges, powers, and functions provided by law for such district or districts as if the district or districts or portions thereof were not included within a city or were not subject to an assumption of jurisdiction under *RCW 35.13A.110, including but not by way of limitation, the right to promulgate rules and regulations, to levy and collect special assessments, rates, charges, service charges, and connection fees, to adopt and carry out the provisions of a comprehensive plan, and amendments thereto, for a system of improvements, and to issue general obligation bonds or revenue bonds in the manner provided by law. The contract may provide for the transfer to a city of district facilities, property, rights, and powers as provided in RCW 35.13A.030, 35.13A.050, and *35.13A.110, whether or not sixty percent or any of the area or assessed valuation of real estate lying within the district or districts is included within such city. The contract may provide that any party thereto may authorize, issue, and sell revenue bonds to provide funds for new water or sewer improvements or to refund any water revenue, sewer revenue, or combined water and sewer revenue bonds outstanding of any city, or district which is a party to such contract if such refunding is deemed necessary, providing such refunding will not increase interest costs. The contract may provide that any party thereto may authorize and issue, in the manner provided by law, general obligation or revenue bonds of like amounts, terms, conditions, and covenants as the outstanding bonds of any other party to the contract, and such new bonds may be substituted or exchanged for such outstanding bonds. However, no such exchange or substitution shall be effected in such a manner as to impair the obligation or security of any such outstanding bonds.

[1997 c 426 § 2; 1971 ex.s. c 95 § 7.]

Notes:

***Reviser's note:** RCW 35.13A.110 expired December 31, 1998.

RCW 35.13A.080 Dissolution of water district or sewer district.

In any of the cases provided for in RCW 35.13A.020, 35.13A.030, 35.13A.050, and *35.13A.110, and notwithstanding any other method of dissolution provided by law, dissolution proceedings may be initiated by either the city or the district, or both, when the legislative body of the city and the governing body of the district agree to, and petition for, dissolution of the district.

The petition for dissolution shall be signed by the chief administrative officer of the city and the district, upon authorization of the legislative body of the city and the governing body of the district, respectively and such petition shall be presented to the superior court of the county in which the city is situated.

If the petition is thus authorized by both the city and district, and title to the property, facilities, and equipment of the district has passed to the city pursuant to action taken under this chapter, all indebtedness and local improvement district or utility local improvement district assessments of the district have been discharged or assumed by and transferred to the city, and the petition contains a statement of the distribution of assets and liabilities mutually agreed upon by the city and the district and a copy of the agreement between such city and the district is attached thereto, a hearing shall not be required and the court shall, if the interests of all interested parties have been protected, enter an order dissolving the district.

In any of the cases provided for in RCW 35.13A.020, 35.13A.030, and *35.13A.110, if the petition for an order of dissolution is signed on behalf of the city alone or the district alone, or there is no mutual agreement on the distribution of assets and liabilities, the superior court shall enter an order fixing a hearing date not less than sixty days from the day the petition is filed, and the clerk of the court of the county shall give notice of such hearing by publication in a newspaper of general circulation in the district once a week for three successive weeks and by posting in three public places in the district at least twenty-one days before the hearing. The notice shall set forth the filing of the petition, its purposes, and the date and place of hearing thereon.

After the hearing the court shall enter its order with respect to the dissolution of the district. If the court finds that such district should be dissolved and the functions performed by the city, the court shall provide for the transfer of assets and liabilities to the city. The court may provide for the dissolution of the district upon such conditions as the court may deem appropriate. A certified copy of the court order dissolving the district shall be filed with the county auditor. If the court does not dissolve the district, it shall state the reasons for declining to do so.

[1997 c 426 § 3; 1971 ex.s. c 95 § 8.]

Notes:

***Reviser's note:** RCW 35.13A.110 expired December 31, 1998.

RCW 35.13A.090 Employment and rights of district employees.

Whenever a city acquires all of the facilities of a district, pursuant to this chapter, such a city shall offer to employ every full time employee of the district who is engaged in the operation of such a district's facilities on the date on which such city acquires the district facilities. When a city acquires any portion of the facilities of such a district, such a city shall offer to employ full time employees of the district as of the date of the acquisition of the facilities of the district who are not longer needed by the district.

Whenever a city employs a person who was employed immediately prior thereto by the district, arrangements shall be made:

(1) For the retention of all sick leave standing to the employee's credit in the plan of such district.

(2) For a vacation with pay during the first year of employment equivalent to that to which he would have been entitled if he had remained in the employment of the district.

[1999 c 153 § 32; 1971 ex.s. c 95 § 9.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

RCW 35.13A.100 Assumption of substandard water system--Limited immunity from liability.

A city assuming responsibility for a water system that is not in compliance with state or federal requirements for public drinking water systems, and its agents and employees, are immune from lawsuits or causes of action, based on noncompliance with state or federal requirements for public drinking water systems, which predate the date of assuming responsibility and continue after the date of assuming responsibility, provided that the city has submitted and is complying with a plan and schedule of improvements approved by the department of health. This immunity shall expire on the earlier of the date the plan of improvements is completed or four years from the date of assuming responsibility. This immunity does not apply to intentional injuries, fraud, or bad faith.

[1994 c 292 § 5.]

Notes:

Findings--Intent--1994 c 292: See note following RCW 57.04.050.

RCW 35.13A.900 Severability--1971 ex.s. c 95.

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

[1971 ex.s. c 95 § 12.]

Chapter 35.14 RCW
COMMUNITY MUNICIPAL CORPORATIONS

Sections

35.14.010 When community municipal corporation may be organized--Service areas--Territory.
35.14.020 Community council--Membership--Election--Terms.
35.14.030 Community council--Employees--Office--Officers--Quorum--Meetings--Compensation and expenses.
35.14.040 Ordinances or resolutions of city applying to land, buildings or structures within corporation, effectiveness--Zoning ordinances, resolutions or land use controls to remain in effect upon annexation or consolidation--Comprehensive plan.
35.14.050 Powers and duties of community municipal corporation.
35.14.060 Original term of existence of community municipal corporation--Continuation of existence--Procedure.

RCW 35.14.010 When community municipal corporation may be organized--Service areas--Territory.

Whenever unincorporated territory is annexed by a city or town pursuant to the provisions of chapter 35.13 RCW, or whenever unincorporated territory is annexed to a code city pursuant to the provisions of chapter 35A.14 RCW, community municipal corporations may be organized for the territory comprised of all or a part of an unincorporated area annexed to a city or town pursuant to chapter 35.13 or 35A.14 RCW, if: (1) The service area is such as would be eligible for incorporation as a city or town; or (2) the service area has a minimum population of not less than three hundred inhabitants and ten percent of the population of the annexing city or town; or (3) the service area has a minimum population of not less than one thousand inhabitants.

Whenever two or more cities are consolidated pursuant to the provisions of chapter 35.10 RCW, a community municipal corporation may be organized within one or more of the consolidating cities.

No territory shall be included in the service area of more than one community municipal corporation. Whenever a new community municipal corporation is formed embracing all of the territory of an existing community municipal corporation, the prior existing community municipal corporation shall be deemed to be dissolved on the effective date of the new corporation.

[1993 c 75 § 1; 1985 c 281 § 24; 1967 c 73 § 1.]

Notes:

Severability--1985 c 281: See RCW 35.10.905.

RCW 35.14.020 Community council--Membership--Election--Terms.

A community municipal corporation shall be governed by a community council composed of five members. Initial council members shall be elected concurrently with the annexation election to consecutively numbered positions from qualified electors residing within the service area. Declarations of candidacy and withdrawals shall be in the same manner as is provided for members of the city council or other legislative body of the city to which annexation is proposed. Subsequent council membership shall be the same in number as the initial council and such members shall be elected to consecutively numbered positions at the continuation election pursuant to RCW 35.14.060 from qualified electors residing within the service area.

Terms of original council members shall be coexistent with the original term of existence of the community municipal corporation and until their successors are elected and qualified. Vacancies in any council shall be filled for the remainder of the unexpired term by a majority vote of the remaining members.

[1985 c 281 § 25; 1967 c 73 § 2.]

Notes:

Severability--1985 c 281: See RCW 35.10.905.

RCW 35.14.030 Community council--Employees--Office--Officers--Quorum--Meetings--Compensation and expenses.

Each community council shall be staffed by a deputy to the city clerk of the city with which the service area is consolidated or annexed and shall be provided with such other clerical and technical assistance and a properly equipped office as may be necessary to carry out its functions.

Each community council shall elect a chairman and vice chairman from its membership. A majority of the council shall constitute a quorum. Each action of the community municipal corporation shall be by resolution approved by vote of the majority of all the members of the community council. Meetings shall be held at such times and places as provided in the rules of the community council. Members of the community council shall receive no compensation.

The necessary expenses of the community council shall be budgeted and paid by the city.

[1967 c 73 § 3.]

RCW 35.14.040 Ordinances or resolutions of city applying to land, buildings or structures within corporation, effectiveness--Zoning ordinances, resolutions or land use controls to remain in effect upon annexation or consolidation--Comprehensive plan.

The adoption, approval, enactment, amendment, granting or authorization by the city council or commission of any ordinance or resolution applying to land, buildings or structures within any community council corporation shall become effective within such community municipal corporation either on approval by the community council, or by failure of the community council to disapprove within sixty days of final enactment, with respect to the

following:

(1) Comprehensive plan;

(2) Zoning ordinance;

(3) Conditional use permit, special exception or variance;

(4) Subdivision ordinance;

(5) Subdivision plat;

(6) Planned unit development.

Disapproval by the community council shall not affect the application of any ordinance or resolution affecting areas outside the community municipal corporation.

Upon annexation or consolidation, pending the effective enactment or amendment of a zoning or land use control ordinance, without disapproval of the community municipal corporation, affecting land, buildings, or structures within a community municipal corporation, the zoning ordinance, resolution or land use controls applicable to the annexed or consolidated area, prior to the annexation or consolidation, shall remain in effect within the community municipal corporation and be enforced by the city to which the area is annexed or consolidated.

Whenever the comprehensive plan of the city, insofar as it affects the area of the community municipal corporation has been submitted as part of an annexation proposition and approved by the voters of the area proposed for annexation pursuant to chapter 88, Laws of 1965 extraordinary session, such action shall have the same force and effect as approval by the community council of the comprehensive plan, zoning ordinance and subdivision ordinance.

[1967 c 73 § 4.]

RCW 35.14.050 Powers and duties of community municipal corporation.

In addition to powers and duties relating to approval of zoning regulations and restrictions as set forth in RCW 35.14.040, a community municipal corporation acting through its community council may:

(1) Make recommendations concerning any proposed comprehensive plan or other proposal which directly or indirectly affects the use of property or land within the service area;

(2) Provide a forum for consideration of the conservation, improvement or development of property or land within the service area; and

(3) Advise, consult, and cooperate with the legislative authority of the city on any local matters directly or indirectly affecting the service area.

[1967 c 73 § 5.]

RCW 35.14.060 Original term of existence of community municipal corporation--Continuation of existence--Procedure.

The original terms of existence of any community municipal corporation shall be for at least four years and until the first Monday in January next following a regular municipal election held in the city.

Any such community municipal corporation may be continued thereafter for additional

periods of four years' duration with the approval of the voters at an election held and conducted in the manner provided for in this section.

Authorization for a community municipal corporation to continue its term of existence for each additional period of four years may be initiated pursuant to a resolution or a petition in the following manner:

(1) A resolution praying for such continuation may be adopted by the community council and shall be filed not less than seven months prior to the end of the term of existence of such corporation with the city council or other legislative body of the city in which the service area is located.

(2) A petition for continuation shall be signed by at least ten percent of the registered voters residing within the service area and shall be filed not less than six months prior to the end of the term of existence of such corporation with the city council or other legislative body of the city in which the service area is located.

At the same election at which a proposition is submitted to the voters of the service area for the continuation of the community municipal corporation for an additional period of four years, the community council members of such municipal corporation shall be elected. The positions on such council shall be the same in number as the original or initial council and shall be numbered consecutively and elected at large. Declarations of candidacy and withdrawals shall be in the same manner as is provided for members of the city council or other legislative body of the city.

Upon receipt of a petition, the city clerk shall examine the signatures thereon and certify to the sufficiency thereof. No person may withdraw his name from a petition after it has been filed.

Upon receipt of a valid resolution or upon duly certifying a petition for continuation of a community municipal corporation, the city clerk with whom the resolution or petition was filed shall cause a proposition on continuation of the term of existence of the community municipal corporation to be placed on the ballot at the next city general election. No person shall be eligible to vote on such proposition at such election unless he is a qualified voter and resident of the service area.

The ballots shall contain the words "For continuation of community municipal corporation" and "Against continuation of community municipal corporation" or words equivalent thereto, and shall also contain the names of the candidates to be voted for to fill the positions on the community council. The names of all candidates to be voted upon shall be printed on the ballot alphabetically in groups under the numbered position on the council for which they are candidates.

If the results of the election as certified by the county canvassing board reveal that a majority of the votes cast are for continuation, the municipal corporation shall continue in existence for an additional period of four years, and certificates of election shall be issued to the successful candidates who shall assume office at the same time as members of the city council or other legislative body of the city.

[1967 c 73 § 6.]

Chapter 35.16 RCW
REDUCTION OF CITY LIMITS

Sections

35.16.001 Actions subject to review by boundary review board.
35.16.010 Petition, resolution for election.
35.16.030 Canvassing the returns--Abstract of vote.
35.16.040 Ordinance to reduce boundaries.
35.16.050 Recording of ordinance and plat on effective date of reduction.
35.16.060 Effect of exclusion as to liability for indebtedness.
35.16.070 Previously granted franchises in excluded territory.

RCW 35.16.001 Actions subject to review by boundary review board.

Actions taken under chapter 35.16 RCW may be subject to potential review by a boundary review board under chapter 36.93 RCW.

[1989 c 84 § 29.]

RCW 35.16.010 Petition, resolution for election.

Upon the filing of a petition which is sufficient as determined by RCW 35A.01.040 requesting the exclusion from the boundaries of a city or town of an area described by metes and bounds or by reference to a recorded plat or government survey, signed by qualified voters of the city or town equal in number to not less than ten percent of the number of voters voting at the last general municipal election, the city or town legislative body shall submit the question to the voters. As an alternate method, the legislative body of the city or town may by resolution submit a proposal to the voters for excluding such a described area from the boundaries of the city or town. The question shall be submitted at the next general municipal election if one is to be held within one hundred eighty days or at a special election called for that purpose not less than ninety days nor more than one hundred eighty days after the certification of sufficiency of the petition or the passage of the resolution. The petition or resolution shall set out and describe the territory to be excluded from the city or town, together with the boundaries of the city or town as it will exist after such change is made.

[1994 c 273 § 1; 1965 c 7 § 35.16.010. Prior: (i) 1895 c 93 § 1, part; RRS § 8902, part. (ii) 1895 c 93 § 4, part; RRS § 8905, part.]

Notes:
Times for holding elections: Chapter 29.13 RCW.

RCW 35.16.030 Canvassing the returns--Abstract of vote.

The election returns shall be canvassed as provided in RCW 29.13.040. If three-fifths of the votes cast on the proposition favor the reduction of the corporate limits, the legislative body of the city or town, by an order entered on its minutes, shall direct the clerk to make and transmit to the office of the secretary of state a certified abstract of the vote. The abstract shall show the total number of voters voting, the number of votes cast for reduction and the number of votes cast against reduction.

[1994 c 273 § 3; 1965 c 7 § 35.16.030. Prior: 1895 c 93 § 1, part; RRS § 8902, part.]

Notes:
Canvassing returns, generally: Chapter 29.62 RCW.
Conduct of election--Canvass: RCW 29.13.040.

RCW 35.16.040 Ordinance to reduce boundaries.

Promptly after the filing of the abstract of votes with the office of the secretary of state, the legislative body of the city or town shall adopt an ordinance defining and fixing the corporate limits after excluding the area as determined by the election. The ordinance shall also describe the excluded territory by metes and bounds or by reference to a recorded plat or government survey and declare it no longer a part of the city or town.

[1994 c 273 § 4; 1965 c 7 § 35.16.040. Prior: 1895 c 93 § 2; RRS § 8903.]

RCW 35.16.050 Recording of ordinance and plat on effective date of reduction.

A certified copy of the ordinance defining the reduced city or town limits together with a map showing the corporate limits as altered shall be filed in accordance with RCW 29.15.026 and recorded in the office of the county auditor of the county in which the city or town is situated, upon the effective date of the ordinance. The new boundaries of the city or town shall take effect immediately after they are filed and recorded with the county auditor.

[1996 c 286 § 3; 1994 c 273 § 5; 1965 c 7 § 35.16.050. Prior: 1895 c 93 § 3; RRS § 8904.]

RCW 35.16.060 Effect of exclusion as to liability for indebtedness.

The exclusion of an area from the boundaries of a city or town shall not exempt any real property therein from taxation for the purpose of paying any indebtedness of the city or town existing at the time of its exclusion, and the interest thereon.

[1965 c 7 § 35.16.060. Prior: 1895 c 93 § 4, part; RRS § 8905, part.]

RCW 35.16.070 Previously granted franchises in excluded territory.

In regard to franchises previously granted for operation of any public service business or facility within the territory excluded from a city or town by proceedings under this chapter, the rights, obligations, and duties of the legislative body of the county or other political subdivision

having jurisdiction over such territory and of the franchise holder shall be as provided in RCW 35.02.160, relating to inclusion of territory by an incorporation.

[1994 c 273 § 6.]

Chapter 35.17 RCW
COMMISSION FORM OF GOVERNMENT

Sections

35.17.010 Definition of commission form.
35.17.020 Elections--Terms of commissioners--Vacancies.
35.17.030 Laws applicable.
35.17.035 Second class cities, parking meter revenue for revenue bonds.
35.17.040 Offices.
35.17.050 Meetings.
35.17.060 President.
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35.17.210 Legislative--Street improvements.
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35.17.270 Legislative--Initiative petition--Submission procedures.
35.17.280 Legislative--Initiative petition--Checking by clerk.
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35.17.350 Legislative--Initiative--Repeal or amendment--Method.
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35.17.370 Organization on commission form--Eligibility--Census.
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35.17.410 Organization--Effect on ordinances--Boundaries--Property.
35.17.420 Organization--Revision of appropriations.
35.17.430 Abandonment of commission form.
35.17.440 Abandonment--Method.
35.17.450 Abandonment--Conduct of election--Canvass.
35.17.460 Abandonment--Effect.

Notes:
Imposition or increase of business and occupation tax--Referendum procedure required--Exclusive procedure: RCW 35.21.706.
Population determinations: Chapter 43.62 RCW.

RCW 35.17.010 Definition of commission form.

The commission form of city government means a city government in which the legislative powers and duties are exercised by a commission of three, consisting of a mayor, a commissioner of finance and accounting, and a commissioner of streets and public improvements, and in which the executive and administrative powers and duties are distributed among the three departments as follows:

(1) Department of public safety of which the mayor shall be the superintendent;

(2) Department of finance and accounting of which the commissioner of finance and accounting shall be the superintendent;

(3) Department of streets and public improvements of which the commissioner of streets and public improvement shall be the superintendent.

[1965 c 7 § 35.17.010. Prior: (i) 1911 c 116 § 11, part; RRS § 9100, part. (ii) 1943 c 25 § 3, part; 1911 c 116 § 12, part; Rem. Supp. 1943 § 9101, part.]

RCW 35.17.020 Elections--Terms of commissioners--Vacancies.

(1) All regular elections in cities organized under the statutory commission form of government shall be held quadrennially in the odd-numbered years on the dates provided in RCW 29.13.020. However, after commissioners are elected at the next general election occurring in 1995 or 1997, regular elections in cities organized under a statutory commission form of government shall be held biennially at municipal general elections.

(2) The commissioners shall be nominated and elected at large. Their terms shall be for four years and until their successors are elected and qualified and assume office in accordance with RCW 29.04.170. However, at the next regular election of a city organized under a statutory commission form of government, the terms of office of commissioners shall occur with the person who is elected as a commissioner receiving the least number of votes being elected to a two-year term of office and the other two persons who are elected being elected to four-year terms of office. Thereafter, commissioners shall be elected to four-year terms of office.

(3) Vacancies on a commission shall occur and shall be filled as provided in chapter 42.12 RCW, except that in every instance a person shall be elected to fill the remainder of the

unexpired term at the next general municipal election that occurs twenty-eight or more days after the occurrence of the vacancy.

[1994 c 223 § 10; 1994 c 119 § 1; 1979 ex.s. c 126 § 17; 1965 c 7 § 35.17.020. Prior: 1963 c 200 § 12; 1959 c 86 § 2; 1955 c 55 § 9; prior: (i) 1911 c 116 § 5; RRS § 9094. (ii) 1943 c 25 § 1, part; 1911 c 116 § 3, part; Rem. Supp. 1943 § 9092, part.]

Notes:

Reviser's note: This section was amended by 1994 c 119 § 1 and by 1994 c 223 § 10, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

RCW 35.17.030 Laws applicable.

Cities organized under the commission form have all the powers of cities of the second class and shall be governed by the statutes applicable to cities of that class to the extent to which they are appropriate and not in conflict with provisions specifically applicable to cities organized under the commission form.

[1965 c 7 § 35.17.030. Prior: (i) 1911 c 116 § 11, part; RRS § 9100, part. (ii) 1911 c 116 § 4, part; RRS § 9093, part.]

Notes:

Second class cities: Chapter 35.23 RCW.

RCW 35.17.035 Second class cities, parking meter revenue for revenue bonds.

See RCW 35.23.454.

RCW 35.17.040 Offices.

The commission shall have and maintain an office at the city hall, or such other place as the city may provide.

[1965 c 7 § 35.17.040. Prior: 1955 c 309 § 3; prior: 1943 c 25 § 4, part; 1911 c 116 § 14, part; Rem. Supp. 1943 § 9103, part.]

RCW 35.17.050 Meetings.

Regular meetings of the commission shall be held on the second Monday after the election of the commissioners and thereafter at least once each week on a day to be fixed by ordinance. Special meetings may be called by the mayor or two commissioners. All meetings of the commission shall be open to the public.

[1965 c 7 § 35.17.050. Prior: 1911 c 116 § 15, part; RRS § 9104, part.]

RCW 35.17.060 President.

The mayor shall be president of the commission. He shall preside at its meetings when present and shall oversee all departments and recommend to the commission, action on all matters requiring attention in any department.

[1965 c 7 § 35.17.060. Prior: 1911 c 116 § 15, part; RRS § 9104, part.]

RCW 35.17.070 Vice president.

The commissioner of finance and accounting shall be vice president of the commission. In the absence or inability of the mayor, he shall perform the duties of president.

[1965 c 7 § 35.17.070. Prior: 1911 c 116 § 15, part; RRS § 9104, part.]

RCW 35.17.080 Employees of commission.

The commission shall appoint by a majority vote a city clerk and such other officers and employees as the commission may by ordinance provide. Any officer or employee appointed by the commission may be discharged at any time by vote of a majority of the members of the commission. Any commissioner may perform any duties pertaining to his department but without additional compensation therefor.

[1965 c 7 § 35.17.080. Prior: 1943 c 25 § 3, part; 1911 c 116 § 12, part; Rem. Supp. 1943 § 9101, part.]

RCW 35.17.090 Distribution of powers--Assignment of duties.

The commission by ordinance shall determine what powers and duties are to be performed in each department, shall prescribe the powers and duties of the various officers and employees and make such rules and regulations for the efficient and economical conduct of the business of the city as it may deem necessary and proper. The commission may assign particular officers and employees to one or more departments and may require an officer or employee to perform duties in two or more departments.

[1965 c 7 § 35.17.090. Prior: 1911 c 116 § 11, part; RRS § 9100, part.]

RCW 35.17.100 Bonds of commissioners and employees.

Every member of the city commission, before qualifying, shall give a good and sufficient bond to the city in a sum equivalent to five times the amount of his annual salary, conditioned for the faithful performance of the duties of his office. The bonds must be approved by a judge of the superior court for the county in which the city is located and filed with the clerk thereof. The commission, by resolution, may require any of its appointees to give bond to be fixed and approved by the commission and filed with the mayor.

[1965 c 7 § 35.17.100. Prior: 1911 c 116 § 6; RRS § 9095.]

RCW 35.17.105 Clerk may take acknowledgments.

The clerk or deputy clerk of any city having a commission form of government shall, without charge, take acknowledgments and administer oaths required by law on all claims and demands against the city.

[1965 c 7 § 35.17.105.]

RCW 35.17.108 Salaries of mayor and commissioners.

The annual salaries of the mayor and the commissioners of any city operating under a commission form of government shall be as fixed by charter or ordinance of said city. The power and authority conferred by this section shall be construed as in addition and supplemental to powers or authority conferred by any other law, and nothing contained herein shall be construed as limiting any other powers or authority of any such city.

[1967 c 100 § 1.]

RCW 35.17.120 Officers and employees--Salaries and wages.

All appointive officers and employees shall receive such compensation as the commission shall fix by ordinance, payable monthly or at such shorter periods as the commission may determine.

[1965 c 7 § 35.17.120. Prior: 1943 c 25 § 4, part; 1911 c 116 § 14, part; Rem. Supp. 1943 § 9103, part.]

RCW 35.17.130 Officers and employees--Creation--Removal--Changes in compensation.

The commission shall have power from time to time to create, fill and discontinue offices and employments other than those herein prescribed, according to their judgment of the needs of the city; and may, by majority vote of all the members, remove any such officer or employees, except as otherwise provided for in this chapter; and may by resolution, or otherwise, prescribe, limit or change the compensation of such officers or employees.

[1965 c 7 § 35.17.130. Prior: 1911 c 116 § 13; RRS § 9102.]

RCW 35.17.150 Officers and employees--Passes, free services prohibited, exceptions--Penalty.

No officer or employee, elected or appointed, shall receive from any enterprise operating under a public franchise any frank, free ticket, or free service or receive any service upon terms more favorable than are granted to the public generally: PROVIDED, That the provisions of this section shall not apply to free transportation furnished to policemen and firemen in uniform nor to free service to city officials provided for in the franchise itself.

Any violation of the provisions of this section shall be a misdemeanor.

[1965 c 7 § 35.17.150. Prior: 1961 c 268 § 11; prior: 1911 c 116 § 17, part; RRS § 9106, part.]

RCW 35.17.170 Financial statements--Monthly--Annual.

The commission shall each month print in pamphlet form a detailed itemized statement of all receipts and expenses of the city and a summary of its proceedings during the preceding month and furnish copies thereof to the state library, the city library, the newspapers of the city, and to persons who apply therefor at the office of the city clerk. At the end of each year the commission shall cause a complete examination of all the books and accounts of the city to be made by competent accountants and shall publish the result of such examination to be made in the manner above provided for publication of statements of monthly expenditures.

[1965 c 7 § 35.17.170. Prior: 1911 c 116 § 18; RRS § 9107.]

RCW 35.17.180 Legislative power--How exercised.

Each member of the commission shall have the right to vote on all questions coming before the commission. Two members of the commission shall constitute a quorum and the affirmative vote of at least two members shall be necessary to adopt any motion, resolution, ordinance, or course of action.

Every measure shall be reduced to writing and read before the vote is taken and upon every vote the yeas and nays shall be called and recorded.

[1965 c 7 § 35.17.180. Prior: 1911 c 116 § 10, part; RRS § 9099, part.]

RCW 35.17.190 Legislative ordinances and resolutions.

Every resolution and ordinance adopted by the commission shall be signed by the mayor or by two members of the commission and filed and recorded within five days of its passage. The mayor shall have no veto power.

[1965 c 7 § 35.17.190. Prior: 1911 c 116 § 10, part; RRS § 9099, part.]

RCW 35.17.200 Legislative--Appropriations of money.

No money shall be appropriated except by ordinance and every such ordinance complete in the form in which it is finally passed shall remain on file with the city clerk for public inspection at least one week before final passage.

[1965 c 7 § 35.17.200. Prior: 1911 c 116 § 16, part; RRS § 9105, part.]

RCW 35.17.210 Legislative--Street improvements.

Every ordinance or resolution ordering any street improvement or sewer complete in the

form in which it is finally passed shall remain on file with the city clerk for public inspection at least one week before final passage.

[1965 c 7 § 35.17.210. Prior: 1911 c 116 § 16, part; RRS § 9105, part.]

RCW 35.17.220 Legislative--Franchises--Referendum.

No franchise or right to occupy or use the streets, highways, bridges or other public places shall be granted, renewed, or extended except by ordinance and every such ordinance complete in the form in which it is finally passed shall remain on file with the city clerk for at least one week before final passage and if the franchise or grant is for interurban or street railways, gas or water works, electric light or power plants, heating plants, telegraph or telephone systems or other public service utilities, the ordinance must be submitted to a vote of the people at a general or special election and approved by a majority of those voting thereon.

[1965 c 7 § 35.17.220. Prior: 1911 c 116 § 16, part; RRS § 9105, part.]

Notes:
Times for holding elections: Chapter 29.13 RCW.

RCW 35.17.230 Legislative--Ordinances--Time of going into effect.

Ordinances shall not go into effect before thirty days from the time of final passage and are subject to referendum during the interim except:

(1) Ordinances initiated by petition;

(2) Ordinances necessary for immediate preservation of public peace, health, and safety which contain a statement of urgency and are passed by unanimous vote of all the commissioners;

(3) Ordinances providing for local improvement districts.

[1965 c 7 § 35.17.230. Prior: (i) 1911 c 116 § 22, part; RRS § 9111, part. (ii) 1911 c 116 § 21, part; RRS § 9110, part.]

RCW 35.17.240 Legislative--Referendum--Filing suspends ordinance.

Upon the filing of a referendum petition praying therefor, the commission shall reconsider an ordinance subject to referendum and upon reconsideration shall defeat it in its entirety or shall submit it to a vote of the people. The operation of an ordinance so protested against shall be suspended until the referendum petition is finally found insufficient or until the ordinance protested against has received a majority of the votes cast thereon at the election.

[1965 c 7 § 35.17.240. Prior: 1911 c 116 § 22, part; RRS § 9111, part.]

RCW 35.17.250 Legislative--Referendum--Petitions and conduct of elections.

All provisions applicable to the character, form, and number of signatures required for an

initiative petition, to the examination and certification thereof, and to the submission to the vote of the people of the ordinance proposed thereby, shall apply to a referendum petition and to the ordinance sought to be defeated thereby.

[1965 c 7 § 35.17.250. Prior: 1911 c 116 § 22, part; RRS § 9111, part.]

RCW 35.17.260 Legislative--Ordinances by initiative petition.

Ordinances may be initiated by petition of registered voters of the city filed with the commission. If the petition accompanying the proposed ordinance is signed by the registered voters in the city equal in number to twenty-five percent of the votes cast for all candidates for mayor at the last preceding city election, and if it contains a request that, unless passed by the commission, the ordinance be submitted to a vote of the registered voters of the city, the commission shall either:

(1) Pass the proposed ordinance without alteration within twenty days after the county auditor's certificate of sufficiency has been received by the commission; or

(2) Immediately after the county auditor's certificate of sufficiency for the petition is received, cause to be called a special election to be held on the next election date, as provided in RCW 29.13.020, that occurs not less than forty-five days thereafter, for submission of the proposed ordinance without alteration, to a vote of the people unless a general election will occur within ninety days, in which event submission must be made on the general election ballot.

[1996 c 286 § 4; 1965 c 7 § 35.17.260. Prior: 1911 c 116 § 21, part; RRS § 9110, part.]

RCW 35.17.270 Legislative--Initiative petition--Submission procedures.

The petitioner preparing an initiative petition for submission to the commission shall follow the procedures established in RCW 35.21.005.

[1996 c 286 § 5; 1965 c 7 § 35.17.270. Prior: (i) 1911 c 116 § 21, part; RRS § 9110, part. (ii) 1911 c 116 § 20, part; RRS § 9109, part. (iii) 1911 c 116 § 24; RRS § 9113.]

RCW 35.17.280 Legislative--Initiative petition--Checking by clerk.

Within ten days from the filing of a petition submitting a proposed ordinance the city clerk shall ascertain and append to the petition his certificate stating whether or not it is signed by a sufficient number of registered voters, using the registration records and returns of the preceding municipal election for his sources of information, and the commission shall allow him extra help for that purpose, if necessary. If the signatures are found by the clerk to be insufficient the petition may be amended in that respect within ten days from the date of the certificate. Within ten days after submission of the amended petition the clerk shall make an examination thereof and append his certificate thereto in the same manner as before. If the second certificate shall also show the number of signatures to be insufficient, the petition shall be returned to the person filing it.

[1965 c 7 § 35.17.280. Prior: (i) 1911 c 116 § 20, part; RRS § 9109, part. (ii) 1911 c 116 § 21, part; RRS § 9110, part.]

RCW 35.17.290 Legislative--Initiative petition--Appeal to court.

If the clerk finds the petition insufficient or if the commission refuses either to pass an initiative ordinance or order an election thereon, any taxpayer may commence an action in the superior court against the city and procure a decree ordering an election to be held in the city for the purpose of voting upon the proposed ordinance if the court finds the petition to be sufficient.

[1965 c 7 § 35.17.290. Prior: (i) 1911 c 116 § 20, part; RRS § 9109, part. (ii) 1911 c 116 § 21, part; RRS § 9110, part.]

RCW 35.17.300 Legislative--Initiative--Conduct of election.

Publication of notice, the election, the canvass of the returns and declaration of the results, shall be conducted in all respects as are other city elections. Any number of proposed ordinances may be voted on at the same election, but there shall not be more than one special election for that purpose during any one six-month period.

[1965 c 7 § 35.17.300. Prior: (i) 1911 c 116 § 20, part; RRS § 9109, part. (ii) 1911 c 116 § 21, part; RRS § 9110, part.]

Notes:
Canvassing returns, generally: Chapter 29.62 RCW.
Conduct of elections--Canvass: RCW 29.13.040.

RCW 35.17.310 Legislative--Initiative--Notice of election.

The city clerk shall cause any ordinance or proposition required to be submitted to the voters at an election to be published once in each of the daily newspapers in the city not less than five nor more than twenty days before the election, or if no daily newspaper is published in the city, publication shall be made in each of the weekly newspapers published therein. This publication shall be in addition to the notice required in chapter 29.27 RCW.

[1965 c 7 § 35.17.310. Prior: 1911 c 116 § 21, part; RRS § 9110, part.]

RCW 35.17.330 Legislative--Initiative--Effective date--Record.

If the number of votes cast thereon favor the proposed ordinance, it shall become effective immediately and shall be made a part of the record of ordinances of the city.

[1965 c 7 § 35.17.330. Prior: 1911 c 116 § 21, part; RRS § 9110, part.]

RCW 35.17.340 Legislative--Initiative--Repeal or amendment.

Upon the adoption of an ordinance initiated by petition, the city clerk shall write on the

margin of the record thereof "ordinance by petition No. . . . .," or "ordinance by vote of the people," and it cannot be repealed or amended except by a vote of the people.

[1965 c 7 § 35.17.340. Prior: 1911 c 116 § 21, part; RRS § 9110, part.]

RCW 35.17.350 Legislative--Initiative--Repeal or amendment--Method.

The commission may by means of an ordinance submit a proposition for the repeal or amendment of an ordinance, initiated by petition, by submitting it to a vote of the people at any general election and if a majority of the votes cast upon the proposition favor it, the ordinance shall be repealed or amended accordingly.

A proposition of repeal or amendment must be published before the election thereon as is an ordinance initiated by petition when submitted to election.

[1965 c 7 § 35.17.350. Prior: 1911 c 116 § 21, part; RRS § 9110, part.]

RCW 35.17.360 Legislative--Initiative--Repeal or amendment--Record.

Upon the adoption of a proposition to repeal or amend an ordinance initiated by petition, the city clerk shall write upon the margin of the record of the ordinance "repealed (or amended) by ordinance No. . . . .," or "repealed (or amended) by vote of the people."

[1965 c 7 § 35.17.360. Prior: 1911 c 116 § 21, part; RRS § 9110, part.]

RCW 35.17.370 Organization on commission form--Eligibility--Census.

Any city having a population of two thousand and less than thirty thousand may organize as a city under the commission form of government. The requisite population shall be determined by the last preceding state or federal census or the council may cause a census to be taken by one or more suitable persons, in which the full name of each person in the city shall be plainly written, the names alphabetically arranged and regularly numbered in a complete series, verified before an officer authorized to administer oaths and filed with the city clerk.

[1965 c 7 § 35.17.370. Prior: 1927 c 210 § 1; 1911 c 116 § 1; RRS § 9090.]

Notes:
Census to be conducted in decennial periods: State Constitution Art. 2 § 3.
Determination of population: Chapter 43.62 RCW.

RCW 35.17.380 Organization--Petition.

Upon petition of electors in any city equal in number to twenty-five percent of the votes cast for all candidates for mayor at the last preceding city election therein, the mayor by proclamation shall cause to be submitted the question of organizing the city under the commission form of government at a special election at a time specified therein and within sixty days after the filing of the petition. If the plan is not adopted at the special election called, it shall

not be resubmitted to the voters of the city for adoption within two years thereafter.

[1965 c 7 § 35.17.380. Prior: 1911 c 116 § 2, part; RRS § 9091, part.]

RCW 35.17.390 Organization--Ballots.

The proposition on the ballot shall be: "Shall the proposition to organize the city of (name of city) under the commission form of government be adopted?" followed by the words: "For organization as a city under commission form" and "against organization as a city under commission form." The election shall be conducted, the vote canvassed, and the result declared in the same manner as provided by law in respect to other city elections. If a majority of the votes cast are in favor thereof the city shall proceed to elect a mayor and two commissioners.

[1965 c 7 § 35.17.390. Prior: 1911 c 116 § 2, part; RRS § 9091, part.]

Notes:
Canvassing returns, generally: Chapter 29.62 RCW.
Conduct of elections--Canvass: RCW 29.13.040.
Notice of election: RCW 29.27.080.

RCW 35.17.400 Organization--Election of officers--Term.

The first election of commissioners shall be held at the next special election that occurs at least sixty days after the election results are certified where the proposition to organize under the commission form was approved by city voters, and the commission first elected shall commence to serve as soon as they have been elected and have qualified and shall continue to serve until their successors have been elected and qualified and have assumed office in accordance with RCW 29.04.170. The date of the second election for commissioners shall be in accordance with RCW 29.13.020 such that the term of the first commissioners will be as near as possible to, but not in excess of, four years calculated from the first day in January in the year after the year in which the first commissioners were elected.

[1994 c 223 § 11; 1979 ex.s. c 126 § 18; 1965 c 7 § 35.17.400. Prior: 1963 c 200 § 13; 1955 c 55 § 10; prior: 1943 c 25 § 1, part; 1911 c 116 § 3, part; Rem. Supp. 1943 § 9092, part.]

Notes:

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

RCW 35.17.410 Organization--Effect on ordinances--Boundaries--Property.

All bylaws, ordinances and resolutions in force when a city organizes under the commission form shall remain in force until amended or repealed.

The boundaries of a city reorganized under the commission form shall not be changed thereby.

All rights and property vested in the city before reorganization under the commission form shall vest in the city as reorganized and no right or liability either in favor of or against it,

existing at the time and no suit or prosecution shall be affected by the change.

[1965 c 7 § 35.17.410. Prior: 1911 c 116 § 4, part; RRS § 9093, part.]

RCW 35.17.420 Organization--Revision of appropriations.

If, at the beginning of the term of office of the first commission elected in a city organized under the commission form, the appropriations for the expenditures of the city for the current fiscal year have been made, the commission, by ordinance, may revise them.

[1965 c 7 § 35.17.420. Prior: 1911 c 116 § 19; RRS § 9108.]

RCW 35.17.430 Abandonment of commission form.

Any city which has operated under the commission form for more than six years may again reorganize as a noncommission city without changing its classification unless it desires to do so.

[1965 ex.s. c 47 § 3; 1965 c 7 § 35.17.430. Prior: 1911 c 116 § 23, part; RRS § 9112, part.]

RCW 35.17.440 Abandonment--Method.

Upon the filing of a petition praying therefor, signed by not less than twenty-five percent of the registered voters resident in the city, a special election shall be called at which the following proposition only shall be submitted: "Shall the city of (name of city) abandon its organization as a city under the commission form and become a city under the general laws governing cities of like population?"

[1965 c 7 § 35.17.440. Prior: 1911 c 116 § 23, part; RRS § 9112, part.]

RCW 35.17.450 Abandonment--Conduct of election--Canvass.

The sufficiency of the petition for the abandonment of the commission form of city government shall be determined, the election ordered and conducted, the returns canvassed and the results declared as required by the provisions applicable to the proceedings for the enactment of an ordinance by initiative petition to the extent to which they are appropriate.

[1965 c 7 § 35.17.450. Prior: 1911 c 116 § 23, part; RRS § 9112, part.]

RCW 35.17.460 Abandonment--Effect.

If a majority of the votes cast upon the proposition of abandoning the commission form of city government favor the proposition, the city shall be reorganized under general laws immediately upon the first election of city officers, which shall be held on the date of the next general city election of cities of its class. The change in form of government shall not affect the property, rights, or liabilities of the city.

[1965 c 7 § 35.17.460. Prior: 1911 c 116 § 23, part; RRS § 9112, part.]

Chapter 35.18 RCW
COUNCIL-MANAGER PLAN

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RCW 35.18.005 Definition--"Councilman."

As used in this title, the term "councilman" or "councilmen" means councilmember or

councilmembers.

[1981 c 213 § 1.]

RCW 35.18.010 The council-manager plan.

Under the council-manager plan of city government, the councilmen shall be the only elective officials. The council shall appoint an officer whose title shall be "city manager" who shall be the chief executive officer and head of the administrative branch of city or town government. The city manager shall be responsible to the council for the proper administration of all affairs of the city or town.

[1965 c 7 § 35.18.010. Prior: 1955 c 337 § 2; prior: (i) 1943 c 271 § 8, part; Rem. Supp. 1943 § 9198-17, part. (ii) 1943 c 271 § 12, part; Rem. Supp. 1943 § 9198-21, part. (iii) 1949 c 84 § 2, part; 1943 c 271 § 17, part; Rem. Supp. 1949 § 9198-26, part.]

RCW 35.18.020 Number of councilmembers--Wards, districts--Terms--Vacancies.

(1) The number of councilmembers in a city or town operating with a council-manager plan of government shall be based upon the latest population of the city or town that is determined by the office of financial management as follows:

(a) A city or town having not more than two thousand inhabitants, five councilmembers; and

(b) A city or town having more than two thousand, seven councilmembers.

(2) Except for the initial staggering of terms, councilmembers shall serve for four-year terms of office. All councilmembers shall serve until their successors are elected and qualified and assume office in accordance with RCW 29.04.170. Councilmembers may be elected on a city-wide or town-wide basis, or from wards or districts, or any combination of these alternatives. Candidates shall run for specific positions. Wards or districts shall be redrawn as provided in chapter 29.70 RCW. Wards or districts shall be used as follows: (a) Only a resident of the ward or district may be a candidate for, or hold office as, a councilmember of the ward or district; and (b) only voters of the ward or district may vote at a primary to nominate candidates for a councilmember of the ward or district. Voters of the entire city or town may vote at the general election to elect a councilmember of a ward or district, unless the city or town had prior to January 1, 1994, limited the voting in the general election for any or all council positions to only voters residing within the ward or district associated with the council positions. If a city or town had so limited the voting in the general election to only voters residing within the ward or district, then the city or town shall be authorized to continue to do so.

(3) When a city or town has qualified for an increase in the number of councilmembers from five to seven by virtue of the next succeeding population determination made by the office of financial management, two additional council positions shall be filled at the next municipal general election with the person elected to one of the new council positions receiving the greatest number of votes being elected for a four-year term of office and the person elected to the other additional council position being elected for a two-year term of office. The two additional

councilmembers shall assume office immediately when qualified in accordance with RCW 29.01.135, but the term of office shall be computed from the first day of January after the year in which they are elected. Their successors shall be elected to four-year terms of office.

Prior to the election of the two new councilmembers, the city or town council shall fill the additional positions by appointment not later than forty-five days following the release of the population determination, and each appointee shall hold office only until the new position is filled by election.

(4) When a city or town has qualified for a decrease in the number of councilmembers from seven to five by virtue of the next succeeding population determination made by the office of financial management, two council positions shall be eliminated at the next municipal general election if four council positions normally would be filled at that election, or one council position shall be eliminated at each of the next two succeeding municipal general elections if three council positions normally would be filled at the first municipal general election after the population determination. The council shall by ordinance indicate which, if any, of the remaining positions shall be elected at-large or from wards or districts.

(5) Vacancies on a council shall occur and shall be filled as provided in chapter 42.12 RCW.

[1994 c 223 § 12; 1981 c 260 § 7. Prior: 1979 ex.s. c 126 § 19; 1979 c 151 § 26; 1956 c 7 § 35.18.020; prior: 1959 c 76 § 1; 1955 c 337 § 3; prior: (i) 1943 c 271 § 6; Rem. Supp. 1943 § 9198-15. (ii) 1943 c 271 § 4, part; Rem. Supp. 1943 § 9198-13, part.]

Notes:

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

Population determinations, office of financial management: Chapter 43.62 RCW.

Times for holding elections: Chapter 29.13 RCW.

RCW 35.18.030 Laws applicable to council-manager cities--Civil service.

A city or town organized under the council-manager plan shall have all the powers which cities of its class have and shall be governed by the statutes applicable to such cities to the extent to which they are appropriate and not in conflict with the provisions specifically applicable to cities organized under the council-manager plan.

Any city adopting a council-manager form of government may adopt any system of civil service which would be available to it under any other form of city government. Any state law relative to civil service in cities of the class of a city under the council-manager type of government shall be applicable thereto.

[1965 c 7 § 35.18.030. Prior: (i) 1949 c 84 § 4; Rem. Supp. 1949 § 9198-33. (ii) 1943 c 271 § 10, part; Rem. Supp. 1943 § 9198-19, part. (iii) 1943 c 271 § 21; Rem. Supp. 1943 § 9198-30.]

RCW 35.18.035 Second class cities, parking meter revenue for revenue bonds.

See RCW 35.23.454.

RCW 35.18.040 City manager--Qualifications.

The city manager need not be a resident. He shall be chosen by the council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office. No person elected to membership on the council shall be eligible for appointment as city manager until one year has elapsed following the expiration of the term for which he was elected.

[1965 c 7 § 35.18.040. Prior: 1955 c 337 § 4; prior: (i) 1949 c 84 § 2, part; 1943 c 271 § 17, part; Rem. Supp. 1949 § 9198-26, part. (ii) 1943 c 271 § 12, part; Rem. Supp. 1943 § 9198-21, part.]

RCW 35.18.050 City manager--Bond and oath.

Before entering upon the duties of his office the city manager shall take the official oath for the support of the government and the faithful performance of his duties and shall execute and file with the clerk of the council a bond in favor of the city or town in such sum as may be fixed by the council.

[1965 c 7 § 35.18.050. Prior: 1955 c 337 § 5; prior: 1943 c 271 § 12, part; Rem. Supp. 1943 § 9198-21, part.]

RCW 35.18.060 City manager--Authority.

The powers and duties of the city manager shall be:

(1) To have general supervision over the administrative affairs of the municipality;

(2) To appoint and remove at any time all department heads, officers, and employees of the city or town, except members of the council, and subject to the provisions of any applicable law, rule, or regulation relating to civil service: PROVIDED, That the council may provide for the appointment by the mayor, subject to confirmation by the council, of the city planning commission, and other advisory citizens' committees, commissions and boards advisory to the city council: PROVIDED FURTHER, That the city manager shall appoint the municipal judge to a term of four years, subject to confirmation by the council. The municipal judge may be removed only on conviction of malfeasance or misconduct in office, or because of physical or mental disability rendering him incapable of performing the duties of his office. The council may cause an audit to be made of any department or office of the city or town government and may select the persons to make it, without the advice or consent of the city manager;

(3) To attend all meetings of the council at which his attendance may be required by that body;

(4) To see that all laws and ordinances are faithfully executed, subject to the authority which the council may grant the mayor to maintain law and order in times of emergency;

(5) To recommend for adoption by the council such measures as he may deem necessary or expedient;

(6) To prepare and submit to the council such reports as may be required by that body or as he may deem it advisable to submit;

(7) To keep the council fully advised of the financial condition of the city or town and its

future needs;

(8) To prepare and submit to the council a tentative budget for the fiscal year;

(9) To perform such other duties as the council may determine by ordinance or resolution.

[1987 c 3 § 5; 1965 ex.s. c 116 § 1; 1965 c 7 § 35.18.060. Prior: 1955 c 337 § 6; prior: (i) 1949 c 84 § 2, part; 1943 c 271 § 17, part; Rem. Supp. 1949 § 9198-26, part. (ii) 1949 c 84 § 1; 1943 c 271 § 15; Rem. Supp. 1949 § 9198-24. (iii) 1949 c 84 § 3, part; 1943 c 271 § 18, part; Rem. Supp. 1949 § 9198-27, part.]

Notes:

Severability--1987 c 3: See note following RCW 3.46.020.

RCW 35.18.070 City manager--May serve two or more cities.

Whether the city manager shall devote his full time to the affairs of one city or town shall be determined by the council. A city manager may serve two or more cities or towns in that capacity at the same time.

[1965 c 7 § 35.18.070. Prior: 1943 c 271 § 13; Rem. Supp. 1943 § 9198-22.]

RCW 35.18.080 City manager--Creation of departments.

On recommendation of the city manager, the council may create such departments, offices and employments as may be found necessary and may determine the powers and duties of each department or office.

[1965 c 7 § 35.18.080. Prior: 1943 c 271 § 16; Rem. Supp. 1943 § 9198-25.]

RCW 35.18.090 City manager--Department heads--Authority.

The city manager may authorize the head of a department or office responsible to him to appoint and remove subordinates in such department or office. Any officer or employee who may be appointed by the city manager, or by the head of a department or office, except one who holds his position subject to civil service, may be removed by the manager or other such appointing officer at any time. Subject to the provisions of RCW 35.18.060, the decision of the manager or other appointing officer, shall be final and there shall be no appeal therefrom to any other office, body, or court whatsoever.

[1965 c 7 § 35.18.090. Prior: 1955 c 337 § 7; prior: (i) 1949 c 84 § 2, part; 1943 c 271 § 17, part; Rem. Supp. 1949 § 9198-26, part. (ii) 1949 c 84 § 3, part; 1943 c 271 § 18, part; Rem. Supp. 1949 § 9198-27, part.]

RCW 35.18.100 City manager--Appointment of subordinates--Qualifications--Terms.

Appointments made by or under the authority of the city manager shall be on the basis of executive and administrative ability and of the training and experience of the appointees in the work which they are to perform. Residence within the city or town shall not be a requirement. All such appointments shall be without definite term.

[1965 c 7 § 35.18.100. Prior: 1955 c 337 § 8; prior: 1949 c 84 § 2, part; 1943 c 271 § 17, part; Rem. Supp. 1949 § 9198-26, part.]

RCW 35.18.110 City manager--Interference by councilmembers.

Neither the council, nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office by the city manager or any of his subordinates. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the manager and neither the council nor any committee or member thereof shall give orders to any subordinate of the city manager, either publicly or privately: PROVIDED, HOWEVER, That nothing herein shall be construed to prohibit the council, while in open session, from fully and freely discussing with the city manager anything pertaining to appointments and removals of city officers and employees and city affairs.

[1965 c 7 § 35.18.110. Prior: 1955 c 337 § 14; prior: 1943 c 271 § 19, part; Rem. Supp. 1943 § 9198-28, part.]

RCW 35.18.120 City manager--Removal--Resolution and notice.

The city manager shall be appointed for an indefinite term and may be removed by a majority vote of the council.

At least thirty days before the effective date of his removal, the city manager must be furnished with a formal statement in the form of a resolution passed by a majority vote of the city council stating the council's intention to remove him and the reasons therefor. Upon passage of the resolution stating the council's intention to remove the manager, the council by a similar vote may suspend him from duty, but his pay shall continue until his removal becomes effective.

[1965 c 7 § 35.18.120. Prior: 1955 c 337 § 17; prior: 1943 c 271 § 14, part; Rem. Supp. 1943 § 9198-23, part.]

RCW 35.18.130 City manager--Removal--Reply and hearing.

The city manager may, within thirty days from the date of service upon him of a copy thereof, reply in writing to the resolution stating the council's intention to remove him. In the event no reply is timely filed, the resolution shall upon the thirty-first day from the date of such service, constitute the final resolution removing the manager, and his services shall terminate upon that day. If a reply shall be timely filed with its clerk, the council shall fix a time for a public hearing upon the question of the manager's removal and a final resolution removing the manager shall not be adopted until a public hearing has been had. The action of the council in removing the manager shall be final.

[1965 c 7 § 35.18.130. Prior: 1955 c 337 § 18; prior: 1943 c 271 § 14, part; Rem. Supp. 1943 § 9198-23, part.]

RCW 35.18.140 City manager--Substitute.

The council may designate a qualified administrative officer of the city or town to perform the duties of manager:

(1) Upon the adoption of the council-manager plan, pending the selection and appointment of a manager; or

(2) Upon the termination of the services of a manager, pending the selection and appointment of a new manager; or

(3) During the absence, disability, or suspension of the manager.

[1965 c 7 § 35.18.140. Prior: 1955 c 337 § 19; prior: 1943 c 271 § 14, part; Rem. Supp. 1943 § 9198-23, part.]

RCW 35.18.150 Council--Eligibility.

Only a qualified elector of the city or town may be a member of the council and upon ceasing to be such, or upon being convicted of a crime involving moral turpitude, or of violating the provisions of RCW 35.18.110, he shall immediately forfeit his office.

[1965 c 7 § 35.18.150. Prior: 1955 c 337 § 15; prior: (i) 1943 c 271 § 19, part; Rem. Supp. 1943 § 9198-28, part. (ii) 1943 c 271 § 9, part; Rem. Supp. 1943 § 9198-18, part.]

RCW 35.18.160 Council--Authority.

The council shall have all of the powers which inhere in the city or town not reserved to the people or vested in the city manager, including but not restricted to the authority to adopt ordinances and resolutions.

[1965 c 7 § 35.18.160. Prior: (i) 1943 c 271 § 9, part; Rem. Supp. 1943 § 9198-18, part. (ii) 1943 c 271 § 10, part; Rem. Supp. 1943 § 9198-19, part.]

RCW 35.18.170 Council meetings.

The council shall meet at the times and places fixed by ordinance but must hold at least one regular meeting each month. The clerk shall call special meetings of the council upon request of the mayor or any two members. At all meetings of the city council, a majority of the councilmen shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. Requests for special meetings shall state the subject to be considered and no other subject shall be considered at a special meeting.

All meetings of the council and of committees thereof shall be open to the public and the rules of the council shall provide that citizens of the city or town shall have a reasonable opportunity to be heard at any meetings in regard to any matter being considered thereat.

[1965 c 7 § 35.18.170. Prior: 1955 c 337 § 20; prior: 1943 c 271 § 7; Rem. Supp. 1943 § 9198-16.]

RCW 35.18.180 Council--Ordinances--Recording.

No ordinance, resolution, or order, including those granting a franchise or valuable privilege, shall have any validity or effect unless passed by the affirmative vote of at least a majority of the members of the city or town council. Every ordinance or resolution adopted shall

be signed by the mayor or two members, filed with the clerk within two days and by him recorded.

[1965 c 7 § 35.18.180. Prior: 1959 c 76 § 3; 1943 c 271 § 11; Rem. Supp. 1943 § 9198-20.]

RCW 35.18.190 Mayor--Election--Vacancy.

Biennially at the first meeting of the new council the members thereof shall choose a chairman from among their number who shall have the title of mayor. In addition to the powers conferred upon him as mayor, he shall continue to have all the rights, privileges and immunities of a member of the council. If a vacancy occurs in the office of mayor, the members of the council at their next regular meeting shall select a mayor from among their number for the unexpired term.

[1969 c 101 § 1; 1965 c 7 § 35.18.190. Prior: 1955 c 337 § 9; prior: 1943 c 271 § 8, part; Rem. Supp. 1943 § 9198-17, part.]

RCW 35.18.200 Mayor--Duties.

The mayor shall preside at meetings of the council, and be recognized as the head of the city or town for all ceremonial purposes and by the governor for purposes of military law.

He shall have no regular administrative duties, but in time of public danger or emergency, if so authorized by the council, shall take command of the police, maintain law, and enforce order.

[1965 c 7 § 35.18.200. Prior: 1955 c 337 § 10; prior: 1943 c 271 § 8, part; Rem. Supp. 1943 § 9198-17, part.]

RCW 35.18.210 Mayor pro tempore.

In case of the mayor's absence, a mayor pro tempore selected by the members of the council from among their number shall act as mayor during the continuance of the absence.

[1969 c 101 § 2; 1965 c 7 § 35.18.210. Prior: 1955 c 337 § 11; prior: 1943 c 271 § 8, part; Rem. Supp. 1943 § 9198-17, part.]

RCW 35.18.220 Salaries.

Each member of the council shall receive such compensation as may be provided by law to cities of the class to which it belongs. The city manager and other officers or assistants shall receive such salary or compensation as the council shall fix by ordinance and shall be payable at such times as the council may determine.

[1965 c 7 § 35.18.220. Prior: (i) 1943 c 271 § 9, part; Rem. Supp. 1943 § 9198-18, part. (ii) 1943 c 271 § 20; Rem. Supp. 1943 § 9198-29.]

RCW 35.18.230 Organization on council-manager plan--Eligibility.

Any city or town having a population of less than thirty thousand may be organized as a council-manager city or town under this chapter.

[1965 c 7 § 35.18.230. Prior: 1959 c 76 § 2; 1943 c 271 § 1; Rem. Supp. 1943 § 9198-10.]

RCW 35.18.240 Organization--Petition.

Petitions to reorganize a city or town on the council-manager plan must be signed by registered voters resident therein equal in number to at least twenty percent of the votes cast for all candidates for mayor at the last preceding municipal election. In addition to the signature and residence addresses of the petitioners thereon, a petition must contain an affidavit stating the number of signers thereon at the time the affidavit is made.

Petitions containing the required number of signatures shall be accepted by the city or town clerk as prima facie valid until their invalidity has been proved.

A variation on such petitions between the signatures on the petition and that on the voter's permanent registration caused by the substitution of initials instead of the first or middle names or both shall not invalidate the signature on the petition if the surname and handwriting are the same. Signatures, including the original, of any voter who has signed such petitions two or more times shall be stricken.

[1965 c 7 § 35.18.240. Prior: 1955 c 337 § 22; prior: (i) 1943 c 271 § 2, part; Rem. Supp. 1943 § 9198-11, part. (ii) 1943 c 271 § 5; Rem. Supp. 1943 § 9198-14.]

RCW 35.18.250 Organization--Election procedure.

Upon the filing of a petition for the adoption of the council-manager plan of government, or upon resolution of the council to that effect, the mayor, only after the petition has been found to be valid, by proclamation issued within ten days after the filing of the petition or the resolution with the clerk, shall cause the question to be submitted at a special election to be held at a time specified in the proclamation, which shall be as soon as possible after the sufficiency of the petition has been determined or after the said resolution of the council has been enacted, but in no event shall said special election be held during the ninety day period immediately preceding any regular municipal election therein. All acts necessary to hold this election, including legal notice, jurisdiction and canvassing of returns, shall be conducted in accordance with existing law.

[1965 c 7 § 35.18.250. Prior: 1959 c 76 § 4; 1955 c 337 § 23; prior: 1943 c 271 § 2, part; Rem. Supp. 1943 § 9198-11, part.]

Notes:

Canvassing returns, generally: Chapter 29.62 RCW.
Conduct of elections--Canvass: RCW 29.13.040.
Notice of election: RCW 29.27.080.
Times for holding elections: Chapter 29.13 RCW.

RCW 35.18.260 Organization--Ballots.

At the election for organization on the council-manager plan, the proposition on the ballots shall be: "Shall the city (or town) of . . . . . adopt the council-manager plan of municipal government?" followed by the words:

"For organization as a council-manager city or town . . . ."

"Against organization as a council-manager city or town . . . ."

The election shall be conducted, the vote canvassed and the results declared in the same manner as provided by law in respect to other municipal elections.

[1965 c 7 § 35.18.260. Prior: 1943 c 271 § 3; Rem. Supp. 1943 § 9198-12.]

RCW 35.18.270 Organization--Election of council, procedure.

If the majority of the votes cast at a special election for organization on the council-manager plan favor the plan, the city or town shall elect the council required under the council-manager plan in number according to its population at the next municipal general election. However, special elections shall be held to nominate and elect the new city councilmembers at the next primary and general election held in an even-numbered year if the next municipal general election is more than one year after the date of the election at which the voters approved the council-manager plan. The staggering of terms of office shall occur at the election when the new councilmembers are elected, where the simple majority of the persons elected as councilmembers receiving the greatest numbers of votes shall be elected to four-year terms of office if the election is held in an odd-numbered year, or three-year terms of office if the election is held in an even-numbered year, and the remainder of the persons elected as councilmembers shall be elected to two-year terms of office if the election is held in an odd-numbered year, or one-year terms of office if the election is held in an even-numbered year. The initial councilmembers shall take office immediately when they are elected and qualified, but the lengths of their terms of office shall be calculated from the first day in January in the year following the election.

[1994 c 223 § 13; 1979 ex.s. c 126 § 20; 1965 c 7 § 35.18.270. Prior: 1959 c 76 § 5; 1955 c 337 § 12; prior: (i) 1943 c 271 § 8, part; Rem. Supp. 1943 § 9198-17, part. (ii) 1943 c 271 § 4, part; Rem. Supp. 1943 § 9198-13, part.]

Notes:

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

RCW 35.18.280 Organization--Holding over by incumbent officials and employees.

Councilmen shall take office at the times provided by RCW 35.18.270 as now or hereafter amended. The other city officials and employees who are incumbent at the time the council-manager plan takes effect shall hold office until their successors have been selected in accordance with the provisions of this chapter.

[1965 c 7 § 35.18.280. Prior: 1943 c 271 § 8, part; Rem. Supp. 1943 § 9198-17, part.]

RCW 35.18.285 Organization--First council may revise budget.

If, at the beginning of the term of office of the first council elected in a city organized under the council-manager plan, the appropriations for the expenditures of the city for the current fiscal year have been made, the council, by ordinance, may revise them but may not exceed the total appropriations for expenditures already specified in the budget for the year.

[1965 c 7 § 35.18.285. Prior: 1955 c 337 § 24.]

RCW 35.18.290 Abandonment of council-manager plan.

Any city or town which has operated under the council-manager plan for more than six years may abandon such organization and accept the provisions of the general laws then applicable to municipalities upon the petition of not less than twenty percent of the registered voters therein, without changing its classification unless it desires to do so.

[1965 ex.s. c 47 § 4; 1965 c 7 § 35.18.290. Prior: 1943 c 271 § 22, part; Rem. Supp. 1943 § 9198-31, part.]

RCW 35.18.300 Abandonment--Method.

The sufficiency of the petition for abandonment of the council-manager form of government shall be determined, the election ordered and conducted, and the results declared generally as provided for the procedure for reorganizing under the council-manager plan so far as those provisions are applicable.

[1965 c 7 § 35.18.300. Prior: 1943 c 271 § 23, part; Rem. Supp. 1943 § 9198-32, part.]

Notes:
Organization on council-manager plan: RCW 35.18.240 through 35.18.285.

RCW 35.18.310 Abandonment--Special election necessary.

The proposition to abandon the council-manager plan must be voted on at a special election called for that purpose at which the only proposition to be voted on shall be: "Shall the city (or town) of . . . . . abandon its organization under the council-manager plan and become a city (or town) under the general law governing cities (or towns) of . . . . . class?"

[1965 c 7 § 35.18.310. Prior: 1943 c 271 § 22 part; Rem. Supp. 1943 § 9198-31, part.]

RCW 35.18.320 Abandonment--Effect.

If a majority of votes cast at the special election favor the abandonment of the council-manager form of government, the officers elected at the next succeeding biennial election shall be those then prescribed for cities or towns of like class. Upon the qualification of such officers, the municipality shall again become organized under the general laws of the state, but such change shall not affect in any manner or degree the property, rights, or liabilities of the

corporation but shall merely extend to such change in its form of government.

[1965 c 7 § 35.18.320. Prior: 1943 c 271 § 23, part; Rem. Supp. 1943 § 9198-32, part.]

Chapter 35.20 RCW
MUNICIPAL COURTS--CITIES OVER FOUR HUNDRED THOUSAND

Sections

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35.20.270 Warrant officer--Position created--Authority--Service of criminal and civil process--Jurisdiction--Costs.
35.20.910 Construction of other laws.
35.20.921 Severability--1969 ex.s. c 147.

NOTES:
Rules of court: *See Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ).*
Courts of limited jurisdiction: Title 3 RCW.
Courts of record: Title 2 RCW.
Rights of accused: State Constitution Art. 1 § 22 (Amendment 10).
Rules for courts of limited jurisdiction: Volume 0.

RCW 35.20.010 Municipal court established--Termination of court--Agreement covering costs of handling resulting criminal cases--Arbitration--Notice.

(1) There is hereby created and established in each incorporated city of this state having a population of more than four hundred thousand inhabitants, as shown by the federal or state census, whichever is the later, a municipal court, which shall be styled "The Municipal Court of . . . . . (name of city)," hereinafter designated and referred to as the municipal court, which court shall have jurisdiction and shall exercise all the powers by this chapter declared to be vested in such municipal court, together with such powers and jurisdiction as is generally conferred in this state either by common law or statute.

(2) A municipality operating a municipal court under this section may terminate that court if the municipality has reached an agreement with the county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the termination. The agreement shall provide for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW.

(3) A city that has entered into an agreement for court services with the county must provide written notice of the intent to terminate the agreement to the county legislative authority not less than one year prior to February 1st of the year in which all district court judges are subject to election. A city that terminates an agreement for court services to be provided by a district court may terminate the agreement only at the end of a four-year district court judicial term.

(4) A county that wishes to terminate an agreement with a city for the provision of court services must provide written notice of the intent to terminate the agreement to the city legislative authority not less than one year prior to the expiration of the agreement.

[2001 c 68 § 3; 1984 c 258 § 201; 1975 c 33 § 4; 1965 c 7 § 35.20.010. Prior: 1955 c 290 § 1.]

NOTES:

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

Severability--1975 c 33: See note following RCW 35.21.780.

RCW 35.20.020 Sessions--Judges may act as magistrates--Night court.

The municipal court shall be always open except on nonjudicial days. It shall hold regular and special sessions at such times as may be prescribed by the judges thereof. The judges shall have the power to act as magistrates in accordance with the provisions of chapter 10.16 RCW. The legislative body of the city may by ordinance authorize a department of the municipal court to act as a night court, and shall appropriate the necessary funds therefor.

[1965 c 7 § 35.20.020. Prior: 1955 c 290 § 2.]

RCW 35.20.030 Jurisdiction--Maximum penalties for criminal violations--Review--Costs.

The municipal court shall have jurisdiction to try violations of all city ordinances and all other actions brought to enforce or recover license penalties or forfeitures declared or given by any such ordinances. It is empowered to forfeit cash bail or bail bonds and issue execution thereon, to hear and determine all causes, civil or criminal, arising under such ordinances, and to pronounce judgment in accordance therewith: PROVIDED, That for a violation of the criminal provisions of an ordinance no greater punishment shall be imposed than a fine of five thousand dollars or imprisonment in the city jail not to exceed one year, or both such fine and imprisonment, but the punishment for any criminal ordinance shall be the same as the punishment provided in state law for the same crime. All civil and criminal proceedings in municipal court, and judgments rendered therein, shall be subject to review in the superior court by writ of review or on appeal: PROVIDED, That an appeal from the court's determination or order in a traffic infraction proceeding may be taken only in accordance with RCW 46.63.090(5). Costs in civil and criminal cases may be taxed as provided in district courts. A municipal court participating in the program established by the office of the administrator for the courts pursuant to RCW 2.56.160 shall have jurisdiction to take recognizance, approve bail, and arraign defendants held within its jurisdiction on warrants issued by any court of limited jurisdiction participating in the program.

[2000 c 111 § 7; 1993 c 83 § 3; 1984 c 258 § 801; 1979 ex.s. c 136 § 23; 1965 c 7 § 35.20.030. Prior: 1955 c 290 § 3.]

Notes:

Effective date--1993 c 83: See note following RCW 35.21.163.

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

Effective date--Severability--1979 ex.s. c 136: See notes following RCW 46.63.010.

RCW 35.20.090 Trial by jury--Juror's fees.

In all civil cases and criminal cases where jurisdiction is concurrent with district courts as provided in RCW 35.20.250, within the jurisdiction of the municipal court, the plaintiff or defendant may demand a jury, which shall consist of six citizens of the state who shall be impaneled and sworn as in cases before district courts, or the trial may be by a judge of the municipal court: PROVIDED, That no jury trial may be held on a proceeding involving a traffic infraction. A defendant requesting a jury shall pay to the court a fee which shall be the same as that for a jury in district court. Where there is more than one defendant in an action and one or more of them requests a jury, only one jury fee shall be collected by the court. Each juror may receive up to twenty-five dollars but in no case less than ten dollars for each day in attendance upon the municipal court, and in addition thereto shall receive mileage at the rate determined under RCW 43.03.060: PROVIDED, That the compensation paid jurors shall be determined by the legislative authority of the city and shall be uniformly applied. Trial by jury shall be allowed in criminal cases involving violations of city ordinances commencing January 1, 1972, unless

such incorporated city affected by this chapter has made provision therefor prior to January 1, 1972.

[1987 c 202 § 195; 1980 c 148 § 6. Prior: 1979 ex.s. c 136 § 24; 1979 ex.s. c 135 § 8; prior: 1977 ex.s. c 248 § 3; 1977 ex.s. c 53 § 3; 1969 ex.s. c 147 § 8; 1965 c 7 § 35.20.090; prior: 1955 c 290 § 9.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.
Effective date--1980 c 148: See note following RCW 46.10.090.
Effective date--Severability--1979 ex.s. c 136: See notes following RCW 46.63.010.
Severability--1979 ex.s. c 135: See note following RCW 2.36.080.

RCW 35.20.100 Departments of court--Jurisdiction and venue--Presiding judge--Costs of election.

There shall be three departments of the municipal court, which shall be designated as Department Nos. 1, 2 and 3. However, when the administration of justice and the accomplishment of the work of the court make additional departments necessary, the legislative body of the city may create additional departments as they are needed. The departments shall be established in such places as may be provided by the legislative body of the city, and each department shall be presided over by a municipal judge. However, notwithstanding the priority of action rule, for a defendant incarcerated at a jail facility outside the city limits but within the county in which the city is located, the city may, pursuant to an interlocal agreement under chapter 39.34 RCW, contract with the county to transfer jurisdiction and venue over the defendant to a district court and to provide all judicial services at the district court as would be provided by a department of the municipal court. The judges shall select, by majority vote, one of their number to act as presiding judge of the municipal court for a term of one year, and he or she shall be responsible for administration of the court and assignment of calendars to all departments. A change of venue from one department of the municipal court to another department shall be allowed in accordance with the provisions of RCW 3.66.090 in all civil and criminal proceedings. The city shall assume the costs of the elections of the municipal judges in accordance with the provisions of RCW 29.13.045.

[1997 c 25 § 1; 1984 c 258 § 71; 1972 ex.s. c 32 § 1; 1969 ex.s. c 147 § 1; 1967 c 241 § 2; 1965 c 7 § 35.20.100. Prior: 1955 c 290 § 10.]

Notes:

Effective date--1997 c 25: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 15, 1997]." [1997 c 25 § 2.]

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

Application--1967 c 241: See note following RCW 3.66.090.
Severability--1967 c 241: See RCW 3.74.932.

RCW 35.20.105 Court administrator.

There shall be a court administrator of the municipal court appointed by the judges of the municipal court, subject to confirmation by a majority of the legislative body of the city, and removable by the judges of the municipal court subject to like confirmation. Before entering upon the duties of his office the court administrator shall take and subscribe an oath the same as required for officers of the city, and shall execute a penal bond in such sum and with such sureties as the legislative body of the city may direct and subject to their approval, conditioned for the faithful performance of his duties, and that he will pay over to the treasurer of said city all moneys belonging to the city which shall come into his hands as such court administrator. The court administrator shall be paid such compensation as the legislative body of the city may deem reasonable. The court administrator shall act under the supervision and control of the presiding judge of the municipal court and shall supervise the functions of the chief clerk and director of the traffic violations bureau or similar agency of the city, and perform such other duties as may be assigned to him by the presiding judge of the municipal court.

[1969 ex.s. c 147 § 2.]

RCW 35.20.110 Seal of court--Extent of process.

The municipal court shall have a seal which shall be the vignette of George Washington, with the words "Seal of The Municipal Court of . . . . . (name of city), State of Washington," surrounding the vignette. All process from such court runs throughout the state. The supreme court may determine by rule what process must be issued under seal.

[1999 c 152 § 3; 1965 c 7 § 35.20.110. Prior: 1955 c 290 § 11.]

RCW 35.20.120 Expenses of court.

All blanks, books, papers, stationery and furniture necessary for the transaction of business and the keeping of records of the court shall be furnished at the expense of the city, except those expenses incidental to the operation of the court in matters brought before the court because of concurrent jurisdiction with the district court, which expense shall be borne by the county and paid out of the county treasury. All other expenses on account of such court which may be authorized by the city council or the county commissioners and which are not specifically mentioned in this chapter, shall be paid respectively out of the city treasury and county treasury.

[1987 c 202 § 196; 1965 c 7 § 35.20.120. Prior: 1955 c 290 § 12.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

RCW 35.20.131 Director of traffic violations.

There shall be a director of the traffic violations bureau or such similar agency of the city as may be created by ordinance of said city. Said director shall be appointed by the judges of the

municipal court subject to such civil service laws and rules as may be provided in such city. Said director shall act under the supervision of the court administrator of the municipal court and shall be responsible for the supervision of the traffic violations bureau or similar agency of the city. Upon *this 1969 amendatory act becoming effective those employees connected with the traffic violations bureau under civil service status shall be continued in such employment and such classification. Before entering upon the duties of his office said director shall take and subscribe an oath the same as required for officers of the city and shall execute a penal bond in such sum and with such sureties as the legislative body of the city may direct and subject to their approval, conditioned for the faithful performance of his duties, and that he will faithfully account to and pay over to the treasurer of said city all moneys belonging to the city which shall come into his hands as such director. Said director shall be paid such compensation as the legislative body of the city may deem reasonable.

[1969 ex.s. c 147 § 3.]

Notes:

***Reviser's note:** "this 1969 amendatory act" [1969 ex.s. c 147] became effective August 11, 1969.

RCW 35.20.140 Monthly meeting of judges--Rules and regulations of court.

It shall be the duty of the judges to meet together at least once each month, except during the months of July and August, at such hour and place as they may designate, and at such other times as they may desire, for the consideration of such matters pertaining to the administration of justice in said court as may be brought before them. At these meetings they shall receive and investigate, or cause to be investigated, all complaints presented to them pertaining to the court and the employees thereof, and shall take such action as they may deem necessary or proper with respect thereto. They shall have power and it shall be their duty to adopt, or cause to be adopted, rules and regulations for the proper administration of justice in said court.

[1965 c 7 § 35.20.140. Prior: 1955 c 290 § 14.]

RCW 35.20.150 Election of judges--Vacancies.

The municipal judges shall be elected on the first Tuesday after the first Monday in November, 1958, and on the first Tuesday after the first Monday of November every fourth year thereafter by the electorate of the city in which the court is located. The auditor of the county concerned shall designate by number each position to be filled in the municipal court, and each candidate at the time of the filing of his declaration of candidacy shall designate by number so assigned the position for which he is a candidate, and the name of such candidate shall appear on the ballot only for such position. The name of the person who receives the greatest number of votes and of the person who receives the next greatest number of votes at the primary for a single nonpartisan position shall appear on the general election ballot under the designation therefor. Elections for municipal judge shall be nonpartisan. They shall hold office for a term of four years and until their successors are elected and qualified. The term of office shall start on the second Monday in January following such election. Any vacancy in the municipal court due to a death,

disability or resignation of a municipal court judge shall be filled by the mayor, to serve out the unexpired term. Such appointment shall be subject to confirmation by the legislative body of the city.

[1975-'76 2nd ex.s. c 120 § 7; 1965 c 7 § 35.20.150. Prior: 1961 c 213 § 1; 1955 c 290 § 15.]

Notes:

Severability--1975-'76 2nd ex.s. c 120: See note following RCW 29.21.010.

Times for holding elections: Chapter 29.13 RCW.

RCW 35.20.155 Municipal court commissioners--Appointment, powers.

When so authorized by the city legislative authority, the judges of the city may appoint one or more municipal court commissioners. A commissioner must be a registered voter of the city, and shall hold office at the pleasure of the appointing judges. A person appointed as a commissioner authorized to hear or dispose of cases must be a lawyer who is admitted to the practice of law in the state of Washington. A commissioner has such power, authority, and jurisdiction in criminal and civil matters as the appointing judges possess and may prescribe.

[1996 c 16 § 3.]

RCW 35.20.160 Judges' salaries.

The total of the salaries of each municipal judge under this chapter shall be fixed by the legislative body of the city at not less than nine thousand dollars per annum, to be paid in monthly or semimonthly installments as for other officials of the city, and such total salaries shall not be more than the salaries paid the superior court judges in the county in which the court is located.

[1965 c 147 § 3; 1965 c 7 § 35.20.160. Prior: 1955 c 290 § 16.]

Notes:

Cities over four hundred thousand, district court judges' salaries: RCW 3.58.010.

RCW 35.20.170 Qualifications of judges--Practice of law prohibited.

No person shall be eligible to the office of judge of the municipal court unless he shall have been admitted to practice law before the courts of record of this state and is an elector of the city in which he files for office. No judge of said court during his term of office shall engage either directly or indirectly in the practice of law.

[1965 c 7 § 35.20.170. Prior: 1955 c 290 § 17.]

RCW 35.20.180 Judges' oath of office, official bonds.

Every judge of such municipal court, before he enters upon the duties of his office, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will

support the Constitution of the United States and the Constitution of the State of Washington, and that I will faithfully discharge the duties of the office of judge of the municipal court of the city of . . . . . (naming such city) according to the best of my ability; and I do further certify that I do not advocate, nor am I a member of an organization that advocates, the overthrow of the government of the United States by force or violence." The oath shall be filed in the office of the county auditor. He shall also give such bonds to the state and city for the faithful performance of his duties as may be by law or ordinance directed.

[1965 c 7 § 35.20.180. Prior: 1955 c 290 § 18.]

RCW 35.20.190 Additional judge.

Whenever the number of departments of the municipal court is increased, the mayor of such city shall appoint a qualified person as provided in RCW 35.20.170 to act as municipal judge until the next general election. He shall be paid salaries in accordance with the provisions of this chapter and provided with the necessary court, office space and personnel as authorized herein.

[1967 c 241 § 4; 1965 c 7 § 35.20.190. Prior: 1955 c 290 § 19.]

Notes:

Application--1967 c 241: See note following RCW 3.66.090.
Severability--1967 c 241: See RCW 3.74.932.

RCW 35.20.200 Judges pro tempore.

The presiding municipal court judge shall, from attorneys residing in the city and qualified to hold the position of judge of the municipal court as provided in RCW 35.20.170, appoint judges pro tempore who shall act in the absence of the regular judges of the court or in addition to the regular judges when the administration of justice and the accomplishment of the work of the court make it necessary. The presiding municipal court judge may appoint, as judges pro tempore, any full-time district court judges serving in the county in which the city is situated. The term of office must be specified in writing. While acting as judge of the court, judges pro tempore shall have all of the powers of the regular judges. Before entering upon his or her duties, each judge pro tempore shall take, subscribe and file an oath as is taken by a municipal judge. Judges pro tempore shall not practice before the municipal court during their term of office as judge pro tempore. Such municipal judges pro tempore shall receive such compensation as shall be fixed by ordinance by the legislative body of the city and such compensation shall be paid by the city except that district court judges shall not be compensated by the city other than pursuant to an interlocal agreement.

[2000 c 55 § 2; 1996 c 16 § 2; 1990 c 182 § 1; 1972 ex.s. c 32 § 2; 1965 c 7 § 35.20.200. Prior: 1955 c 290 § 20.]

Notes:

Judges pro tempore appointments: RCW 3.02.060.

RCW 35.20.205 Judicial officers--Hearing examiner.

The judges of the municipal court may employ judicial officers to assist in the administration of justice and the accomplishment of the work of the court as said work may be assigned to it by statute or ordinance. The duties and responsibilities of such officers shall be judicial in nature and shall be fixed by court rule as adopted by the municipal court judges or fixed by ordinance of the city. The judicial officers may be authorized to hear and determine cases involving the commission of traffic infractions as provided in chapter 46.63 RCW. The mayor may appoint the judicial officers as judges pro tempore pursuant to RCW 35.20.200: PROVIDED, That the judicial officer need not be a resident of the city.

To utilize the services of such judicial officers for the purpose of hearing contested matters relating to the interest of the city and its citizens and the operation of the various departments of the city, the city may by ordinance create the office of hearing examiner in the municipal court and assign to it judicial duties and responsibilities.

[1980 c 128 § 7; 1975 1st ex.s. c 214 § 1.]

Notes:

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

RCW 35.20.210 Clerks of court.

There shall be a chief clerk of the municipal court appointed by the judges of the municipal court subject to such civil service laws and rules as may be provided in such city. After August 11, 1969, those employees connected with the court under civil service status shall be continued in such employment and such classification. Before the chief clerk enters upon the duties of the chief clerk's office, the chief clerk shall take and subscribe an oath the same as required for officers of the city, and shall execute a penal bond in such sum and with such sureties as the legislative body of the city may direct and subject to their approval, conditioned that the chief clerk will faithfully account to and pay over to the treasurer of said city all moneys coming into his or her hands as such clerk, and that he or she will faithfully perform the duties of his or her office to the best of his or her knowledge and ability. Upon the recommendation of the judges of the municipal court, the legislative body of the city may provide for the appointment of such assistant clerks of the municipal court as said legislative body deems necessary, with such compensation as said legislative body may deem reasonable and such assistant clerks shall be subject to such civil service as may be provided in such city: PROVIDED, That the judges of the municipal court shall appoint such clerks as the board of county commissioners may determine to handle cases involving violations of state law, wherein the court has concurrent jurisdiction with the district and superior court. All clerks of the court shall have power to administer oaths, swear and acknowledge signatures of those persons filing complaints with the court, take testimony in any action, suit or proceeding in the court relating to the city or county for which they are appointed, and may certify any records and documents of the court pertaining thereto. They shall give bond for the faithful performance of their duties as required by law.

[1987 c 202 § 197; 1969 ex.s. c 147 § 4; 1965 c 7 § 35.20.210. Prior: 1955 c 290 § 21.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

RCW 35.20.220 Powers and duties of chief clerk--Remittance by city treasurer--Interest--Disposition.

(1) The chief clerk, under the supervision and direction of the court administrator of the municipal court, shall have the custody and care of the books, papers and records of said court; he shall be present by himself or deputy during the session of said court, and shall have the power to swear all witnesses and jurors, and administer oaths and affidavits, and take acknowledgments. He shall keep the records of said court, and shall issue all process under his hand and the seal of said court, and shall do and perform all things and have the same powers pertaining to his office as the clerks of the superior courts have in their office. He shall receive all fines, penalties and fees of every kind, and keep a full, accurate and detailed account of the same; and shall on each day pay into the city treasury all money received for said city during the day previous, with a detailed account of the same, and taking the treasurer's receipt therefor.

(2) The city treasurer shall remit monthly thirty-two percent of the noninterest money received under this section, other than for parking infractions and certain costs to the state treasurer. "Certain costs" as used in this subsection, means those costs awarded to prevailing parties in civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded against convicted defendants in criminal actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if such costs are specifically designated as costs by the court and are awarded for the specific reimbursement of costs incurred by the state, county, city, or town in the prosecution of the case, including the fees of defense counsel. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the noninterest money received under this section shall be retained by the city and deposited as provided by law.

(4) Penalties, fines, bail forfeitures, fees, and costs may accrue interest at the rate of twelve percent per annum, upon assignment to a collection agency. Interest may accrue only while the case is in collection status.

(5) Interest retained by the court on penalties, fines, bail forfeitures, fees, and costs shall be split twenty-five percent to the state treasurer for deposit in the public safety and education account as provided in RCW 43.08.250, twenty-five percent to the state treasurer for deposit in the judicial information system account as provided in RCW 2.68.020, twenty-five percent to the city general fund, and twenty-five percent to the city general fund to fund local courts.

[1995 c 291 § 4; 1988 c 169 § 6; 1985 c 389 § 8; 1984 c 258 § 319; 1969 ex.s. c 147 § 5; 1965 c 7 § 35.20.220. Prior: 1955 c 290 § 22.]

Notes:

Effective date--1985 c 389: See note following RCW 27.24.070.

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

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

RCW 35.20.230 Director of probation services--Probation officers--Bailiffs.

The judges of the municipal court shall appoint a director of probation services who shall, under the direction and supervision of the court administrator of the municipal court, supervise the probation officers of the municipal court. The judges of the municipal court shall also appoint a bailiff for the court, together with such number of probation officers and additional bailiffs as may be authorized by the legislative body of the city. The director of probation services, probation officers, and bailiff or bailiffs shall be paid by the city treasurer in such amount as is deemed reasonable by the legislative body of the city: PROVIDED, That such additional probation officers and bailiffs of the court as may be authorized by the county commissioners shall be paid from the county treasury.

[1998 c 238 § 1; 1969 ex.s. c 147 § 6; 1965 c 7 § 35.20.230. Prior: 1955 c 290 § 23.]

RCW 35.20.240 First judges--Transfer of equipment.

Upon the effective date of this chapter (June 8, 1955), any justice of the peace who was the duly appointed and acting police justice of the city shall become a judge of the municipal court upon his filing his oath of office and bond as required by this chapter, and shall serve as a judge of said municipal court until the regularly elected judges of the court shall qualify following their election in 1958, or thereafter as provided in RCW 35.20.150. Such judge shall be paid salaries in accordance with this chapter while so serving. Such salaries from the city and county shall be in lieu of those now (June 8, 1955) being paid to the justice of the peace acting as police justice of the city court: PROVIDED, That upon the justices of the peace qualifying as municipal judges under this chapter, the number of justices of the peace for such city shall be reduced accordingly as provided in RCW 35.20.190. Should any justice of the peace acting as police judge fail to qualify as a judge of the municipal court, the mayor of such city shall designate one of the other justices of the peace of that city to act as municipal judge until the next general election in November, 1958, and the qualifying of the regularly elected judge. All furniture and equipment belonging to the city and county in which the court is situated, now under the care and custody of the justice of the peace and municipal judge, shall be transferred to the municipal court for use in the operation and maintenance of such court.

[1965 c 7 § 35.20.240. Prior: 1955 c 290 § 24.]

Notes:

Reviser's note: Justices of the peace and courts to be construed to mean district judges and courts. See RCW 3.30.015.

RCW 35.20.250 Concurrent jurisdiction with superior court and district court.

The municipal court shall have concurrent jurisdiction with the superior court and district court in all civil and criminal matters as now provided by law for district judges, and a judge thereof may sit in preliminary hearings as magistrate. Fines, penalties, and forfeitures before the court under the provisions of this section shall be paid to the county treasurer as provided for

district court and commitments shall be to the county jail. Appeals from judgment or order of the court in such cases shall be governed by the law pertaining to appeals from judgments or orders of district judges operating under chapter 3.30 RCW.

[1987 c 202 § 198; 1979 ex.s. c 136 § 25; 1969 ex.s. c 147 § 7; 1965 c 7 § 35.20.250. Prior: 1955 c 290 § 25.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

Effective date--Severability--1979 ex.s. c 136: See notes following RCW 46.63.010.

RCW 35.20.255 Deferral or suspension of sentences--Probation--Maximum term.

Judges of the municipal court, in their discretion, shall have the power in all criminal proceedings within their jurisdiction including violations of city ordinances, to defer imposition of any sentence, suspend all or part of any sentence including installment payment of fines, fix the terms of any such deferral or suspension, and provide for such probation as in their opinion is reasonable and necessary under the circumstances of the case, but in no case shall it extend for more than five years from the date of conviction for a defendant to be sentenced under RCW 46.61.5055 and two years from the date of conviction for all other offenses. A defendant who has been sentenced, or whose sentence has been deferred, and who then fails to appear for any hearing to address the defendant's compliance with the terms of probation when ordered to do so by the court, shall have the term of probation tolled until such time as the defendant makes his or her presence known to the court on the record. However, the jurisdiction period in this section does not apply to the enforcement of orders issued under RCW 46.20.720. Any time before entering an order terminating probation, the court may modify or revoke its order suspending or deferring the imposition or execution of the sentence.

[2001 c 94 § 3; 1999 c 56 § 3; 1983 c 156 § 8; 1969 ex.s. c 147 § 9.]

RCW 35.20.260 Subpoenas--Witness fees.

The court shall have authority to subpoena witnesses as now authorized in superior courts throughout the state. Such witnesses shall be paid according to law with mileage as authorized for witnesses to such cases.

[1965 c 7 § 35.20.260. Prior: 1955 c 290 § 26.]

RCW 35.20.270 Warrant officer--Position created--Authority--Service of criminal and civil process--Jurisdiction--Costs.

(1) The position of warrant officer is hereby created and shall be maintained by the city within the city police department. The number and qualifications of warrant officers shall be fixed by ordinance, and their compensation shall be paid by the city.

(2) Warrant officers shall be vested only with the special authority to make arrests authorized by warrants and other arrests as are authorized by ordinance.

(3) All criminal and civil process issuing out of courts created under this title shall be directed to the chief of police of the city served by the court and/or to the sheriff of the county in

which the court is held and/or the warrant officers and be by them executed according to law in any county of this state.

(4) No process of courts created under this title shall be executed outside the corporate limits of the city served by the court unless the person authorized by the process first contacts the applicable law enforcement agency in whose jurisdiction the process is to be served.

(5) Upon a defendant being arrested in another city or county the cost of arresting or serving process thereon shall be borne by the court issuing the process including the cost of returning the defendant from any county of the state to the city.

(6) Warrant officers shall not be entitled to death, disability, or retirement benefits pursuant to chapter 41.26 RCW on the basis of service as a warrant officer as described in this section.

[1992 c 99 § 1; 1977 ex.s. c 108 § 1.]

RCW 35.20.910 Construction of other laws.

All acts or parts of acts which are inconsistent or conflicting with the provisions of this chapter, are hereby repealed or modified accordingly. No provision of this chapter shall be construed as repealing or anywise limiting or affecting the jurisdiction of district judges under the general laws of this state.

[1987 c 202 § 199; 1965 c 7 § 35.20.910. Prior: 1955 c 290 § 28.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

RCW 35.20.921 Severability--1969 ex.s. c 147.

If any provision of this 1969 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1969 ex.s. c 147 § 11.]

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MISCELLANEOUS PROVISIONS

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NOTES:

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Actions against

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state: Chapter 4.92 RCW.

Actions by in corporate name: RCW 4.08.110.

Cemeteries, public acquisition and maintenance: Chapter 68.52 RCW.

Diking and drainage districts: Chapters 85.05, 86.09 RCW.

Disturbances at state penal facilities: Chapter 72.02 RCW.

Dog handler using dog in line of duty--Immunity: RCW 4.24.410.
Eminent domain by cities: Chapter 8.12 RCW.
Fire protection districts: Title 52 RCW.
Flood control maintenance, state participation in: Chapter 86.26 RCW.
Hospitals, joint operation with counties: RCW 36.62.030, 36.62.110.
Industrial development revenue bonds: Chapter 39.84 RCW.
Intergovernmental disposition of property: Chapter 39.33 RCW.
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Port districts: Title 53 RCW.
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Residence qualifications of civil service employees--Residency not grounds for discharge: RCW 52.30.050.
Senior citizens programs--Authorization to establish and administer: RCW 36.39.060.
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Transfer of real property or contract for use for park and recreational purposes: RCW 39.33.060.
Unclaimed property in hands of city police: Chapter 63.32 RCW.
Water-sewer districts: Title 57 RCW.
Weeds, duty to destroy, extermination areas: RCW 17.04.160.

RCW 35.21.005 Sufficiency of petitions.

Wherever in this title petitions are required to be signed and filed, the following rules shall govern the sufficiency thereof:

(1) A petition may include any page or group of pages containing an identical text or prayer intended by the circulators, signers or sponsors to be presented and considered as one petition and containing the following essential elements when applicable, except that the elements referred to in (d) and (e) of this subsection are essential for petitions referring or initiating legislative matters to the voters, but are directory as to other petitions:

(a) The text or prayer of the petition which shall be a concise statement of the action or relief sought by petitioners and shall include a reference to the applicable state statute or city ordinance, if any;

(b) If the petition initiates or refers an ordinance, a true copy thereof;

(c) If the petition seeks the annexation, incorporation, withdrawal, or reduction of an area

for any purpose, an accurate legal description of the area proposed for such action and if practical, a map of the area;

(d) Numbered lines for signatures with space provided beside each signature for the name and address of the signer and the date of signing;

(e) The warning statement prescribed in subsection (2) of this section.

(2) Petitions shall be printed or typed on single sheets of white paper of good quality and each sheet of petition paper having a space thereon for signatures shall contain the text or prayer of the petition and the following warning:

WARNING

> Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

Each signature shall be executed in ink or indelible pencil and shall be followed by the name and address of the signer and the date of signing.

(3) The term "signer" means any person who signs his or her own name to the petition.

(4) To be sufficient a petition must contain valid signatures of qualified registered voters or property owners, as the case may be, in the number required by the applicable statute or ordinance. Within three working days after the filing of a petition, the officer with whom the petition is filed shall transmit the petition to the county auditor for petitions signed by registered voters, or to the county assessor for petitions signed by property owners for determination of sufficiency. The officer whose duty it is to determine the sufficiency of the petition shall proceed to make such a determination with reasonable promptness and shall file with the officer receiving the petition for filing a certificate stating the date upon which such determination was begun, which date shall be referred to as the terminal date. Additional pages of one or more signatures may be added to the petition by filing the same with the appropriate filing officer prior to such terminal date. Any signer of a filed petition may withdraw his or her signature by a written request for withdrawal filed with the receiving officer prior to such terminal date. Such written request shall so sufficiently describe the petition as to make identification of the person and the petition certain. The name of any person seeking to withdraw shall be signed exactly the same as contained on the petition and, after the filing of such request for withdrawal, prior to the terminal date, the signature of any person seeking such withdrawal shall be deemed withdrawn.

(5) Petitions containing the required number of signatures shall be accepted as prima facie valid until their invalidity has been proved.

(6) A variation on petitions between the signatures on the petition and that on the voter's permanent registration caused by the substitution of initials instead of the first or middle names, or both, shall not invalidate the signature on the petition if the surname and handwriting are the

same.

(7) Signatures, including the original, of any person who has signed a petition two or more times shall be stricken.

(8) Signatures followed by a date of signing which is more than six months prior to the date of filing of the petition shall be stricken.

(9) When petitions are required to be signed by the owners of property, the determination shall be made by the county assessor. Where validation of signatures to the petition is required, the following shall apply:

(a) The signature of a record owner, as determined by the records of the county auditor, shall be sufficient without the signature of his or her spouse;

(b) In the case of mortgaged property, the signature of the mortgagor shall be sufficient, without the signature of his or her spouse;

(c) In the case of property purchased on contract, the signature of the contract purchaser, as shown by the records of the county auditor, shall be deemed sufficient, without the signature of his or her spouse;

(d) Any officer of a corporation owning land within the area involved who is duly authorized to execute deeds or encumbrances on behalf of the corporation, may sign on behalf of such corporation, and shall attach to the petition a certified excerpt from the bylaws of such corporation showing such authority;

(e) When property stands in the name of a deceased person or any person for whom a guardian has been appointed, the signature of the executor, administrator, or guardian, as the case may be, shall be equivalent to the signature of the owner of the property.

(10) The officer who is responsible for determining the sufficiency of the petition shall do so in writing and transmit the written certificate to the officer with whom the petition was originally filed.

[1996 c 286 § 6.]

RCW 35.21.010 General corporate powers--Towns, restrictions as to area.

(1) Municipal corporations now or hereafter organized are bodies politic and corporate under the name of the city of . . . . . ., or the town of . . . . . ., as the case may be, and as such may sue and be sued, contract or be contracted with, acquire, hold, possess and dispose of property, subject to the restrictions contained in other chapters of this title, having a common seal, and change or alter the same at pleasure, and exercise such other powers, and have such other privileges as are conferred by this title. However, not more than two square miles in area shall be included within the corporate limits of a town having a population of fifteen hundred or less, or located in a county with a population of one million or more, and not more than three square miles in area shall be included within the corporate limits of a town having a population of more than fifteen hundred in a county with a population of less than one million, nor shall more than twenty acres of unplatted land belonging to any one person be taken within the corporate limits of a town without the consent of the owner of such unplatted land.

(2) Notwithstanding subsections (1) and (3) of this section, a town located in three or

more counties is excluded from a limitation in square mileage.

(3) Except as provided in subsection (2) of this section, the original incorporation of a town shall be limited to an area of not more than one square mile and a population as prescribed in RCW 35.01.040.

[1995 c 196 § 5; 1991 c 363 § 37; 1965 c 138 § 1; 1965 c 7 § 35.21.010. Prior: 1963 c 119 § 1; 1890 p 141 § 15, part; RRS § 8935.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Validation of certain incorporations and annexations--Municipal corporations of the fourth class--1961 ex.s. c 16: "Any incorporation of a municipal corporation of the fourth class and any annexation of territory to a municipal corporation of the fourth class prior to March 31, 1961, which is otherwise valid except for compliance with the limitation to the area of one square mile as prescribed by section 15, page 141, Laws of 1889-90, is hereby validated and declared to be a valid incorporation or annexation in all respects." [1961 ex.s. c 16 § 1.]

RCW 35.21.015 Salary commissions.

(1) Salaries for elected officials of towns and cities may be set by salary commissions established in accordance with city charter or by ordinance and in conformity with this section.

(2) The members of such commissions shall be appointed in accordance with the provisions of a city charter, or as specified in this subsection:

(a) Shall be appointed by the mayor with approval of the city council;

(b) May not be appointed to more than two terms;

(c) May only be removed during their terms of office for cause of incapacity, incompetence, neglect of duty, or malfeasance in office or for a disqualifying change of residence; and

(d) May not include any officer, official, or employee of the city or town or any of their immediate family members. "Immediate family member" as used in this subsection means the parents, spouse, siblings, children, or dependent relatives of the officer, official, or employee, whether or not living in the household of the officer, official, or employee.

(3) Any change in salary shall be filed by the commission with the city clerk and shall become effective and incorporated into the city or town budget without further action of the city council or salary commission.

(4) Salary increases established by the commission shall be effective as to all city or town elected officials, regardless of their terms of office.

(5) Salary decreases established by the commission shall become effective as to incumbent city or town elected officials at the commencement of their next subsequent terms of office.

(6) Salary increases and decreases shall be subject to referendum petition by the people of the town or city in the same manner as a city ordinance upon filing of such petition with the city clerk within thirty days after filing of the salary schedule. In the event of the filing of a valid referendum petition, the salary increase or decrease shall not go into effect until approved by vote of the people.

(7) Referendum measures under this section shall be submitted to the voters of the city or town at the next following general or municipal election occurring thirty days or more after the petition is filed, and shall be otherwise governed by the provisions of the state Constitution, or city charter, or laws generally applicable to referendum measures.

(8) The action fixing the salary by a commission established in conformity with this section shall supersede any other provision of state statute or city or town ordinance related to municipal budgets or to the fixing of salaries.

(9) Salaries for mayors and councilmembers established under an ordinance or charter provision in existence on July 22, 2001, that substantially complies with this section shall remain in effect unless and until changed in accordance with such charter provision or ordinance.

[2001 c 73 § 4.]

NOTES:

Findings--Intent--2001 c 73: "The legislature hereby finds and declares that:

(1) Article XXX, section 1 of the state Constitution permits midterm salary increases for municipal officers who do not fix their own compensation;

(2) The Washington citizens' commission on salaries for elected officials established pursuant to Article XXVIII, section 1 of the state Constitution with voter approval has assured that the compensation for state and county elected officials will be fair and certain, while minimizing the dangers of midterm salary increases being used to influence those officers in the performance of their duties;

(3) The same public benefits of independent salary commissions should be extended to the setting of compensation of municipal elected officers; and

(4) This act is intended to clarify the intent of the legislature that existing state law authorizes:

(a) The establishment of independent salary commissions to set the salaries of city or town elected officials, county commissioners, and county councilmembers; and

(b) The authority of the voters of such cities, towns, and counties to review commission decisions to increase or decrease such salaries by means of referendum." [2001 c 73 § 1.]

Severability--2001 c 73: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2001 c 73 § 6.]

RCW 35.21.020 Auditoriums, art museums, swimming pools, etc.--Power to acquire.

Any city or town in this state acting through its council or other legislative body, and any separately organized park district acting through its board of park commissioners or other governing officers, shall have power to acquire by donation, purchase or condemnation, and to construct and maintain public auditoriums, art museums, swimming pools, and athletic and recreational fields, including golf courses, buildings and facilities within or without its parks, and to use or let the same for such public and private purposes for such compensation and rental and upon such conditions as its council or other legislative body or board of park commissioners shall from time to time prescribe.

[1965 c 7 § 35.21.020. Prior: 1947 c 28 § 1; 1937 c 98 § 1; Rem. Supp. 1947 § 8981-4.]

Notes:

Acquisition of property for parks, recreational, viewpoint, greenbelt, conservation, historic, scenic or view purposes: RCW 36.34.340.

RCW 35.21.030 Auxiliary water systems for protection from fire.

Any city or town shall have power to provide for the protection of such city or town, or any part thereof, from fire, and to establish, construct and maintain an auxiliary water system, or systems, or extensions thereof, or additions thereto, and the structures and works necessary therefor or forming a part thereof, including the acquisition or damaging of lands, rights-of-way, rights, property, water rights, and the necessary sources of supply of water for such purposes, within or without the corporate limits of such city or town, and to manage, regulate and control the same.

[1965 c 7 § 35.21.030. Prior: 1911 c 98 § 5; RRS § 9356.]

RCW 35.21.070 Cumulative reserve fund--Authority to create.

Any city or town may establish by ordinance a cumulative reserve fund in general terms for several different municipal purposes as well as for a very specific municipal purpose, including that of buying any specified supplies, material or equipment, or the construction, alteration or repair of any public building or work, or the making of any public improvement, or for creation of a revenue stabilization fund for future operations. The ordinance shall designate the fund as "cumulative reserve fund for . . . . . (naming purpose or purposes for which fund is to be accumulated and expended)." The moneys in the fund may be allowed to accumulate from year to year until the legislative authority of the city or town shall determine to expend the moneys in the fund for the purpose or purposes specified: PROVIDED, That any moneys in the fund shall never be expended for any other purpose or purposes than those specified, without an approving vote by a two-thirds majority of the members of the legislative authority of the city or town.

[1983 c 173 § 1; 1965 c 7 § 35.21.070. Prior: 1953 c 38 § 1; 1941 c 60 § 1; Rem. Supp. 1941 § 9213-5.]

RCW 35.21.080 Cumulative reserve fund--Annual levy for--Application of budget law.

An item for said cumulative reserve fund may be included in the city or town's annual budget or estimate of amounts required to meet public expense for the ensuing year and a tax levy made within the limits and as authorized by law for said item; and said item and levy may be repeated from year to year until, in the judgment of the legislative body of the city or town, the amount required for the specified purpose or purposes has been raised or accumulated. Any moneys in said fund at the end of the fiscal year shall not lapse nor shall the same be a surplus available or which may be used for any other purpose or purposes than those specified, except as herein provided.

[1965 c 7 § 35.21.080. Prior: 1953 c 38 § 2; 1941 c 60 § 2; Rem. Supp. 1941 § 9213-6.]

RCW 35.21.085 Payrolls fund--Claims fund.

The legislative authority of any city or town is authorized to create the following special funds:

(1) Payrolls--into which moneys may be placed from time to time as directed by the legislative authority from any funds available and upon which warrants may be drawn and cashed for the purpose of paying any moneys due city employees for salaries and wages. The accounts of the city or town shall be so kept that they shall show the department or departments and amounts to which the payment is properly chargeable.

(2) Claims--into which may be paid moneys from time to time from any funds which are available and upon which warrants may be issued and paid in payment of claims against the city or town for any purpose. The accounts of the city or town shall be so kept that they shall show the department or departments and the respective amounts for which the warrant is issued and paid.

[1965 c 7 § 35.21.085. Prior: 1953 c 27 § 1.]

RCW 35.21.086 Payrolls fund--Transfers from insolvent funds.

Transfers from an insolvent fund to the payrolls fund or claims fund shall be by warrant.

[1965 c 7 § 35.21.086. Prior: 1953 c 27 § 2.]

RCW 35.21.087 Employee checks, drafts, warrants--City, town may cash.

Any city or town is hereby authorized, at its option and after the adoption of the appropriate ordinance, to accept in exchange for cash a payroll check, draft, or warrant; expense check, draft, or warrant; or personal check from a city or town employee in accordance with the following conditions:

(1) The check, warrant, or draft must be drawn to the order of cash or bearer and be immediately payable by a drawee financial institution;

(2) The person presenting the check, draft, or warrant to the city or town must produce identification as outlined by the city or town in the authorizing ordinance;

(3) The payroll check, draft, or warrant or expense check, draft, or warrant must have been issued by the city or town; and

(4) Personal checks cashed pursuant to this authorization cannot exceed two hundred dollars.

In the event that any personal check cashed for a city or town employee by the city or town under this section is dishonored by the drawee financial institution when presented for payment, the city or town is authorized, after notice to the drawer or endorser of the dishonor, to withhold from the drawer's or endorser's next payroll check, draft, or warrant the full amount of the dishonored check.

[1991 c 185 § 1.]

RCW 35.21.088 Equipment rental fund.

Any city or town may create, by ordinance, an "equipment rental fund," hereinafter referred to as "the fund," in any department of the city or town to be used as a revolving fund to be expended for salaries, wages, and operations required for the repair, replacement, purchase, and operation of equipment, and for the purchase of equipment, materials, and supplies to be used in the administration and operation of the fund.

The legislative authority of a city or town may transfer any equipment, materials or supplies of any office or department to the equipment rental fund either without charge, or may grant a credit to such office or department equivalent to the value of the equipment, materials or supplies transferred. An office or department receiving such a credit may use it any time thereafter for renting or purchasing equipment, materials, supplies or services from the equipment rental fund.

Money may be placed in the fund from time to time by the legislative authority of the city or town. Cities and towns may purchase and sell equipment, materials and supplies by use of such fund, subject to any laws governing the purchase and sale of property. Such equipment, materials and supplies may be rented for the use of various offices and departments of any city or town or may be rented by any such city or town to governmental agencies. The proceeds received by any city or town from the sale or rental of such property shall be placed in the fund, and the purchase price of any such property or rental payments made by a city or town shall be made from moneys available in the fund. The ordinance creating the fund shall designate the official or body that is to administer the fund and the terms and charges for the rental for the use of any such property which has not been purchased for its own use out of its own funds and may from time to time amend such ordinance.

There shall be paid monthly into the fund out of the moneys available to the department using any equipment, materials, and/or supplies, which have not been purchased by that department for its own use and out of its own funds, reasonable rental charges fixed by the legislative authority of the city or town, and moneys in the fund shall be retained there from year to year so long as the legislative authority of the city or town desires to do so.

Every city having a population of more than eight thousand, according to the last official census, shall establish such an equipment rental fund in its street department or any other department of city government. Such fund shall acquire the equipment necessary to serve the needs of the city street department. Such fund may, in addition, be created to service any other departments of city government or other governmental agencies as authorized hereinabove.

[1965 c 7 § 35.21.088. Prior: 1963 c 115 § 7; 1953 c 67 § 1.]

Notes:

Census to be conducted in decennial periods: State Constitution Art. 2 § 3.
Determination of population: Chapter 43.62 RCW.

RCW 35.21.090 Dikes, levees, embankments--Authority to construct.

Any city or town shall have power to provide for the protection of such city or town, or

any part thereof, from overflow, and to establish, construct and maintain dikes, levees, embankments, or other structures and works, or to open, deepen, straighten or otherwise enlarge natural watercourses, waterways and other channels, including the acquisition or damaging of lands, rights-of-way, rights and property therefor, within or without the corporate limits of such city or town, and to manage, regulate and control the same.

[1965 c 7 § 35.21.090. Prior: 1911 c 98 § 4; 1907 c 241 § 68; RRS § 9355.]

Notes:
Eminent domain: Chapter 8.12 RCW.

RCW 35.21.100 Donations--Authority to accept and use.

Every city and town by ordinance may accept any money or property donated, devised, or bequeathed to it and carry out the terms of the donation, devise, or bequest, if within the powers granted by law. If no terms or conditions are attached to the donation, devise, or bequest, the city or town may expend or use it for any municipal purpose.

[1965 c 7 § 35.21.100. Prior: 1941 c 80 § 1; Rem. Supp. 1941 § 9213-8.]

RCW 35.21.110 Ferries--Authority to acquire and maintain.

Any incorporated city or town within the state is authorized to construct, or condemn and purchase, or purchase, and to maintain a ferry across any unfordable stream adjoining and within one mile of its limits, together with all necessary grounds, roads, approaches and landings necessary or appertaining thereto located within one mile of the limits of such city or town, with full jurisdiction and authority to manage, regulate and control the same beyond the limits of the corporation and to operate the same free or for toll.

[1965 c 7 § 35.21.110. Prior: 1895 c 130 § 1; RRS § 5476.]

RCW 35.21.120 Solid waste handling system--Contracts.

A city or town may by ordinance provide for the establishment of a system or systems of solid waste handling for the entire city or town or for portions thereof. A city or town may provide for solid waste handling by or under the direction of officials and employees of the city or town or may award contracts for any service related to solid waste handling including contracts entered into under RCW 35.21.152. Contracts for solid waste handling may provide that a city or town provide for a minimum periodic fee or other method of compensation in consideration of the operational availability of a solid waste handling system, plant, site, or other facility at a specified minimum level, without regard to the ownership of the system, plant, site, or other facility, or the amount of solid waste actually handled during all or any part of the contract period. When a minimum level of solid waste is specified in a contract for solid waste handling, there shall be a specific allocation of financial responsibility in the event the amount of solid waste handled falls below the minimum level provided in the contract.

As used in this chapter, the terms "solid waste" and "solid waste handling" shall be as defined in RCW 70.95.030.

[1989 c 399 § 1; 1986 c 282 § 18; 1965 c 7 § 35.21.120. Prior: 1943 c 270 § 1, part; Rem. Supp. 1943 § 9504-1, part.]

Notes:

Severability--Legislative findings--Construction--Liberal construction--Supplemental powers--1986 c 282: See notes following RCW 35.21.156.

Contracts with vendors for solid waste handling: RCW 35.21.156.

RCW 35.21.130 Solid waste or recyclable materials collection--Ordinance.

A solid waste or recyclable materials collection ordinance may:

(1) Require property owners and occupants of premises to use the solid waste collection and disposal system or recyclable materials collection and disposal system, and to dispose of their solid waste and recyclable materials as provided in the ordinance: PROVIDED, That a solid waste or recycling ordinance shall not require any retail enterprise engaged in the sale of consumer-packaged products to locate or place a public recycling collection site or buy-back center upon or within a certain distance of the retail establishment as a condition of engaging in the sale of consumer-packaged products; and

(2) Fix charges for solid waste collection and disposal, recyclable materials collection and disposal, or both, and the manner and time of payment therefor including therein a provision that upon failure to pay the charges, the amount thereof shall become a lien against the property for which the solid waste or recyclable materials collection service is rendered. The ordinance may also provide penalties for its violation.

[1989 c 431 § 51; 1965 c 7 § 35.21.130. Prior: 1943 c 270 § 1, part; Rem. Supp. 1943 § 9504-1, part.]

Notes:

Severability--1989 c 431: See RCW 70.95.901.

RCW 35.21.135 Solid waste or recyclable materials collection--Curbside recycling--Reduced rate.

(1) Each city or town providing by ordinance or resolution a reduced solid waste collection rate to residents participating in a residential curbside recycling program implemented under RCW 70.95.090, may provide a similar reduced rate to residents participating in any other recycling program, if such program is approved by the jurisdiction. Nothing in this section shall be interpreted to reduce the authority of a city to adopt ordinances under RCW 35.21.130(1).

(2) For the purposes of this section, "reduced rate" means a residential solid waste collection rate incorporating a rebate, refund, or discount. Reduced rate shall not include residential solid waste collection rate based on the volume or weight of solid waste set out for collection.

[1991 c 319 § 404.]

Notes:

Severability--Part headings not law--1991 c 319: See RCW 70.95F.900 and 70.95F.901.

RCW 35.21.140 Garbage--Notice of lien--Foreclosure.

A notice of the city's or town's lien for garbage collection and disposal service specifying the charges, the period covered by the charges and giving the legal description of the premises sought to be charged, shall be filed with the county auditor within the time required and shall be foreclosed in the manner and within the time prescribed for liens for labor and material.

[1965 c 7 § 35.21.140. Prior: 1943 c 270 § 1, part; Rem. Supp. 1943 § 9504-1, part.]

RCW 35.21.150 Garbage--Lien--Priority.

The garbage collection and disposal service lien shall be prior to all liens and encumbrances filed subsequent to the filing of the notice of it with the county auditor, except the lien of general taxes and local improvement assessments whether levied prior or subsequent thereto.

[1965 c 7 § 35.21.150. Prior: 1943 c 270 § 1, part; Rem. Supp. 1943 § 9504-1, part.]

RCW 35.21.152 Solid waste handling--Agreements--Purposes--Terms and conditions.

A city or town may construct, lease, condemn, purchase, acquire, add to, alter, and extend systems, plants, sites, or other facilities for solid waste handling, and shall have full jurisdiction and authority to manage, regulate, maintain, utilize, operate, control, and establish the rates and charges for those solid waste handling systems, plants, sites, or other facilities owned or operated by the city or town. A city or town may enter into agreements with public or private parties to: (1) Construct, lease, purchase, acquire, manage, maintain, utilize, or operate publicly or privately owned or operated solid waste handling systems, plants, sites, or other facilities; (2) establish rates and charges for those systems, plants, sites, or other facilities; (3) designate particular publicly or privately owned or operated systems, plants, sites, or other facilities as disposal sites; and (4) sell the materials or products of those systems, plants, or other facilities. Any agreement entered into shall be for such term and under such conditions as may be determined by the legislative authority of the city or town.

[1989 c 399 § 2; 1977 ex.s. c 164 § 1; 1975 1st ex.s. c 208 § 1.]

RCW 35.21.154 Solid waste--Compliance with chapter 70.95 RCW required.

Nothing in RCW 35.21.152 will relieve a city or town of its obligations to comply with the requirements of chapter 70.95 RCW.

[1989 c 399 § 3; 1975 1st ex.s. c 208 § 3.]

RCW 35.21.156 Solid waste--Contracts with vendors for solid waste handling systems, plants, sites, or facilities--Requirements--Vendor selection procedures.

(1) Notwithstanding the provisions of any city charter, or any law to the contrary, and in addition to any other authority provided by law, the legislative authority of a city or town may contract with one or more vendors for one or more of the design, construction, or operation of, or other service related to, the systems, plants, sites, or other facilities for solid waste handling in accordance with the procedures set forth in this section. Solid waste handling systems, plants, sites, or other facilities constructed, purchased, acquired, leased, added to, altered, extended, maintained, managed, utilized, or operated pursuant to this section, RCW 35.21.120 and 35.21.152, whether publicly or privately owned, shall be in substantial compliance with the solid waste management plan applicable to the city or town adopted pursuant to chapter 70.95 RCW. Agreements relating to such solid waste handling systems, plants, sites, or other facilities may be for such term and may contain such covenants, conditions, and remedies as the legislative authority of a city or town may deem necessary or appropriate. When a contract for design services is entered into separately from other services permitted under this section, procurement shall be in accordance with chapter 39.80 RCW.

(2) If the legislative authority of the city or town decides to proceed with the consideration of qualifications or proposals for services from vendors, the city or town shall publish notice of its requirements and request submission of qualifications statements or proposals. The notice shall be published in the official newspaper of the city or town at least once a week for two weeks not less than sixty days before the final date for the submission of qualifications statements or proposals. The notice shall state in summary form (a) the general scope and nature of the design, construction, operation, or other service, (b) the name and address of a representative of the city or town who can provide further details, (c) the final date for the submission of qualifications statements or proposals, (d) an estimated schedule for the consideration of qualifications, the selection of vendors, and the negotiation of a contract or contracts for services, (e) the location at which a copy of any request for qualifications or request for proposals will be made available, and (f) the criteria established by the legislative authority to select a vendor or vendors, which may include but shall not be limited to the vendor's prior experience, including design, construction, or operation of other similar facilities; respondent's management capability, schedule availability and financial resources; cost of the services, nature of facility design proposed by the vendor; system reliability; performance standards required for the facilities; compatibility with existing service facilities operated by the public body or other providers of service to the public; project performance guarantees; penalty and other enforcement provisions; environmental protection measures to be used; consistency with the applicable comprehensive solid waste management plan; and allocation of project risks.

(3) If the legislative authority of the city or town decides to proceed with the consideration of qualifications or proposals, it may designate a representative to evaluate the vendors who submitted qualifications statements or proposals and conduct discussions regarding qualifications or proposals with one or more vendors. The legislative authority or representative may request submission of qualifications statements and may later request more detailed

proposals from one or more vendors who have submitted qualifications statements, or may request detailed proposals without having first received and evaluated qualifications statements. The legislative authority or its representative shall evaluate the qualifications or proposals, as applicable. If two or more vendors submit qualifications or proposals that meet the criteria established by the legislative authority of the city or town, discussions and interviews shall be held with at least two vendors. Any revisions to a request for qualifications or request for proposals shall be made available to all vendors then under consideration by the city or town and shall be made available to any other person who has requested receipt of that information.

(4) Based on criteria established by the legislative authority of the city or town, the representative shall recommend to the legislative authority a vendor or vendors that are initially determined to be the best qualified to provide one or more of the design, construction or operation of, or other service related to, the proposed project or services. The legislative authority may select one or more qualified vendors for one or more of the design, construction, or operation of, or other service related to, the proposed project or services.

(5) The legislative authority or its representative may attempt to negotiate a contract with the vendor or vendors selected for one or more of the design, construction, or operation of, or other service related to, the proposed project or services on terms that the legislative authority determines to be fair and reasonable and in the best interest of the city or town. If the legislative authority or its representative is unable to negotiate such a contract with any one or more of the vendors first selected on terms that it determines to be fair and reasonable and in the best interest of the city or town, negotiations with any one or more of the vendors shall be terminated or suspended and another qualified vendor or vendors may be selected in accordance with the procedures set forth in this section. If the legislative authority decides to continue the process of selection, negotiations shall continue with a qualified vendor or vendors in accordance with this section at the sole discretion of the legislative authority until an agreement is reached with one or more qualified vendors, or the process is terminated by the legislative authority. The process may be repeated until an agreement is reached.

(6) Prior to entering into a contract with a vendor, the legislative authority of the city or town shall make written findings, after holding a public hearing on the proposal, that it is in the public interest to enter into the contract, that the contract is financially sound, and that it is advantageous for the city or town to use this method for awarding contracts compared to other methods.

(7) Each contract shall include a project performance bond or bonds or other security by the vendor that in the judgment of the legislative authority of the city or town is sufficient to secure adequate performance by the vendor.

(8) The provisions of chapters 39.12, 39.19, and *39.25 RCW shall apply to a contract entered into under this section to the same extent as if the systems and plants were owned by a public body.

(9) The vendor selection process permitted by this section shall be supplemental to and shall not be construed as a repeal of or limitation on any other authority granted by law.

The alternative selection process provided by this section may not be used in the selection of a person or entity to construct a publicly owned facility for the storage or transfer of

solid waste or solid waste handling equipment unless the facility is either (a) privately operated pursuant to a contract greater than five years, or (b) an integral part of a solid waste processing facility located on the same site. Instead, the applicable provisions of RCW 35.22.620, and 35.23.352, and chapters 39.04 and 39.30 RCW shall be followed.

[1989 c 399 § 7; 1986 c 282 § 17. Formerly RCW 35.92.024.]

Notes:

***Reviser's note:** Chapter 39.25 RCW was repealed by 1994 c 138 § 2.

Legislative findings--Construction--1986 c 282 §§ 17-20: "The legislature finds that the regulation, management, and disposal of solid waste through waste reduction, recycling, and the use of resource recovery facilities of the kind described in RCW 35.92.022 and 36.58.040 should be conducted in a manner substantially consistent with the priorities and policies of the solid waste management act, chapter 70.95 RCW. Nothing contained in sections 17 through 20 of this act shall detract from the powers, duties, and functions given to the utilities and transportation commission in chapter 81.77 RCW." [1986 c 282 § 16.]

Liberal construction--Supplemental powers--1986 c 282 §§ 16-20: "Sections 16 through 20 of this act, being necessary for the health and welfare of the state and its inhabitants, shall be liberally construed to effect its purposes. Sections 16 through 20 of this act shall be deemed to provide an alternative method for the performance of those subjects authorized by these sections and shall be regarded as supplemental and additional to powers conferred by the Washington state Constitution, other state laws, and the charter of any city or county." [1986 c 282 § 21.]

Severability--1986 c 282: See RCW 82.18.900.

RCW 35.21.157 Solid waste collection--Rate increase notice.

(1) A city that contracts for the collection of solid waste, or provides for the collection of solid waste directly, shall notify the public of each proposed rate increase for a solid waste handling service. The notice may be mailed to each affected ratepayer or published once a week for two consecutive weeks in a newspaper of general circulation in the collection area. The notice shall be available to affected ratepayers at least forty-five days prior to the proposed effective date of the rate increase.

(2) For purposes of this section, "solid waste handling" has the same meaning as provided in RCW 70.95.030.

[1994 c 161 § 2.]

Notes:

Findings--Declaration--1994 c 161: "The legislature finds that local governments and private waste management companies have significantly changed solid waste management services in an effort to preserve landfill space and to avoid costly environmental cleanups of municipal landfills. The legislature recognizes that these new services have enabled the state to achieve one of the nation's highest recycling rates.

The legislature also finds that the need to pay for the cleanup of past disposal practices and to provide new recycling services has caused solid waste rates to increase substantially. The legislature further finds that private solid waste collection companies regulated by the utilities and transportation commission are required to provide public notice but that city-managed solid waste collection systems are not. The legislature declares it to be in the public interest for city-managed systems to provide public notice of solid waste rate increases." [1994 c 161 § 1.]

RCW 35.21.158 Collection and transportation of recyclable materials by recycling

companies or nonprofit entities--Reuse or reclamation--Application of chapter.

Nothing in this chapter shall prevent a recycling company or nonprofit entity from collecting and transporting recyclable materials from a buy-back center, drop-box, or from a commercial or industrial generator of recyclable materials, or upon agreement with a solid waste collection company.

Nothing in this chapter shall be construed as prohibiting a commercial or industrial generator of commercial recyclable materials from selling, conveying, or arranging for transportation of such material to a recycler for reuse or reclamation.

[1989 c 431 § 33.]

Notes:

Severability--1989 c 431: See RCW 70.95.901.

RCW 35.21.160 Jurisdiction over adjacent waters.

The powers and jurisdiction of all incorporated cities and towns of the state having their boundaries or any part thereof adjacent to or fronting on any bay or bays, lake or lakes, sound or sounds, river or rivers, or other navigable waters are hereby extended into and over such waters and over any tidelands intervening between any such boundary and any such waters to the middle of such bays, sounds, lakes, rivers, or other waters in every manner and for every purpose that such powers and jurisdiction could be exercised if the waters were within the city or town limits. In calculating the area of any town for the purpose of determining compliance with the limitation on the area of a town prescribed by RCW 35.21.010, the area over which jurisdiction is conferred by this section shall not be included.

[1969 c 124 § 1; 1965 c 7 § 35.21.160. Prior: 1961 c 277 § 4; 1909 c 111 § 1; RRS § 8892.]

RCW 35.21.163 Penalty for act constituting a crime under state law--Limitation.

Except as limited by the maximum penalty authorized by law, no city, code city, or town, may establish a penalty for an act that constitutes a crime under state law that is different from the penalty prescribed for that crime by state statute.

[1993 c 83 § 1.]

Notes:

Effective date--1993 c 83: "This act shall take effect July 1, 1994." [1993 c 83 § 11.]

RCW 35.21.165 Driving while under the influence of liquor or drug--Minimum penalties.

Except as limited by the maximum penalties authorized by law, no city or town may establish a penalty for an act that constitutes the crime of driving while under the influence of intoxicating liquor or any drug, as provided in RCW 46.61.502, or the crime of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, as provided in RCW 46.61.504, that is less than the penalties prescribed for those crimes in

RCW 46.61.5055.

[1995 c 332 § 8; 1994 c 275 § 36; 1983 c 165 § 40.]

Notes:

Severability--Effective dates--1995 c 332: See notes following RCW 46.20.308.

Short title--Effective date--1994 c 275: See notes following RCW 46.04.015.

Legislative finding, intent--Effective dates--Severability--1983 c 165: See notes following RCW 46.20.308.

RCW 35.21.175 Offices to be open certain days and hours.

All city and town offices shall be kept open for the transaction of business during such days and hours as the municipal legislative authority shall by ordinance prescribe.

[1965 c 7 § 35.21.175. Prior: 1955 ex.s. c 9 § 4; prior: 1951 c 100 § 2.]

RCW 35.21.180 Ordinances--Adoption of codes by reference.

Ordinances passed by cities or towns must be posted or published in a newspaper as required by their respective charters or the general laws: PROVIDED, That ordinances may by reference adopt Washington state statutes and codes, including fire codes and ordinances relating to the construction of buildings, the installation of plumbing, the installation of electric wiring, health and sanitation, the slaughtering, processing and selling of meats and meat products for human consumption, the production, pasteurizing and sale of milk and milk products, or other subjects, may adopt by reference, any printed code or compilation, or portions thereof, together with amendments thereof or additions thereto, on the subject of the ordinance; and where publications of ordinances in a newspaper is required, such Washington state statutes or codes or other codes or compilations so adopted need not be published therein: PROVIDED, HOWEVER, That not less than one copy of such statute, code or compilation and amendments and additions thereto adopted by reference shall be filed for use and examination by the public, in the office of the city or town clerk of said city, or town prior to adoption thereof. Any city or town ordinance heretofore adopting any state law or any such codes or compilations by reference are hereby ratified and validated.

[1982 c 226 § 1; 1965 c 7 § 35.21.180. Prior: 1963 c 184 § 1; 1943 c 213 § 1; 1935 c 32 § 1; Rem. Supp. 1943 § 9199-1.]

Notes:

Effective date--1982 c 226: "This act shall take effect on July 1, 1982." [1982 c 226 § 8.]

RCW 35.21.185 Ordinances--Information pooling.

(1) It is the purpose of this section to provide a means whereby all cities and towns may obtain, through a single source, information regarding ordinances of other cities and towns that may be of assistance to them in enacting appropriate local legislation.

(2) For the purposes of this section, (a) "clerk" means the city or town clerk or other person who is lawfully designated to perform the recordkeeping function of that office, and (b)

"municipal research council" means the municipal research council created by chapter 43.110 RCW.

(3) The clerk of every city and town is directed to provide to the municipal research council or its designee, promptly after adoption, a copy of each of its regulatory ordinances and such other ordinances or kinds of ordinances as may be described in a list or lists promulgated by the municipal research council or its designee from time to time, and may provide such copies without charge. The municipal research council may provide that information to the entity with which it contracts for the provision of municipal research and services, in order to provide a pool of information for all cities and towns in the state of Washington.

(4) This section is intended to be directory and not mandatory.

[1995 c 21 § 1.]

RCW 35.21.190 Parkways, park drives and boulevards.

Any city or town council upon request of the board of park commissioners, shall have authority to designate such streets as they may see fit as parkways, park drives, and boulevards, and to transfer all care, maintenance and improvement of the surface thereof to the board of park commissioners, or to such authority of such city or town as may have the care and management of the parks, parkways, boulevards and park drives of the city.

Any city or town may acquire, either by gift, purchase or the right of eminent domain, the right to limit the class, character and extent of traffic that may be carried on such parkways, park drives and boulevards, and to prescribe that the improvement of the surface thereof shall be made wholly in accordance with plans of such board of park commissioners, but that the setting over of all such streets for such purposes shall not in any wise limit the right and authority of the city council to construct underneath the surface thereof any and all public utilities nor to deprive the council of the right to levy assessments for special benefits. In the construction of any such utilities, any damages done to the surface of such parkways, park drives or boulevards shall not be borne by any park funds of such city or town.

[1965 c 7 § 35.21.190. Prior: 1911 c 98 § 57; RRS § 9410.]

RCW 35.21.200 Residence qualifications of appointive officials and employees.

Any city or town may by ordinance of its legislative authority determine whether there shall be any residential qualifications for any or all of its appointive officials or for preference in employment of its employees, but residence of an employee outside the limits of such city or town shall not be grounds for discharge of any regularly appointed civil service employee otherwise qualified: PROVIDED, That this section shall not authorize a city or town to change any residential qualifications prescribed in any city charter for any appointive official or employee: PROVIDED, FURTHER, That all employees appointed prior to the enactment of any ordinance establishing such residence qualifications as provided herein or who shall have been appointed or employed by such cities or towns having waived such residential requirements shall not be discharged by reason of such appointive officials or employees having established their

residence outside the limits of such city or town: PROVIDED, FURTHER, That this section shall not authorize a city or town to change the residential requirements with respect to employees of private public utilities acquired by public utility districts or by the city or town.

[1965 c 7 § 35.21.200. Prior: 1951 c 162 § 1; 1941 c 25 § 1; Rem. Supp. 1941 § 9213-3.]

RCW 35.21.203 Recall sufficiency hearing--Payment of defense expenses.

The necessary expenses of defending an elective city or town official in a judicial hearing to determine the sufficiency of a recall charge as provided in RCW 29.82.023 shall be paid by the city or town if the official requests such defense and approval is granted by the city or town council. The expenses paid by the city or town may include costs associated with an appeal of the decision rendered by the superior court concerning the sufficiency of the recall charge.

[1989 c 250 § 2.]

RCW 35.21.205 Liability insurance for officials and employees.

Each city or town may purchase liability insurance with such limits as it may deem reasonable for the purpose of protecting its officials and employees against liability for personal or bodily injuries and property damage arising from their acts or omissions while performing or in good faith purporting to perform their official duties.

[1973 c 125 § 2.]

Notes:
Dog handler using dog in line of duty--Immunity: RCW 4.24.410.

RCW 35.21.207 Liability insurance for officers and employees authorized.

See RCW 36.16.138.

RCW 35.21.209 Liability insurance and workers' compensation for offenders performing court-ordered community service.

The legislative authority of a city or town may purchase liability insurance in an amount it deems reasonable to protect the city or town, its officers, and employees against liability for the wrongful acts of offenders or injury or damage incurred by offenders in the course of court-ordered community service, and may elect to treat offenders as employees and/or workers under Title 51 RCW.

[1984 c 24 § 1.]

Notes:
Workers' compensation coverage of offenders performing community service: RCW 51.12.045.

RCW 35.21.210 Sewerage, drainage and water supply.

Any city or town shall have power to provide for the sewerage, drainage and water supply thereof, and to establish, construct and maintain a system or systems of sewers and drains and a system or systems of water supply, within or without the corporate limits of such city or town, and to control, regulate and manage the same.

[1965 c 7 § 35.21.210. Prior: 1911 c 98 § 3; RRS § 9354.]

RCW 35.21.215 Powers relative to systems of sewerage.

The legislative authority of any city or town may exercise all the powers relating to systems of sewerage authorized by RCW 35.67.010 and 35.67.020.

[1997 c 447 § 14.]

Notes:

Finding--Purpose--1997 c 447: See note following RCW 70.05.074.

RCW 35.21.217 Utility services--Deposit--Tenants' delinquencies--Lien.

(1) Prior to furnishing utility services, a city or town may require a deposit to guarantee payment for services. However, failure to require a deposit does not affect the validity of any lien authorized by RCW 35.21.290 or 35.67.200. A city or town may determine how to apply partial payments on past due accounts.

(2) A city or town may provide a real property owner or the owner's designee with duplicates of tenant utility service bills, or may notify an owner or the owner's designee that a tenant's utility account is delinquent. However, if an owner or the owner's designee notifies the city or town in writing that a property served by the city or town is a rental property, asks to be notified of a tenant's delinquency, and has provided, in writing, a complete and accurate mailing address, the city or town shall notify the owner or the owner's designee of a tenant's delinquency at the same time and in the same manner the city or town notifies the tenant of the tenant's delinquency or by mail. When a city or town provides a real property owner or the owner's designee with duplicates of tenant utility service bills or notice that a tenant's utility account is delinquent, the city or town shall notify the tenant that it is providing the duplicate bills or delinquency notice to the owner or the owner's designee. After January 1, 1999, if a city or town fails to notify the owner of a tenant's delinquency after receiving a written request to do so and after receiving the other information required by this subsection, the city or town shall have no lien against the premises for the tenant's delinquent and unpaid charges.

[1998 c 285 § 1.]

RCW 35.21.220 Sidewalks--Regulation of use of.

Cities of several classes in this state shall be empowered to regulate the use of sidewalks within their limits, and may in their discretion and under such terms and conditions as they may

determine permit a use of the same by abutting owners, provided such use does not in their judgment unduly and unreasonably impair passage thereon, to and fro, by the public. Such permission shall not be considered as establishing a prescriptive right, and the right may be revoked at any time by the authorities of such cities.

[1965 c 7 § 35.21.220. Prior: 1927 c 261 § 1; RRS § 9213-1.]

RCW 35.21.225 Transportation benefit districts.

The legislative authority of a city may establish one or more transportation benefit districts within a city for the purpose of acquiring, constructing, improving, providing, and funding any city street, county road, or state highway improvement that is (1) consistent with state, regional, and local transportation plans, (2) necessitated by existing or reasonably foreseeable congestion levels attributable to economic growth, and (3) partially funded by local government or private developer contributions, or a combination of such contributions. Such transportation improvements shall be owned by the city of jurisdiction if located in an incorporated area, by the county of jurisdiction if located in an unincorporated area, or by the state in cases where the transportation improvement is or becomes a state highway; and all such transportation improvements shall be administered as other public streets, roads, and highways. The district may include any area within the corporate limits of another city if that city has agreed to the inclusion pursuant to chapter 39.34 RCW. The district may include any unincorporated area if the county legislative authority has agreed to the inclusion pursuant to chapter 39.34 RCW. The agreement shall specify the area and such other powers as may be granted to the benefit district.

The members of the city legislative authority, acting ex officio and independently, shall compose the governing body of the district. The city treasurer shall act as the ex officio treasurer of the district: PROVIDED, That where a transportation benefit district includes any unincorporated area or portion of another city, the district may be governed as provided in an interlocal agreement adopted pursuant to chapter 39.34 RCW. The electors of the district shall all be registered voters residing within the district. For the purposes of this section, the term "city" means both cities and towns.

[1989 c 53 § 2; 1987 c 327 § 3.]

Notes:

Severability--1989 c 53: See note following RCW 36.73.020.

Transportation benefit districts: Chapter 36.73 RCW.

RCW 35.21.228 Rail fixed guideway system--Safety and security program plan.

(1) Each city or town that owns or operates a rail fixed guideway system as defined in RCW 81.104.015 shall submit a system safety and security program plan for that guideway to the state department of transportation by September 1, 1999, or at least three months before beginning operations or instituting revisions to its plan. This plan must describe the city's

procedures for (a) reporting and investigating reportable accidents, unacceptable hazardous conditions, and security breaches, (b) submitting corrective action plans and annual safety and security audit reports, (c) facilitating on-site safety and security reviews by the state department of transportation, and (d) addressing passenger and employee security. The plan must, at a minimum, conform to the standards adopted by the state department of transportation. If required by the department, the city or town shall revise its plan to incorporate the department's review comments within sixty days after their receipt, and resubmit its revised plan for review.

(2) Each city or town shall implement and comply with its system safety and security program plan. The city or town shall perform internal safety and security audits to evaluate its compliance with the plan, and submit its audit schedule to the department of transportation no later than December 15th each year. The city or town shall prepare an annual report for its internal safety and security audits undertaken in the prior year and submit it to the department no later than February 15th. This annual report must include the dates the audits were conducted, the scope of the audit activity, the audit findings and recommendations, the status of any corrective actions taken as a result of the audit activity, and the results of each audit in terms of the adequacy and effectiveness of the plan.

(3) Each city or town shall notify the department of transportation within twenty-four hours of an occurrence of a reportable accident, unacceptable hazardous condition, or security breach. The department may adopt rules further defining a reportable accident, unacceptable hazardous condition, or security breach. The city or town shall investigate all reportable accidents, unacceptable hazardous conditions, or security breaches and provide a written investigation report to the department within forty-five calendar days after the reportable accident, unacceptable hazardous condition, or security breach.

(4) The security section of the safety and security plan required in subsection (1)(d) of this section is exempt from public disclosure under chapter 42.17 RCW. However, the activities and plans as described in subsections (1)(a), (b), and (c), (2), and (3) of this section are not subject to this exemption.

[1999 c 202 § 1.]

Notes:

Effective date--1999 c 202: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 7, 1999]." [1999 c 202 § 10.]

RCW 35.21.230 Streets over tidelands declared public highways.

All streets in any incorporated city in this state, extending from high tide into the navigable waters of the state, are hereby declared public highways.

[1965 c 7 § 35.21.230. Prior: 1890 p 733 § 1; RRS § 9293.]

Notes:

Public highways: Title 47 RCW.

RCW 35.21.240 Streets over tidelands--Control of.

All streets declared public highways under the provisions of RCW 35.21.230 shall be under the control of the corporate authorities of the respective cities.

[1965 c 7 § 35.21.240. Prior: 1890 p 733 § 2; RRS § 9294.]

RCW 35.21.250 Streets and alleys over first class tidelands--Control of.

All streets and alleys, which have been heretofore or may hereafter be established upon, or across tide and shore lands of the first class shall be under the supervision and control of the cities within whose corporate limits such tide and shore lands are situated, to the same extent as are all other streets and alleys of such cities.

[1965 c 7 § 35.21.250. Prior: 1901 c 149 § 1; RRS § 9295.]

RCW 35.21.260 Streets--Annual report to secretary of transportation.

The governing authority of each city and town on or before May 31st of each year shall submit such records and reports regarding street operations in the city or town to the secretary of transportation on forms furnished by him as are necessary to enable him to compile an annual report thereon.

[1999 c 204 § 1; 1984 c 7 § 19; 1977 c 75 § 29; 1965 c 7 § 35.21.260. Prior: 1943 c 82 § 12; 1937 c 187 § 64; Rem. Supp. 1943 § 6450-64.]

Notes:

Severability--1984 c 7: See note following RCW 47.01.141.

RCW 35.21.270 Streets--Records of funds received and used for construction, repair, maintenance.

The city engineer or the city clerk of each city or town shall maintain records of the receipt and expenditure of all moneys used for construction, repair, or maintenance of streets and arterial highways.

To assist in maintaining uniformity in such records, the state auditor, with the advice and assistance of the department of transportation, shall prescribe forms and types of records to be so maintained.

[1995 c 301 § 35; 1984 c 7 § 20; 1965 c 7 § 35.21.270. Prior: 1949 c 164 § 5; Rem. Supp. 1949 § 9300-5.]

Notes:

Severability--1984 c 7: See note following RCW 47.01.141.

RCW 35.21.275 Street improvements--Provision of supplies or materials.

Any city or town may assist a street abutter in improving the street serving the abutter's

premises by providing asphalt, concrete, or other supplies or materials. The furnishing of supplies or materials or paying to the abutter the cost thereof and the providing of municipal inspectors and other incidental personnel shall not render the street improvements a public work or improvement subject to competitive bidding. The legislative authority of such city or town shall approve any such assistance at a public meeting and shall maintain a public register of any such assistance setting forth the value, nature, purpose, date and location of the assistance and the name of the beneficiary.

[1983 c 103 § 1.]

RCW 35.21.278 Contracts with community service organizations for public improvements--Limitations.

(1) Without regard to competitive bidding laws for public works, a county, city, town, school district, metropolitan park district, park and recreation district, or park and recreation service area may contract with a chamber of commerce, a service organization, a community, youth, or athletic association, or other similar association located and providing service in the immediate neighborhood, for drawing design plans, making improvements to a park, school playground, or public square, installing equipment or artworks, or providing maintenance services for the facility as a community or neighborhood project, and may reimburse the contracting association its expense. The contracting association may use volunteers in the project and provide the volunteers with clothing or tools; meals or refreshments; accident/injury insurance coverage; and reimbursement of their expenses. The consideration to be received by the public entity through the value of the improvements, artworks, equipment, or maintenance shall have a value at least equal to three times that of the payment to the contracting association. All payments made by a public entity under the authority of this section for all such contracts in any one year shall not exceed twenty-five thousand dollars or two dollars per resident within the boundaries of the public entity, whichever is greater.

(2) A county, city, town, school district, metropolitan park district, park and recreation district, or park and recreation service area may ratify an agreement, which qualifies under subsection (1) of this section and was made before June 9, 1988.

[1988 c 233 § 1.]

RCW 35.21.280 Tax on admissions--Exception as to schools.

Every city and town may levy and fix a tax of not more than one cent on twenty cents or fraction thereof to be paid by the person who pays an admission charge to any place: PROVIDED, No city or town shall impose such tax on persons paying an admission to any activity of any elementary or secondary school or any public facility of a public facility district under chapter 35.57 or 36.100 RCW for which a tax is imposed under RCW 35.57.100 or 36.100.210. This includes a tax on persons who are admitted free of charge or at reduced rates to any place for which other persons pay a charge or a regular higher charge for the same privileges or accommodations. A city that is located in a county with a population of one million or more

may not levy a tax on events in stadia constructed on or after January 1, 1995, that are owned by a public facilities district under chapter 36.100 RCW and that have seating capacities over forty thousand. The city or town may require anyone who receives payment for an admission charge to collect and remit the tax to the city or town.

The term "admission charge" includes:

(1) A charge made for season tickets or subscriptions;

(2) A cover charge, or a charge made for use of seats and tables reserved or otherwise, and other similar accommodations;

(3) A charge made for food and refreshment in any place where free entertainment, recreation or amusement is provided;

(4) A charge made for rental or use of equipment or facilities for purposes of recreation or amusement; if the rental of the equipment or facilities is necessary to the enjoyment of a privilege for which a general admission is charged, the combined charges shall be considered as the admission charge;

(5) Automobile parking charges if the amount of the charge is determined according to the number of passengers in the automobile.

[1999 c 165 § 19; 1995 3rd sp.s. c 1 § 202; 1995 1st sp.s. c 14 § 8; 1965 c 7 § 35.21.280. Prior: 1957 c 126 § 1; 1951 c 35 § 1; 1943 c 80 § 1; Rem. Supp. 1943 § 8370-44a.]

Notes:

Severability--1999 c 164: See RCW 35.57.900.

Part headings not law--Effective date--1995 3rd sp.s. c 1: See notes following RCW 82.14.0485.

Severability--Effective dates--1995 1st sp.s. c 14: See notes following RCW 36.100.010.

RCW 35.21.290 Utility services--Lien for.

Cities and towns owning their own waterworks, or electric light or power plants shall have a lien against the premises to which water, electric light, or power services were furnished for four months charges therefor due or to become due, but not for any charges more than four months past due: PROVIDED, That the owner of the premises or the owner of a delinquent mortgage thereon may give written notice to the superintendent or other head of such works or plant to cut off service to such premises accompanied by payment or tender of payment of the then delinquent and unpaid charges for such service against the premises together with the cut-off charge, whereupon the city or town shall have no lien against the premises for charges for such service thereafter furnished, nor shall the owner of the premises or the owner of a delinquent mortgage thereon be held for the payment thereof.

[1965 c 7 § 35.21.290. Prior: 1933 c 135 § 1; 1909 c 161 § 1; RRS § 9471.]

RCW 35.21.300 Utility services--Enforcement of lien--Limitations on termination of service for residential heating.

(1) The lien for charges for service by a city waterworks, or electric light or power plant may be enforced only by cutting off the service until the delinquent and unpaid charges are paid,

except that until June 30, 1991, utility service for residential space heating may be terminated between November 15 and March 15 only as provided in subsections (2) and (4) of this section. In the event of a disputed account and tender by the owner of the premises of the amount the owner claims to be due before the service is cut off, the right to refuse service to any premises shall not accrue until suit has been entered by the city and judgment entered in the case.

(2) Utility service for residential space heating shall not be terminated between November 15 through March 15 if the customer:

(a) Notifies the utility of the inability to pay the bill, including a security deposit. This notice should be provided within five business days of receiving a payment overdue notice unless there are extenuating circumstances. If the customer fails to notify the utility within five business days and service is terminated, the customer can, by paying reconnection charges, if any, and fulfilling the requirements of this section, receive the protections of this chapter;

(b) Provides self-certification of household income for the prior twelve months to a grantee of the department of community, trade, and economic development which administers federally funded energy assistance programs. The grantee shall determine that the household income does not exceed the maximum allowed for eligibility under the state's plan for low-income energy assistance under 42 U.S.C. 8624 and shall provide a dollar figure that is seven percent of household income. The grantee may verify information in the self-certification;

(c) Has applied for home heating assistance from applicable government and private sector organizations and certifies that any assistance received will be applied to the current bill and future utility bills;

(d) Has applied for low-income weatherization assistance to the utility or other appropriate agency if such assistance is available for the dwelling;

(e) Agrees to a payment plan and agrees to maintain the payment plan. The plan will be designed both to pay the past due bill by the following October 15 and to pay for continued utility service. If the past due bill is not paid by the following October 15, the customer shall not be eligible for protections under this chapter until the past due bill is paid. The plan shall not require monthly payments in excess of seven percent of the customer's monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter during November 15 through March 15. A customer may agree to pay a higher percentage during this period, but shall not be in default unless payment during this period is less than seven percent of monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the utility to reformulate the plan; and

(f) Agrees to pay the moneys owed even if he or she moves.

(3) The utility shall:

(a) Include in any notice that an account is delinquent and that service may be subject to termination, a description of the customer's duties in this section;

(b) Assist the customer in fulfilling the requirements under this section;

(c) Be authorized to transfer an account to a new residence when a customer who has established a plan under this section moves from one residence to another within the same utility service area;

(d) Be permitted to disconnect service if the customer fails to honor the payment program. Utilities may continue to disconnect service for those practices authorized by law other than for nonpayment as provided for in this section. Customers who qualify for payment plans under this section who default on their payment plans and are disconnected can be reconnected and maintain the protections afforded under this chapter by paying reconnection charges, if any, and by paying all amounts that would have been due and owing under the terms of the applicable payment plan, absent default, on the date on which service is reconnected; and

(e) Advise the customer in writing at the time it disconnects service that it will restore service if the customer contacts the utility and fulfills the other requirements of this section.

(4) All municipal utilities shall offer residential customers the option of a budget billing or equal payment plan. The budget billing or equal payment plan shall be offered low-income customers eligible under the state's plan for low-income energy assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without limiting availability to certain months of the year, without regard to the length of time the customer has occupied the premises, and without regard to whether the customer is the tenant or owner of the premises occupied.

(5) An agreement between the customer and the utility, whether oral or written, shall not waive the protections afforded under this chapter.

[1995 c 399 § 36; 1991 c 165 § 2; 1990 1st ex.s. c 1 § 1; 1987 c 356 § 1; 1986 c 245 § 1; 1985 c 6 § 3; 1984 c 251 § 1; 1965 c 7 § 35.21.300. Prior: 1909 c 161 § 2; RRS § 9472.]

Notes:

Findings--1991 c 165: "The legislature finds that the health and welfare of the people of the state of Washington require that all citizens receive essential levels of heat and electric service regardless of economic circumstance and that rising energy costs have had a negative effect on the affordability of housing for low-income citizens and have made it difficult for low-income citizens of the state to afford adequate fuel for residential space heat. The legislature further finds that level payment plans, the protection against winter heating shutoff, and house weatherization programs have all been beneficial to low-income persons." [1991 c 165 § 1.]

RCW 35.21.305 Utility connection charges--Waiver for low-income persons.

A city or town, including a code city, that owns or operates an electric or gas utility may waive connection charges for properties purchased by low-income persons from organizations exempt from tax under section 501(c)(3) of the federal internal revenue code as amended prior to July 23, 1995. Waivers of connection charges for the same class of electric or gas utility service must be uniformly applied to all qualified property. Nothing in this section authorizes the impairment of a contract.

[1995 c 140 § 1.]

RCW 35.21.310 Removal of overhanging or obstructing vegetation--Removal, destroying debris.

Any city or town may by general ordinance require the owner of any property therein to remove or destroy all trees, plants, shrubs or vegetation, or parts thereof, which overhang any sidewalk or street or which are growing thereon in such manner as to obstruct or impair the free

and full use of the sidewalk or street by the public; and may further so require the owner of any property therein to remove or destroy all grass, weeds, shrubs, bushes, trees or vegetation growing or which has grown and died, and to remove or destroy all debris, upon property owned or occupied by them and which are a fire hazard or a menace to public health, safety or welfare. The ordinance shall require the proceedings therefor to be initiated by a resolution of the governing body of the city or town, adopted after not less than five days' notice to the owner, which shall describe the property involved and the hazardous condition, and require the owner to make such removal or destruction after notice given as required by said ordinance. The ordinance may provide that if such removal or destruction is not made by the owner after notice given as required by the ordinance in any of the above cases, that the city or town will cause the removal or destruction thereof and may also provide that the cost to the city or town shall become a charge against the owner of the property and a lien against the property. Notice of the lien herein authorized shall as nearly as practicable be in substantially the same form, filed with the same officer within the same time and manner, and enforced and foreclosed as is provided by law for liens for labor and materials.

The provisions of this section are supplemental and additional to any other powers granted or held by any city or town on the same or a similar subject.

[1969 c 20 § 1; 1965 c 7 § 35.21.310. Prior: 1949 c 113 § 1; Rem. Supp. 1949 § 9213-10.]

Notes:
Weeds, duty of city or town, extermination areas: RCW 17.04.160.

RCW 35.21.315 Amateur radio antennas--Local regulation to conform with federal law.

No city or town shall enact or enforce an ordinance or regulation that fails to conform to the limited preemption entitled "Amateur Radio Preemption, 101 FCC 2nd 952 (1985)" issued by the federal communications commission. An ordinance or regulation adopted by a city or town with respect to amateur radio antennas shall conform to the limited federal preemption, that states local regulations that involve placement, screening, or height of antennas based on health, safety, or aesthetic considerations must be crafted to reasonably accommodate amateur communications, and to represent the minimal practicable regulation to accomplish the local authority's legitimate purpose.

[1994 c 50 § 1.]

Notes:

Effective date--1994 c 50: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 23, 1994]." [1994 c 50 § 4.]

RCW 35.21.320 Warrants--Interest rate--Payment.

All city and town warrants shall draw interest from and after their presentation to the treasurer, but no compound interest shall be paid on any warrant directly or indirectly. The city

or town treasurer shall pay all warrants in the order of their number and date of issue whenever there are sufficient funds in the treasury applicable to the payment. If five hundred dollars (or any sum less than five hundred dollars as may be prescribed by ordinance) is accumulated in any fund having warrants outstanding against it, the city or town treasurer shall publish a call for warrants to that amount in the next issue of the official newspaper of the city or town. The notice shall describe the warrants so called by number and specifying the fund upon which they were drawn: PROVIDED, That no call need be made until the amount accumulated is equal to the amount due on the warrant longest outstanding: PROVIDED FURTHER, That no more than two calls shall be made in any one month.

Any city or town treasurer who knowingly fails to call for or pay any warrant in accordance with the provisions of this section shall be fined not less than twenty-five dollars nor more than five hundred dollars and conviction thereof shall be sufficient cause for removal from office.

[1985 c 469 § 20; 1965 c 7 § 35.21.320. Prior: (i) 1893 c 48 § 1, part; RRS § 4116, part. (ii) 1895 c 152 § 2, part; RRS § 4119, part. (iii) 1895 c 152 § 1, part; RRS § 4118, part.]

RCW 35.21.333 Chief of police or marshal--Eligibility requirements.

(1) A person seeking appointment to the office of chief of police or marshal, of a city or town, including a code city, with a population in excess of one thousand, is ineligible unless that person:

(a) Is a citizen of the United States of America;

(b) Has obtained a high school diploma or general equivalency diploma;

(c) Has not been convicted under the laws of this state, another state, or the United States of a felony;

(d) Has not been convicted of a gross misdemeanor or any crime involving moral turpitude within five years of the date of application;

(e) Has received at least a general discharge under honorable conditions from any branch of the armed services for any military service if the person was in the military service;

(f) Has completed at least two years of regular, uninterrupted, full-time commissioned law enforcement employment involving enforcement responsibilities with a government law enforcement agency; and

(g) The person has been certified as a regular and commissioned enforcement officer through compliance with this state's basic training requirement or equivalency.

(2) A person seeking appointment to the office of chief of police or marshal, of a city or town, including a code city, with a population of one thousand or less, is ineligible unless that person conforms with the requirements of subsection (1) (a) through (e) of this section. A person so appointed as chief of police or marshal must successfully complete the state's basic training requirement or equivalency within nine months after such appointment, unless an extension has been granted by the criminal justice training commission.

(3) A person seeking appointment to the office of chief of police or marshal shall provide a sworn statement under penalty of perjury to the appointing authority stating that the person

meets the requirements of this section.

[1987 c 339 § 4.]

Notes:

Intent--1987 c 339: "The intent of this act is to require certain qualifications for candidates for the office of chief of police or marshal, which position in whole or in part oversees law enforcement personnel or activities for a city or town.

The legislature finds that over the past century the field of law enforcement has become increasingly complex and many new techniques and resources have evolved both socially and technically. In addition the ever-changing requirements of law, both constitutional and statutory provisions protecting the individual and imposing responsibilities and legal liabilities of law enforcement officers and the government of which they represent, require an increased level of training and experience in the field of law enforcement.

The legislature, therefore finds that minimum requirements are reasonable and necessary to seek and hold the offices or office of chief of police or marshal, and that such requirements are in the public interest." [1987 c 339 § 3.]

Severability--1987 c 339: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 339 § 8.]

Effective date--1987 c 339: "This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987." [1987 c 339 § 9.]

RCW 35.21.334 Chief of police or marshal--Background investigation.

Before making an appointment in the office of chief of police or marshal, the appointing agency shall complete a thorough background investigation of the candidate. The Washington association of sheriffs and police chiefs shall develop advisory procedures which may be used by the appointing authority in completing its background investigation of candidates for the office of chief of police or marshal.

[1987 c 339 § 5.]

Notes:

Intent--Severability--Effective date--1987 c 339: See notes following RCW 35.21.333.

RCW 35.21.335 Chief of police or marshal--Vacancy.

In the case of a vacancy in the office of chief of police or marshal, all requirements and procedures of RCW 35.21.333 and 35.21.334 shall be followed in filling the vacancy.

[1987 c 339 § 6.]

Notes:

Intent--Severability--Effective date--1987 c 339: See notes following RCW 35.21.333.

RCW 35.21.340 Cemeteries and funeral facilities.

See chapter 68.52 RCW.

RCW 35.21.350 Civil service in police and fire departments.
See Title 41 RCW.

RCW 35.21.360 Eminent domain by cities and towns.
See chapter 8.12 RCW.

RCW 35.21.370 Joint county and city hospitals.
See chapter 36.62 RCW.

RCW 35.21.380 Joint county and city buildings.
See chapter 36.64 RCW.

RCW 35.21.385 Counties with a population of two hundred ten thousand or more may contract with cities concerning buildings and related improvements.
See RCW 36.64.070.

RCW 35.21.390 Public employment, civil service and pensions.
See Title 41 RCW.

RCW 35.21.395 Historic preservation--Authorization to acquire property, borrow money, issue bonds, etc.

Any city or town may acquire title to or any interest in real and personal property for the purpose of historic preservation and may restore, improve, maintain, manage, and lease the property for public or private use and may enter into contracts, borrow money, and issue bonds and other obligations for such purposes. This authorization shall not expand the eminent domain powers of cities or towns.

[1984 c 203 § 3.]

Notes:

Severability--1984 c 203: See note following RCW 35.43.140.

RCW 35.21.400 City may acquire property for parks, recreational, viewpoint, greenbelt, conservation, historic, scenic, or view purposes.
See RCW 36.34.340.

RCW 35.21.403 City may establish lake management districts.

Any city or town may establish lake management districts within its boundaries as provided in chapter 36.61 RCW. When a city or town establishes a lake management district pursuant to chapter 36.61 RCW, the term "county legislative authority" shall be deemed to mean the city or town governing body, the term "county" shall be deemed to mean the city or town, and the term "county treasurer" shall be deemed to mean the city or town treasurer or other fiscal officer.

[1985 c 398 § 27.]

RCW 35.21.404 Fish enhancement project--City's or town's liability.

A city or town is not liable for adverse impacts resulting from a fish enhancement project that meets the criteria of *RCW 75.20.350 and has been permitted by the department of fish and wildlife.

[1998 c 249 § 9.]

Notes:

***Reviser's note:** RCW 75.20.350 was recodified as RCW 77.55.290 pursuant to 2000 c 107 § 129.

Findings--Purpose--Report--Effective date--1998 c 249: See notes following RCW 77.55.290.

RCW 35.21.405 Moorage facilities--Regulations authorized--Port charges, delinquency--Abandoned vessels, public sale.

See RCW 53.08.310 and 53.08.320.

RCW 35.21.410 Nonpolluting power generation by individual--Exemption from regulation--Authorization to contract with utility.

See chapter 80.58 RCW.

RCW 35.21.412 Hydroelectric resources--Separate legal authority--Creation by irrigation districts and cities, towns, or public utility districts.

See RCW 87.03.825 through 87.03.840.

RCW 35.21.415 Electrical utilities--Civil immunity of officials and employees for good faith mistakes and errors of judgment.

Officials and employees of cities and towns shall be immune from civil liability for mistakes and errors of judgment in the good faith performance of acts within the scope of their official duties involving the exercise of judgment and discretion which relate solely to their responsibilities for electrical utilities. This grant of immunity shall not be construed as modifying the liability of the city or town.

[1983 1st ex.s. c 48 § 1.]

Notes:

Severability--1983 1st ex.s. c 48: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 1st ex.s. c 48 § 4.]

RCW 35.21.417 Hydroelectric reservoir extending across international boundary--Agreement with Province of British Columbia.

To carry out a treaty between the United States of America and Canada, a city that maintains hydroelectric facilities with a reservoir which extends across the international boundary, may enter into an agreement with the Province of British Columbia for enhancing recreational opportunities and protecting environmental resources of the watershed of the river or rivers which forms the reservoir. The agreement may provide for establishment of and payments into an environmental endowment fund and establishment of an administering commission to implement the purpose of the treaty and the agreement.

[1984 c 1 § 1.]

RCW 35.21.418 Hydroelectric reservoir extending across international boundary--Commission--Powers.

A commission, established by an agreement between a Washington municipality and the Province of British Columbia to carry out a treaty between the United States of America and Canada as authorized in RCW 35.21.417, shall be public and shall have all powers and capacity necessary and appropriate for the purposes of performing its functions under the agreement, including, but not limited to, the following powers and capacity: To acquire and dispose of real property other than by condemnation; to enter into contracts; to sue and be sued in either Canada or the United States; to establish an endowment fund in either or both the United States and Canada and to invest the endowment fund in either or both countries; to solicit, accept, and use donations, grants, bequests, or devises intended for furthering the functions of the endowment; to adopt such rules or procedures as it deems desirable for performing its functions; to engage advisors and consultants; to establish committees and subcommittees; to adopt rules for its governance; to enter into agreements with public and private entities; and to engage in activities necessary and appropriate for implementing the agreement and the treaty.

The endowment fund and commission may not be subject to state or local taxation. A commission, so established, may not be subject to statutes and laws governing Washington cities and municipalities in the conduct of its internal affairs: PROVIDED, That all commission members appointed by the municipality shall comply with chapter 42.52 RCW, and: PROVIDED FURTHER, That all commission meetings held within the state of Washington shall be held in compliance with chapter 42.30 RCW. All obligations or liabilities incurred by the commission shall be satisfied exclusively from its own assets and insurance.

[1994 c 154 § 309; 1984 c 1 § 2.]

Notes:

Parts and captions not law--Effective date--Severability--1994 c 154: See RCW 42.52.902, 42.52.904,

and 42.52.905.

RCW 35.21.420 Utilities--City may support county in which generating plant located.

Any city owning and operating a public utility and having facilities for the generation of electricity located in a county other than that in which the city is located, may provide for the public peace, health, safety and welfare of such county as concerns the facilities and the personnel employed in connection therewith, by contributing to the support of the county government of any such county and enter into contracts with any such county therefor.

[1965 c 7 § 35.21.420. Prior: 1951 c 104 § 1.]

RCW 35.21.422 Utilities--Cities in a county with a population of two hundred ten thousand or more west of Cascades may support cities, towns, counties and taxing districts in which facilities located.

Any city, located within a county with a population of two hundred ten thousand or more west of the Cascades, owning and operating a public utility and having facilities for the distribution of electricity located outside its city limits, may provide for the support of cities, towns, counties and taxing districts in which such facilities are located, and enter into contracts with such county therefor. Such contribution shall be based upon the amount of retail sales of electricity, other than to governmental agencies, made by such city in the areas of such cities, towns, counties or taxing districts in which such facilities are located, and shall be divided among them on the same basis as taxes on real and personal property therein are divided.

[1991 c 363 § 38; 1967 ex.s. c 52 § 1.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 35.21.425 City constructing generating facility in other county--Reimbursement of county or school district.

Whenever after March 17, 1955, any city shall construct hydroelectric generating facilities or acquire land for the purpose of constructing the same in a county other than the county in which such city is located, and by reason of such construction or acquisition shall (1) cause loss of revenue and/or place a financial burden in providing for the public peace, health, safety, welfare, and added road maintenance in such county, in addition to road construction or relocation as set forth in RCW 90.28.010 and/or (2) shall cause any loss of revenues and/or increase the financial burden of any school district affected by the construction because of an increase in the number of pupils by reason of the construction or the operation of said generating facilities, the city shall enter into an agreement with said county and/or the particular school district or districts affected for the payment of moneys to recompense such losses or to provide for such increased financial burden, upon such terms and conditions as may be mutually agreeable to the city and the county and/or school district or districts.

[1965 c 7 § 35.21.425. Prior: 1955 c 252 § 1.]

RCW 35.21.426 City constructing generating facility in other county--Notice of loss--Negotiations--Arbitration.

Whenever a county or school district affected by the project sustains such financial loss or is affected by an increased financial burden as above set forth or it appears that such a financial loss or burden will occur beginning not later than within the next three months, such county or school district shall immediately notify the city in writing setting forth the particular losses or increased burden and the city shall immediately enter into negotiations to effect a contract. In the event the city and the county or school district are unable to agree upon terms and conditions for such contract, then in that event, within sixty days after such notification, the matter shall be submitted to a board of three arbitrators, one of whom shall be appointed by the city council of the city concerned; one by the board of county commissioners for the county concerned or by the school board for the school district concerned, and one by the two arbitrators so appointed. In the event such arbitrators are unable to agree on a third arbitrator within ten days after their appointment then the third arbitrator shall be selected by the state auditor. The board of arbitrators shall determine the loss of revenue and/or the cost of the increased financial burden placed upon the county or school district and its findings shall be binding upon such city and county or school district and the parties shall enter into a contract for reimbursement by the city in accordance with such findings, with the payment under such findings to be retroactive to the date when the city was first notified in writing.

[1965 c 7 § 35.21.426. Prior: 1955 c 252 § 2.]

RCW 35.21.427 City constructing generating facility in other county--Additional findings--Renegotiation.

The findings provided for in RCW 35.21.426 may also provide for varying payments based on formulas to be stated in the findings, and for varying payments for different stated periods. The findings shall also state a future time at which the agreement shall be renegotiated or, in event of failure to agree on such renegotiation, be arbitrated as provided in RCW 35.21.426.

[1965 c 7 § 35.21.427. Prior: 1955 c 252 § 3.]

RCW 35.21.430 Utilities--City may pay taxing districts involved after acquisition of private power facilities.

On and after January 1, 1951, whenever a city or town shall acquire electric generation, transmission and/or distribution properties which at the time of acquisition were in private ownership, the legislative body thereof may each year order payments made to all taxing districts within which any part of the acquired properties are located, in amounts not greater than the

taxes, exclusive of excess levies voted by the people and/or levies made for the payment of bonded indebtedness pursuant to the provisions of Article VII, section 2 of the Constitution of this state, as now or hereafter amended, and/or by statutory provision, imposed on such properties in the last tax year in which said properties were in private ownership.

[1973 1st ex.s. c 195 § 15; 1965 c 7 § 35.21.430. Prior: 1951 c 217 § 1.]

Notes:

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 35.21.440 Utilities--Additional payments to school districts having bonded indebtedness.

In the event any portion of such property shall be situated in any school district which, at the time of acquisition, has an outstanding bonded indebtedness, the city or town may in addition to the payments authorized in RCW 35.21.430, make annual payments to such school district which shall be applied to the retirement of the principal and interest of such bonds. Such payments shall be computed in the proportion which the assessed valuation of utility property so acquired shall bear to the total assessed valuation of the district at the time of the acquisition.

[1965 c 7 § 35.21.440. Prior: 1951 c 217 § 2.]

RCW 35.21.450 Utilities--Payment of taxes.

Annual payments shall be ordered by an ordinance or ordinances of the legislative body. The ordinance shall further order a designated officer to notify in writing the county assessor of each county in which any portion of such property is located, of the city's intention to make such payments. The county assessor shall thereupon enter upon the tax rolls of the county the amount to which any taxing district of the county is entitled under the provisions of RCW 35.21.430 to 35.21.450, inclusive; and upon delivery of the tax rolls to the county treasurer as provided by law, the amount of the tax as hereinbefore authorized and determined shall become due and payable by the city or town the same as real property taxes.

[1965 c 7 § 35.21.450. Prior: 1951 c 217 § 3.]

RCW 35.21.455 Locally regulated utilities--Attachments to poles.

(1) As used in this section:

(a) "Attachment" means the affixation or installation of any wire, cable or other physical material capable of carrying electronic impulses or light waves for the carrying of intelligence for telecommunications or television, including, but not limited to cable, and any related device, apparatus, or auxiliary equipment upon any pole owned or controlled in whole or in part by one or more locally regulated utilities where the installation has been made with the necessary consent.

(b) "Locally regulated utility" means a city owning and operating an electric utility not

subject to rate or service regulation by the utilities and transportation commission.

(c) "Nondiscriminatory" means that pole owners may not arbitrarily differentiate among or between similar classes of persons approved for attachments.

(2) All rates, terms, and conditions made, demanded or received by a locally regulated utility for attachments to its poles must be just, reasonable, nondiscriminatory and sufficient. A locally regulated utility shall levy attachment space rental rates that are uniform for the same class of service within the locally regulated utility service area.

(3) Nothing in this section shall be construed or is intended to confer upon the utilities and transportation commission any authority to exercise jurisdiction over locally regulated utilities.

[1996 c 32 § 3.]

RCW 35.21.470 Building construction projects--City or town prohibited from requiring state agencies or local governments to provide bond or other security as a condition for issuance of permit.

A city or town may not require any state agency or unit of local government to secure the performance of a permit requirement with a surety bond or other financial security device, including cash or assigned account, as a condition of issuing a permit to that unit of local government for a building construction project.

As used in this section, "building construction project" includes, in addition to its usual meaning, associated landscaping, street alteration, pedestrian or vehicular access alteration, or other amenities or alterations necessarily associated with the project.

[1993 c 439 § 1.]

RCW 35.21.475 Statement of restrictions applicable to real property.

(1) A property owner may make a written request for a statement of restrictions applicable to a single parcel, tract, lot, or block of real property to the city or town in which the real property is located.

(2) Within thirty days of the receipt of the request, the city or town shall provide the owner with a statement of restrictions as described in subsection (3) of this section.

(3) The statement of restrictions shall include the following:

(a) The zoning currently applicable to the real property;

(b) Pending zoning changes currently advertised for public hearing that would be applicable to the real property; and

(c) Any designations made by the city or town pursuant to chapter 36.70A RCW of any portion of the real property as agricultural land, forest land, mineral resource land, wetland, an area with a critical recharging effect on aquifers used for potable water, a fish and wildlife habitat conservation area, a frequently flooded area, and as a geological hazardous area.

(4) If a city or town fails to provide the statement of restrictions within thirty days after receipt of the written request, the owner shall be awarded recovery of all attorneys' fees and costs

incurred in any successful application for a writ of mandamus to compel production of a statement.

(5) For purposes of this section:

(a) "Owner" means any vested owner or any person holding the buyer's interest under a recorded real estate contract in which the seller is the vested owner; and

(b) "Real property" means a parcel, tract, lot or block: (i) Containing a single-family residence that is occupied by the owner or a member of his or her family, or rented to another by the owner; or (ii) five acres or less in size.

(6) This section does not affect the vesting of permits or development rights.

Nothing in this section shall be deemed to create any liability on the part of a city or town to pay damages for a violation of this section.

[1996 c 206 § 6.]

Notes:

Effective date--1996 c 206 §§ 6-8: "Sections 6 through 8 of this act take effect January 1, 1997." [1996 c 206 § 13.]

Findings--1996 c 206: See note following RCW 43.05.030.

RCW 35.21.500 Compilation, codification, revision of city or town ordinances--Scope of codification.

"Codification" means the editing, rearrangement and/or grouping of ordinances under appropriate titles, parts, chapters and sections and includes but is not limited to the following:

(1) Editing ordinances to the extent deemed necessary or desirable, for the purpose of modernizing and clarifying the language of such ordinances, but without changing the meaning of any such ordinance.

(2) Substituting for the term "this ordinance," where necessary the term "section," "part," "code," "chapter," "title," or reference to specific section or chapter numbers, as the case may require.

(3) Correcting manifest errors in reference to other ordinances, laws and statutes, and manifest spelling, clerical or typographical errors, additions, or omissions.

(4) Dividing long sections into two or more sections and rearranging the order of sections to insure a logical arrangement of subject matter.

(5) Changing the wording of section captions, if any, and providing captions to new chapters and sections.

(6) Striking provisions manifestly obsolete and eliminating conflicts and inconsistencies so as to give effect to the legislative intent.

[1965 c 7 § 35.21.500. Prior: 1957 c 97 § 1.]

RCW 35.21.510 Compilation, codification, revision of city or town ordinances--Authorized.

Any city or town may prepare or cause to be prepared a codification of its ordinances.

[1965 c 7 § 35.21.510. Prior: 1957 c 97 § 2.]

RCW 35.21.520 Compilation, codification, revision of city or town ordinances--Adoption as official code of city.

Any city or town having heretofore prepared or caused to be prepared, or now preparing or causing to be prepared, or that hereafter prepares or causes to be prepared, a codification of its ordinances may adopt such codification by enacting an ordinance adopting such codification as the official code of the city, provided the procedure and requirements of RCW 35.21.500 through 35.21.570 are complied with.

[1965 c 7 § 35.21.520. Prior: 1957 c 97 § 3.]

RCW 35.21.530 Compilation, codification, revision of city or town ordinances--Filing--Notice of hearing.

When a city or town codifies its ordinances, it shall file a typewritten or printed copy of the codification in the office of the city or town clerk. After the first reading of the title of the adopting ordinance and of the title of the code to be adopted thereby, the legislative body of the city or town shall schedule a public hearing thereon. Notice of the hearing shall be published once not more than fifteen nor less than ten days prior to the hearing in the official newspaper of the city, indicating that its ordinances have been compiled, or codified and that a copy of such compilation or codification is on file in the city or town clerk's office for inspection. The notice shall state the time and place of the hearing.

[1985 c 469 § 21; 1965 c 7 § 35.21.530. Prior: 1957 c 97 § 4.]

RCW 35.21.540 Compilation, codification, revision of city or town ordinances--Legislative body may amend, adopt, or reject adopting ordinance--When official code.

After the hearing, the legislative body may amend, adopt, or reject the adopting ordinance in the same manner in which it is empowered to act in the case of other ordinances. Upon the enactment of such adopting ordinance, the codification shall be the official code of ordinances of the city or town.

[1965 c 7 § 35.21.540. Prior: 1957 c 97 § 5.]

RCW 35.21.550 Compilation, codification, revision of city or town ordinances--Copies as proof of ordinances.

Copies of such codes in published form shall be received without further proof as the ordinances of permanent and general effect of the city or town in all courts and administrative tribunals of this state.

[1965 c 7 § 35.21.550. Prior: 1957 c 97 § 6.]

Notes:
Ordinances, admissibility as evidence: RCW 5.44.080.

RCW 35.21.560 Compilation, codification, revision of city or town ordinances--Adoption of new material.

New material shall be adopted by the city or town legislative body as separate ordinances prior to the inclusion thereof in such codification: PROVIDED, That any ordinance amending the codification shall set forth in full the section or sections, or subsection or subsections of the codification being amended, as the case may be, and this shall constitute a sufficient compliance with any statutory or charter requirement that no ordinance or any section thereof shall be revised or amended unless the new ordinance sets forth the revised ordinance or amended section in full.

[1965 c 7 § 35.21.560. Prior: 1961 c 70 § 1; 1957 c 97 § 7.]

RCW 35.21.570 Compilation, codification, revision of city or town ordinances--Codification satisfies single subject, title, and amendment requirements of statute or charter.

When a city or town shall make a codification of its ordinances in accordance with RCW 35.21.500 through 35.21.570 that shall constitute a sufficient compliance with any statutory or charter requirements that no ordinance shall contain more than one subject which shall be clearly expressed in its title and that no ordinance or any section thereof shall be revised or amended unless the new ordinance sets forth the revised ordinance or amended section in full.

[1965 c 7 § 35.21.570. Prior: 1957 c 97 § 8.]

RCW 35.21.590 Executory conditional sales contracts for purchase of property--Limit on indebtedness--Election, when.

See RCW 39.30.010.

RCW 35.21.630 Youth agencies--Establishment authorized.

Any city, town, or county may establish a youth agency to investigate, advise and act on, within the powers of that municipality, problems relating to the youth of that community, including employment, educational, economic and recreational opportunities, juvenile delinquency and dependency, and other youth problems and activities as that municipality may determine. Any city, town, or county may contract with any other city, town, or county to jointly establish such a youth agency.

[1965 ex.s. c 84 § 5.]

RCW 35.21.635 Juvenile curfews.

(1) Any city or town has the authority to enact an ordinance, for the purpose of preserving the public safety or reducing acts of violence by or against juveniles that are occurring at such rates as to be beyond the capacity of the police to assure public safety, establishing times and conditions under which juveniles may be present on the public streets, in the public parks, or in any other public place during specified hours.

(2) The ordinance shall not contain any criminal sanctions for a violation of the ordinance.

[1994 sp.s. c 7 § 502.]

Notes:

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

RCW 35.21.640 Conferences to study regional and governmental problems, counties and cities may establish.

See RCW 36.64.080.

RCW 35.21.650 Prepayment of taxes or assessments authorized.

All moneys, assessments and taxes belonging to or collected for the use of any city or town, including any amounts representing estimates for future assessments and taxes, may be deposited by any taxpayer prior to the due date thereof with the treasurer or other legal depository for the benefit of the funds to which they belong to be credited against any future tax or assessment that may be levied or become due from the taxpayer: PROVIDED, That the taxpayer may with the concurrence of the treasurer designate a particular fund of such city or town against which such prepayment of tax or assessment is made.

[1967 ex.s. c 66 § 1.]

RCW 35.21.660 Demonstration Cities and Metropolitan Development Act--Agreements with federal government--Scope of authority.

Notwithstanding any other provision of law, all cities shall have the power and authority to enter into agreements with the United States or any department or agency thereof, to carry out the purposes of the Demonstration Cities and Metropolitan Development Act of 1966 (PL 89-754; 80 Stat. 1255), and to plan, organize and administer programs provided for in such contracts. This power and authority shall include, but not be limited to, the power and authority to create public corporations, commissions and authorities to perform duties arising under and administer programs provided for in such contracts and to limit the liability of said public corporations, commissions, and authorities, in order to prevent recourse to such cities, their assets, or their credit.

[1971 ex.s. c 177 § 5; 1970 ex.s. c 77 § 1.]

Notes:
Establishment of public corporations to administer federal grants and programs: RCW 35.21.730 through 35.21.755.

RCW 35.21.670 Demonstration Cities and Metropolitan Development Act--Powers and limitations of public corporations, commissions or authorities created.

Any public corporation, commission or authority created as provided in RCW 35.21.660, may be empowered to own and sell real and personal property; to contract with individuals, associations and corporations, and the state and the United States; to sue and be sued; to loan and borrow funds; to do anything a natural person may do; and to perform all manner and type of community services and activities in furtherance of an agreement by a city or by the public corporation, commission or authority with the United States to carry out the purposes of the Demonstration Cities and Metropolitan Development Act of 1966: PROVIDED, That

(1) All liabilities incurred by such public corporation, commission or authority shall be satisfied exclusively from the assets and credit of such public corporation, commission or authority; and no creditor or other person shall have any recourse to the assets, credit or services of the municipal corporation creating the same on account of any debts, obligations or liabilities of such public corporation, commission or authority;

(2) Such public corporation, commission or authority shall have no power of eminent domain nor any power to levy taxes or special assessments;

(3) The name, the organization, the purposes and scope of activities, the powers and duties of the officers, and the disposition of property upon dissolution of such public corporation, commission or authority shall be set forth in its charter of incorporation or organization, or in a general ordinance of the city or both.

[1971 ex.s. c 177 § 7.]

RCW 35.21.680 Participation in Economic Opportunity Act programs.

The legislative body of any city or town, is hereby authorized and empowered in its discretion by resolution or ordinance passed by a majority of the legislative body, to take whatever action it deems necessary to enable the city or town to participate in the programs set forth in the Economic Opportunity Act of 1964 (Public Law 88-452; 78 Stat. 508), as amended. Such participation may be engaged in as a sole city or town operation or in conjunction or cooperation with the state, any other city or town, county, or municipal corporation, or any private corporation qualified under said Economic Opportunity Act.

[1971 ex.s. c 177 § 3.]

RCW 35.21.685 Low-income housing--Loans and grants.

A city or town may assist in the development or preservation of publicly or privately owned housing for persons of low income by providing loans or grants of general municipal funds to the owners or developers of the housing. The loans or grants shall be authorized by the legislative authority of the city or town. They may be made to finance all or a portion of the cost of construction, reconstruction, acquisition, or rehabilitation of housing that will be occupied by a person or family of low income. As used in this section, "low income" means income that does not exceed eighty percent of the median income for the standard metropolitan statistical area in which the city or town is located. Housing constructed with loans or grants made under this section shall not be considered public works or improvements subject to competitive bidding or a purchase of services subject to the prohibition against advance payment for services: PROVIDED, That whenever feasible the borrower or grantee shall make every reasonable and practicable effort to utilize a competitive public bidding process.

[1986 c 248 § 1.]

RCW 35.21.687 Affordable housing--Inventory of suitable housing.

(1) Every city and town, including every code city operating under Title 35A RCW, shall identify and catalog real property owned by the city or town that is no longer required for its purposes and is suitable for the development of affordable housing for very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. Every city and town shall provide a copy of the inventory to the department of community, trade, and economic development by November 1, 1993, with inventory revisions each November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, every city and town, including every code city operating under Title 35A RCW, shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The inventory revision shall also contain a list of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land.

[1995 c 399 § 37; 1993 c 461 § 4.]

Notes:

Finding--1993 c 461: See note following RCW 43.63A.510.

RCW 35.21.690 Authority to regulate auctioneers--Limitations.

A city or town shall not license auctioneers that are licensed by the state under chapter 18.11 RCW other than by requiring an auctioneer to obtain a general city or town business license and by subjecting an auctioneer to a city or town business and occupation tax. A city or town shall not require auctioneers that are licensed by the state under chapter 18.11 RCW to obtain bonding in addition to the bonding required by the state.

[1984 c 189 § 2.]

RCW 35.21.692 Authority to regulate massage practitioners--Limitations.

(1) A state licensed massage practitioner seeking a city or town license to operate a massage business must provide verification of his or her state massage license as provided for in RCW 18.108.030.

(2) The city or town may charge a licensing or operating fee, but the fee charged a state licensed massage practitioner shall not exceed the licensing or operating fee imposed on similar health care providers, such as physical therapists or occupational therapists, operating within the same city or town.

(3) A state licensed massage practitioner is not subject to additional licensing requirements not currently imposed on similar health care providers, such as physical therapists or occupational therapists.

[1991 c 182 § 1.]

RCW 35.21.695 Authority to own and operate professional sports franchise.

(1) Any city, code city, or county, individually or collectively, may own and operate an existing professional sports franchise when the owners of such franchises announce their intention to sell or move a franchise.

(2) If a city, code city, or county purchases a professional sports franchise, a public corporation shall be created to manage and operate the franchise. The public corporation created under this section shall have all of the authorities granted by RCW 35.21.730 through 35.21.757.

[1987 c 32 § 2.]

Notes:

Legislative declaration--1987 c 32: "The legislature hereby declares and finds that professional sports franchises are economic, cultural, and entertainment assets to the state and that unilateral actions by the owners of such franchises to move franchises to other locations result in a loss of direct and indirect employment and national visibility for the state. The legislature finds that the retention of professional sports franchises and the enabling authority created by RCW 35.21.695 are public purposes and that RCW 35.21.695 shall not be construed in any manner contrary to the provisions of Article VIII, section 7, of the Washington state Constitution." [1987 c 32 § 1.]

RCW 35.21.696 Newspaper carrier regulation.

A city or town, including a code city, may not license newspaper carriers under eighteen years of age for either regulatory or revenue-generating purposes.

[1994 c 112 § 3.]

RCW 35.21.700 Tourist promotion.

Any city or town in this state acting through its council or other legislative body shall have power to expend moneys and conduct promotion of resources and facilities in the city or town, or general area, by advertising, publicizing, or otherwise distributing information for the

purpose of attracting visitors and encouraging tourist expansion.

[1971 ex.s. c 61 § 2.]

RCW 35.21.703 Economic development programs.

It shall be in the public purpose for all cities to engage in economic development programs. In addition, cities may contract with nonprofit corporations in furtherance of this and other acts relating to economic development.

[1985 c 92 § 1.]

RCW 35.21.706 Imposition or increase of business and occupation tax--Referendum procedure required--Exclusive procedure.

Every city and town first imposing a business and occupation tax or increasing the rate of the tax after April 22, 1983, shall provide for a referendum procedure to apply to an ordinance imposing the tax or increasing the rate of the tax. This referendum procedure shall specify that a referendum petition may be filed within seven days of passage of the ordinance with a filing officer, as identified in the ordinance. Within ten days, the filing officer shall confer with the petitioner concerning form and style of the petition, issue the petition an identification number, and secure an accurate, concise, and positive ballot title from the designated local official. The petitioner shall have thirty days in which to secure the signatures of not less than fifteen percent of the registered voters of the city, as of the last municipal general election, upon petition forms which contain the ballot title and the full text of the measure to be referred. The filing officer shall verify the sufficiency of the signatures on the petition and, if sufficient valid signatures are properly submitted, shall certify the referendum measure to the next election ballot within the city or at a special election ballot as provided pursuant to RCW 35.17.260(2).

This referendum procedure shall be exclusive in all instances for any city ordinance imposing a business and occupation tax or increasing the rate of the tax and shall supersede the procedures provided under chapters 35.17 and 35A.11 RCW and all other statutory or charter provisions for initiative or referendum which might otherwise apply.

[1983 c 99 § 6.]

Notes:

Severability--1983 c 99: See note following RCW 82.14.200.

RCW 35.21.710 License fees or taxes on certain business activities--Uniform rate required--Maximum rate established.

Any city which imposes a license fee or tax upon business activities consisting of the making of retail sales of tangible personal property which are measured by gross receipts or gross income from such sales, shall impose such tax at a single uniform rate upon all such business activities. The taxing authority granted to cities for taxes upon business activities

measured by gross receipts or gross income from sales shall not exceed a rate of .0020; except that any city with an adopted ordinance at a higher rate, as of January 1, 1982 shall be limited to a maximum increase of ten percent of the January 1982 rate, not to exceed an annual incremental increase of two percent of current rate: PROVIDED, That any adopted ordinance which classifies according to different types of business or services shall be subject to both the ten percent and the two percent annual incremental increase limitation on each tax rate: PROVIDED FURTHER, That all surtaxes on business and occupation classifications in effect as of January 1, 1982, shall expire no later than December 31, 1982, or by expiration date established by local ordinance. Cities which impose a license fee or tax upon business activities consisting of the making of retail sales of tangible personal property which are measured by gross receipts or gross income from such sales shall be required to submit an annual report to the state auditor identifying the rate established and the revenues received from each fee or tax. This section shall not apply to any business activities subject to the tax imposed by chapter 82.16 RCW. For purposes of this section, the providing to consumers of competitive telephone service, as defined in RCW 82.04.065, shall be deemed to be the retail sale of tangible personal property.

[1983 2nd ex.s. c 3 § 33; 1983 c 99 § 7; 1982 1st ex.s. c 49 § 7; 1981 c 144 § 6; 1972 ex.s. c 134 § 6.]

Notes:

Construction--Severability--Effective dates--1983 2nd ex.s. c 3: See notes following RCW 82.04.255.

Severability--1983 c 99: See note following RCW 82.14.200.

Intent--1982 1st ex.s. c 49: "The legislature hereby recognizes the concern of local governmental entities regarding the financing of vital services to residents of this state. The legislature finds that local governments are an efficient and responsive means of providing these vital services to the citizens of this state. It is the intent of the legislature that vital services such as public safety, public health, and fire protection be recognized by all local governmental entities in this state as top priorities of the citizens of Washington." [1982 1st ex.s. c 49 § 1.]

Construction--1982 1st ex.s. c 49: "Nothing in this act precludes the imposition of business and occupation taxes by cities and towns, or of sales and use taxes. However, nothing in this act authorizes the imposition of a business and occupation tax by any county." [1982 1st ex.s. c 49 § 6.]

Effective date--1982 1st ex.s. c 49: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately, except section 5 of this act shall take effect July 1, 1982." [1982 1st ex.s. c 49 § 25.]

Fire district funding--1982 1st ex.s. c 49: "County legislative authorities who levy optional taxes pursuant to this act shall fully consider funding for fire districts within their respective jurisdictions during the county budget process.

The local government committees of the legislature shall study fire district services and funding and shall report back to the Washington State Legislature by December 31, 1982." [1982 1st ex.s. c 49 § 23.]

The above four annotations apply to 1982 1st ex.s. c 49. For codification of that act, see Codification Tables, Volume 0.

Intent--Severability--Effective date--1981 c 144: See notes following RCW 82.16.010.

License fees and taxes on financial institutions: Chapter 82.14A RCW.

RCW 35.21.711 License fees or taxes on certain business activities--Excess rates authorized by voters.

The qualified voters of any city or town may by majority vote approve rates in excess of the provisions of RCW 35.21.710.

[1982 1st ex.s. c 49 § 8.]

Notes:

Intent--Construction--Effective date--Fire district funding--1982 1st ex.s. c 49: See notes following RCW 35.21.710.

RCW 35.21.712 License fees or taxes on telephone business to be at uniform rate.

Any city which imposes a license fee or tax upon the business activity of engaging in the telephone business, as defined in RCW 82.04.065, which is measured by gross receipts or gross income from the business shall impose the tax at a uniform rate on all persons engaged in the telephone business in the city.

This section does not apply to the providing of competitive telephone service as defined in RCW 82.04.065.

[1983 2nd ex.s. c 3 § 35; 1981 c 144 § 8.]

Notes:

Construction--Severability--Effective dates--1983 2nd ex.s. c 3: See notes following RCW 82.04.255.

Intent--Severability--Effective date--1981 c 144: See notes following RCW 82.16.010.

RCW 35.21.714 License fees or taxes on telephone business--Imposition on certain gross revenues authorized--Limitations.

Any city which imposes a license fee or tax upon the business activity of engaging in the telephone business, as defined in RCW 82.04.065, which is measured by gross receipts or gross income may impose the fee or tax, if it desires, on one hundred percent of the total gross revenue derived from intrastate toll telephone services subject to the fee or tax: PROVIDED, That the city shall not impose the fee or tax on that portion of network telephone service, as defined in RCW 82.04.065, which represents charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services, or for access to, or charges for, interstate services, or charges for network telephone service that is purchased for the purpose of resale.

[1989 c 103 § 1; 1986 c 70 § 1; 1983 2nd ex.s. c 3 § 37; 1981 c 144 § 10.]

Notes:

Severability--1989 c 103: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 103 § 5.]

Effective date--1986 c 70 §§ 1, 2, 4, and 5: "Sections 1, 2, 4, and 5 of this act shall take effect on January 1, 1987." [1986 c 70 § 8.]

Construction--Severability--Effective dates--1983 2nd ex.s. c 3: See notes following RCW 82.04.255.

Intent--Severability--Effective date--1981 c 144: See notes following RCW 82.16.010.

RCW 35.21.715 Taxes on network telephone services.

Notwithstanding RCW 35.21.714 or 35A.82.060, any city or town which imposes a tax upon business activities measured by gross receipts or gross income from sales, may impose such tax on that portion of network telephone service, as defined in RCW 82.04.065, which represents charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll services, or charges for network telephone service that is purchased for the purpose of resale. Such tax shall be levied at the same rate as is applicable to other competitive telephone service as defined in RCW 82.04.065.

[1989 c 103 § 2; 1986 c 70 § 2.]

Notes:

Severability--1989 c 103: See note following RCW 35.21.714.

Effective date--1986 c 70 §§ 1, 2, 4, and 5: See note following RCW 35.21.714.

RCW 35.21.717 Taxation of internet services--Moratorium.

Until July 1, 2002, a city or town may not impose any new taxes or fees specific to internet service providers. A city or town may tax internet service providers under generally applicable business taxes or fees, at a rate not to exceed the rate applied to a general service classification. For the purposes of this section, "internet service" has the same meaning as in RCW 82.04.297.

[1999 c 307 § 1; 1997 c 304 § 2.]

Notes:

Findings--1997 c 304: "The legislature finds that the newly emerging business of providing internet service is providing widespread benefits to all levels of society. The legislature further finds that this business is important to our state's continued growth in the high-technology sector of the economy and that, as this industry emerges, it should not be burdened by new taxes that might not be appropriate for the type of service being provided. The legislature further finds that there is no clear statutory guidance as to how internet services should be classified for tax purposes and intends to ratify the state's current treatment of such services." [1997 c 304 § 1.]

Severability--1997 c 304: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1997 c 304 § 6.]

Effective date--1997 c 304: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 9, 1997]." [1997 c 304 § 7.]

RCW 35.21.718 State route No. 16--Tax on operation prohibited.

A city or town may not impose a tax on amounts received from operating state route number 16 corridor transportation systems and facilities constructed and operated under chapter 47.46 RCW.

[1998 c 179 § 2.]

Notes:

Finding--1998 c 179: "The legislature finds and declares that the people of the state may not enjoy the full benefits of public-private initiative for state route number 16 corridor improvements due to the many taxes that may

apply to this project. Generally these taxes would not apply if the state built these projects through traditional financing and construction methods. These tax exemptions will reduce the cost of the project, allow lower tolls, and reduce the time for which tolls are charged." [1998 c 179 § 1.]

RCW 35.21.720 City contracts to obtain sheriff's office law enforcement services.

See RCW 41.14.250 through 41.14.280.

RCW 35.21.730 Public corporations--Powers of cities, towns, and counties--Administration.

In order to improve the administration of authorized federal grants or programs, to improve governmental efficiency and services, or to improve the general living conditions in the urban areas of the state, any city, town, or county may by lawfully adopted ordinance or resolution:

(1) Transfer to any public corporation, commission, or authority created hereunder, with or without consideration, any funds, real or personal property, property interests, or services;

(2) Organize and participate in joint operations or cooperative organizations funded by the federal government when acting solely as coordinators or agents of the federal government;

(3) Continue federally-assisted programs, projects, and activities after expiration of contractual term or after expending allocated federal funds as deemed appropriate to fulfill contracts made in connection with such agreements or as may be proper to permit an orderly readjustment by participating corporations, associations, or individuals;

(4) Create public corporations, commissions, and authorities to: Administer and execute federal grants or programs; receive and administer private funds, goods, or services for any lawful public purpose; and perform any lawful public purpose or public function. The ordinance or resolution shall limit the liability of such public corporations, commissions, and authorities to the assets and properties of such public corporation, commission, or authority in order to prevent recourse to such cities, towns, or counties or their assets or credit.

[1985 c 332 § 1; 1974 ex.s. c 37 § 2.]

RCW 35.21.735 Public corporations--Declaration of public purpose--Power and authority to enter into agreements, receive and expend funds--Security.

(1) The legislature hereby declares that carrying out the purposes of federal grants or programs is both a public purpose and an appropriate function for a city, town, county, or public corporation. The provisions of RCW 35.21.730 through 35.21.755 and RCW 35.21.660 and 35.21.670 and the enabling authority herein conferred to implement these provisions shall be construed to accomplish the purposes of RCW 35.21.730 through 35.21.755.

(2) All cities, towns, counties, and public corporations shall have the power and authority to enter into agreements with the United States or any agency or department thereof, or any agency of the state government or its political subdivisions, and pursuant to such agreements may receive and expend, or cause to be received and expended by a custodian or trustee, federal

or private funds for any lawful public purpose. Pursuant to any such agreement, a city, town, county, or public corporation may issue bonds, notes, or other evidences of indebtedness that are guaranteed or otherwise secured by funds or other instruments provided by or through the federal government or by the federal government or an agency or instrumentality thereof under section 108 of the housing and community development act of 1974 (42 U.S.C. Sec. 5308), as amended, or its successor, and may agree to repay and reimburse for any liability thereon any guarantor of any such bonds, notes, or other evidences of indebtedness issued by such jurisdiction or public corporation, or issued by any other public entity. For purposes of this subsection federal housing mortgage insurance shall not constitute a federal guarantee or security.

(3) A city, town, county, or public corporation may pledge, as security for any such bonds, notes, or other evidences of indebtedness or for its obligations to repay or reimburse any guarantor thereof, its right, title, and interest in and to any or all of the following: (a) Any federal grants or payments received or that may be received in the future; (b) any of the following that may be obtained directly or indirectly from the use of any federal or private funds received as authorized in this section: (i) Property and interests therein, and (ii) revenues; (c) any payments received or owing from any person resulting from the lending of any federal or private funds received as authorized in this section; (d) any proceeds under (a), (b), or (c) of this subsection and any securities or investments in which (a), (b), or (c) of this subsection or proceeds thereof may be invested; (e) any interest or other earnings on (a), (b), (c), or (d) of this subsection.

(4) A city, town, county, or public corporation may establish one or more special funds relating to any or all of the sources listed in subsection (3)(a) through (e) of this section and pay or cause to be paid from such fund the principal, interest, premium if any, and other amounts payable on any bonds, notes, or other evidences of indebtedness authorized under this section, and pay or cause to be paid any amounts owing on any obligations for repayment or reimbursement of guarantors of any such bonds, notes, or other evidences of indebtedness. A city, town, county, or public corporation may contract with a financial institution either to act as trustee or custodian to receive, administer, and expend any federal or private funds, or to collect, administer, and make payments from any special fund as authorized under this section, or both, and to perform other duties and functions in connection with the transactions authorized under this section. If the bonds, notes, or other evidences of indebtedness and related agreements comply with subsection (6) of this section, then any such funds held by any such trustee or custodian, or by a public corporation, shall not constitute public moneys or funds of any city, town, or county and at all times shall be kept segregated and set apart from other funds.

(5) For purposes of this section, "lawful public purpose" includes, without limitation, any use of funds, including loans thereof to public or private parties, authorized by the agreements with the United States or any department or agency thereof under which federal or private funds are obtained, or authorized under the federal laws and regulations pertinent to such agreements.

(6) If any such federal or private funds are loaned or granted to any private party or used to guarantee any obligations of any private party, then any bonds, notes, other evidences of indebtedness issued or entered into for the purpose of receiving or causing the receipt of such federal or private funds, and any agreements to repay or reimburse guarantors, shall not be

obligations of any city, town, or county and shall be payable only from a special fund as authorized in this section or from any of the security pledged pursuant to the authority of this section, or both. Any bonds, notes, or other evidences of indebtedness to which this subsection applies shall contain a recital to the effect that they are not obligations of the city, town, or county or the state of Washington and that neither the faith and credit nor the taxing power of the state or any municipal corporation or subdivision of the state or any agency of any of the foregoing, is pledged to the payment of principal, interest, or premium, if any, thereon. Any bonds, notes, other evidences of indebtedness, or other obligations to which this subsection applies shall not be included in any computation for purposes of limitations on indebtedness. To the extent expressly agreed in writing by a city, town, county, or public corporation, this subsection shall not apply to bonds, notes, or other evidences of indebtedness issued for, or obligations incurred for, the necessary support of the poor and infirm by that city, town, county, or public corporation.

(7) Any bonds, notes, or other evidences of indebtedness issued by, or reimbursement obligations incurred by, a city, town, county, or public corporation consistent with the provisions of this section but prior to May 3, 1995, and any loans or pledges made by a city, town, or county in connection therewith substantially consistent with the provisions of this section but prior to May 3, 1995, are deemed authorized and shall not be held void, voidable, or invalid due to any lack of authority under the laws of this state.

[1995 c 212 § 2; 1985 c 332 § 3; 1974 ex.s. c 37 § 3.]

Notes:

Purpose--1995 c 212: "The purpose of this act is to assist community and economic development by clarifying the authority of all cities, towns, counties, and public corporations to engage in federally guaranteed "conduit financings" and to specify procedures that may be used for such conduit financings. Generally, in such a conduit financing a municipality borrows funds from the federal government or from private sources with the help of federal guarantees, without pledging the credit or tax revenues of the municipality, and then lends the proceeds for private projects that both fulfill public purposes, such as community and economic development, and provide the revenues to retire the municipal borrowings. Such conduit financings include issuance by municipalities of federally guaranteed notes under section 108 of the housing and community development act of 1974, as amended, to finance projects eligible under federal community development block grant regulations." [1995 c 212 § 1.]

Severability--1995 c 212: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1995 c 212 § 3.]

Construction--1995 c 212: "The authority granted by this act is additional and supplemental to any other authority of any city, town, county, or public corporation. Nothing in this act may be construed to imply that any of the power or authority granted hereby was not available to any city, town, county, or public corporation under prior law. Any previous actions consistent with the provisions of this act are ratified and confirmed." [1995 c 212 § 4.]

Effective date--1995 c 212: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 3, 1995]." [1995 c 212 § 5.]

RCW 35.21.740 Public corporations--Exercise of powers, authorities, or rights--Territorial jurisdiction.

Powers, authorities, or rights expressly or impliedly granted to any city, town, or county

or their agents under any provision of RCW 35.21.730 through 35.21.755 shall not be operable or applicable, or have any effect beyond the limits of the incorporated area of any city or town implementing RCW 35.21.730 through 35.21.755, unless so provided by contract between the city and another city or county.

[1985 c 332 § 4; 1974 ex.s. c 37 § 4.]

RCW 35.21.745 Public corporations--Provision for, control over--Powers.

Any city, town, or county which shall create a public corporation, commission, or authority pursuant to RCW 35.21.730 or 35.21.660, shall provide for its organization and operations and shall control and oversee its operation and funds in order to correct any deficiency and to assure that the purposes of each program undertaken are reasonably accomplished.

Any public corporation, commission, or authority created as provided in RCW 35.21.730 may be empowered to own and sell real and personal property; to contract with individuals, associations, and corporations, and the state and the United States; to sue and be sued; to loan and borrow funds and issue bonds and other instruments evidencing indebtedness; transfer any funds, real or personal property, property interests, or services; to do anything a natural person may do; and to perform all manner and type of community services: PROVIDED, That such public corporation, commission, or authority shall have no power of eminent domain nor any power to levy taxes or special assessments.

[1985 c 332 § 2; 1974 ex.s. c 37 § 5.]

RCW 35.21.747 Public corporations--Real property transferred by city, town, or county--Restrictions, notice, public meeting.

(1) In transferring real property to a public corporation, commission, or authority under RCW 35.21.730, the city, town, or county creating such public corporation, commission, or authority shall impose appropriate deed restrictions necessary to ensure the continued use of such property for the public purpose or purposes for which such property is transferred.

(2) The city, town, or county that creates a public corporation, commission, or authority under RCW 35.21.730 shall require of such public corporation, commission, or authority thirty days' advance written notice of any proposed sale or encumbrance of any real property transferred by such city, town, or county to such public corporation, commission, or authority pursuant to RCW 35.21.730(1). At a minimum, such notice shall be provided by such public corporation, commission, or authority to the chief executive or administrative officer of such city, town, or county, and to all members of its legislative body, and to each local newspaper of general circulation, and to each local radio or television station or other news medium which has on file with such corporation, commission, or authority a written request to be notified.

(3) Any property transferred by the city, town, or county that created such public corporation, commission, or authority may be sold or encumbered by such public corporation, commission, or authority only after approval of such sale or encumbrance by the governing body

of the public corporation, commission, or authority at a public meeting of which notice was provided pursuant to RCW 42.30.080. Nothing in this section shall be construed to prevent the governing body of the public corporation, commission, or authority from holding an executive session during a regular or special meeting in accordance with RCW 42.30.110(1)(c). In addition, the public corporation, commission, or authority shall advertise notice of the meeting in a local newspaper of general circulation at least twice no less than seven days and no more than two weeks before the public meeting.

[1990 c 189 § 1.]

RCW 35.21.750 Public corporations--Insolvency or dissolution.

In the event of the insolvency or dissolution of a public corporation, commission, or authority, the superior court of the county in which the public corporation, commission, or authority is or was operating shall have jurisdiction and authority to appoint trustees or receivers of corporate property and assets and supervise such trusteeship or receivership: PROVIDED, That all liabilities incurred by such public corporation, commission, or authority shall be satisfied exclusively from the assets and properties of such public corporation, commission, or authority and no creditor or other person shall have any right of action against the city, town, or county creating such corporation, commission or authority on account of any debts, obligations, or liabilities of such public corporation, commission, or authority.

[1974 ex.s. c 37 § 6.]

RCW 35.21.755 Public corporations--Exemption or immunity from taxation--In lieu excise tax.

(1) A public corporation, commission, or authority created pursuant to RCW 35.21.730, 35.21.660, or 81.112.320 shall receive the same immunity or exemption from taxation as that of the city, town, or county creating the same: PROVIDED, That, except for (a) any property within a special review district established by ordinance prior to January 1, 1976, or listed on or which is within a district listed on any federal or state register of historical sites or (b) any property owned, operated, or controlled by a public corporation that is used primarily for low-income housing, or that is used as a convention center, performing arts center, public assembly hall, public meeting place, public esplanade, street, public way, public open space, park, public utility corridor, or view corridor for the general public or (c) any blighted property owned, operated, or controlled by a public corporation that was acquired for the purpose of remediation and redevelopment of the property in accordance with an agreement or plan approved by the city, town, or county in which the property is located, or (d) any property owned, operated, or controlled by a public corporation created under RCW 81.112.320, any such public corporation, commission, or authority shall pay to the county treasurer an annual excise tax equal to the amounts which would be paid upon real property and personal property devoted to the purposes of such public corporation, commission, or authority were it in private ownership, and such real property and personal property is acquired and/or operated under RCW

35.21.730 through 35.21.755, and the proceeds of such excise tax shall be allocated by the county treasurer to the various taxing authorities in which such property is situated, in the same manner as though the property were in private ownership: PROVIDED FURTHER, That the provisions of chapter 82.29A RCW shall not apply to property within a special review district established by ordinance prior to January 1, 1976, or listed on or which is within a district listed on any federal or state register of historical sites and which is controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660, which was in existence prior to January 1, 1987: AND PROVIDED FURTHER, That property within a special review district established by ordinance prior to January 1, 1976, or property which is listed on any federal or state register of historical sites and controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660, which was in existence prior to January 1, 1976, shall receive the same immunity or exemption from taxation as if such property had been within a district listed on any such federal or state register of historical sites as of January 1, 1976, and controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660 which was in existence prior to January 1, 1976.

(2) As used in this section:

(a) "Low-income" means a total annual income, adjusted for family size, not exceeding fifty percent of the area median income.

(b) "Area median income" means:

(i) For an area within a standard metropolitan statistical area, the area median income reported by the United States department of housing and urban development for that standard metropolitan statistical area; or

(ii) For an area not within a standard metropolitan statistical area, the county median income reported by the department of community, trade, and economic development.

(c) "Blighted property" means property that is contaminated with hazardous substances as defined under RCW 70.105D.020(7).

[2000 2nd sp.s. c 4 § 29; 1999 c 266 § 1; 1995 c 399 § 38; 1993 c 220 § 1; 1990 c 131 § 1; 1987 c 282 § 1; 1985 c 332 § 5; 1984 c 116 § 1; 1979 ex.s. c 196 § 9; 1977 ex.s. c 35 § 1; 1974 ex.s. c 37 § 7.]

Notes:

Findings--Construction--2000 2nd sp.s. c 4 §§ 18-30: See notes following RCW 81.112.300.

Effective date--1979 ex.s. c 196: See note following RCW 82.04.240.

Effective date--1977 ex.s. c 35: "This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1977." [1977 ex.s. c 35 § 2.]

RCW 35.21.756 Tax exemption--Sales/leasebacks by regional transit authorities.

A city or town may not impose taxes on amounts received as lease payments paid by a seller/lessee to a lessor under a sale/leaseback agreement under RCW 81.112.300 in respect to tangible personal property used by the seller/lessee, or to the purchase amount paid by the lessee under an option to purchase at the end of the lease term.

[2000 2nd sp.s. c 4 § 28.]

Notes:

Findings--Construction--2000 2nd sp.s. c 4 §§ 18-30: See notes following RCW 81.112.300.

RCW 35.21.757 Public corporations--Statutes to be construed consistent with state Constitution.

Nothing in RCW 35.21.730 through 35.21.755 shall be construed in any manner contrary to the provisions of Article VIII, section 7, of the Washington state Constitution.

[1985 c 332 § 6.]

RCW 35.21.759 Public corporations, commissions, and authorities--Applicability of general laws.

A public corporation, commission, or authority created under this chapter, and officers and multimember governing body thereof, are subject to general laws regulating local governments, multimember governing bodies, and local governmental officials, including, but not limited to, the requirement to be audited by the state auditor and various accounting requirements provided under chapter 43.09 RCW, the open public record requirements of chapter 42.17 RCW, the prohibition on using its facilities for campaign purposes under RCW 42.17.130, the open public meetings law of chapter 42.30 RCW, the code of ethics for municipal officers under chapter 42.23 RCW, and the local government whistleblower law under chapter 42.41 RCW.

[1999 c 246 § 1.]

RCW 35.21.760 Legal interns--Employment authorized.

Notwithstanding any other provision of law, the city attorney, corporation counsel, or other chief legal officer of any city or town may employ legal interns as otherwise authorized by statute or court rule.

[1974 ex.s. c 7 § 1.]

RCW 35.21.762 Urban emergency medical service districts--Creation authorized in city or town with territory in two counties.

The council of a city or town that has territory included in two counties may adopt an ordinance creating an urban emergency medical service district in all of the portion of the city or town that is located in one of the two counties if: (1) The county in which the urban emergency medical service district is located does not impose an emergency medical service levy authorized under RCW 84.52.069; and (2) the other county in which the city or town is located does impose an emergency medical service levy authorized under RCW 84.52.069. The ordinance creating the district may only be adopted after a public hearing has been held on the creation of the district and the council makes a finding that it is in the public interest to create the district. The

members of the city or town council, acting in an ex officio capacity and independently, shall compose the governing body of the urban emergency medical service district. The voters of an urban emergency medical service district shall be all registered voters residing within the urban emergency medical service district.

An urban emergency medical service district shall be a quasi-municipal corporation and an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution. Urban emergency medical service districts shall also be "taxing districts" within the meaning of Article VII, section 2 of the state Constitution.

An urban emergency medical service district shall have the authority to contract under chapter 39.34 RCW with a county, city, town, fire protection district, public hospital district, or emergency medical service district to have emergency medical services provided within its boundaries.

Territory located in the same county as an urban emergency medical service district that is annexed by the city or town must automatically be annexed to the urban emergency medical service district.

[1994 c 79 § 1.]

Notes:
Levy for emergency medical care and services: RCW 84.52.069.

RCW 35.21.765 Fire protection, ambulance or other emergency services provided by municipal corporation within county--Financial and other assistance by county authorized.

See RCW 36.32.470.

RCW 35.21.766 Ambulance services--Establishment authorized.

Whenever the legislative authority of any city or town determines that the city or town or a substantial portion of the city or town is not adequately served by existing private ambulance service, the legislative authority may by appropriate legislation provide for the establishment of a system of ambulance service to be operated as a public utility of the city or town or operated by contract after a call for bids.

[1975 1st ex.s. c 24 § 1.]

Notes:
Ambulance services by counties authorized: RCW 36.01.100.

RCW 35.21.768 Ambulance services--Excise taxes authorized--Use of proceeds.

The legislative authority of any city or town is authorized to adopt ordinances for the levy and collection of excise taxes and/or for the imposition of an additional tax for the act or privilege of engaging in the ambulance business. Such business and occupation tax shall be imposed in such amounts as fixed and determined by the legislative authority.

The excise taxes other than the business and occupation tax authorized by this section shall be levied and collected from all persons, businesses, and industries who are served and billed for said ambulance service owned and operated or contracted for by the city or town in such amounts as shall be fixed and determined by the legislative authority of the city or town.

All taxes authorized pursuant to this section shall be construed to be taxes other than a retail sales tax defined in chapter 82.08 RCW and a use tax defined in chapter 82.12 RCW, and the city or town shall appropriate and use the proceeds derived from all taxes authorized by this section only for the operation, maintenance and capital needs of its municipally owned, operated, leased or contracted for ambulance service.

[1975 1st ex.s. c 24 § 2.]

RCW 35.21.769 Levy for emergency medical care and services.

See RCW 84.52.069.

RCW 35.21.770 Members of legislative bodies authorized to serve as volunteer fire fighters, volunteer ambulance personnel, or reserve law enforcement officers.

Notwithstanding any other provision of law, the legislative body of any city or town, by resolution adopted by a two-thirds vote of the full legislative body, may authorize any of its members to serve as volunteer fire fighters, volunteer ambulance personnel, or reserve law enforcement officers, or two or more of such positions, and to receive the same compensation, insurance, and other benefits as are applicable to other volunteer fire fighters, volunteer ambulance personnel, or reserve law enforcement officers employed by the city or town.

[1997 c 65 § 1; 1993 c 303 § 1; 1974 ex.s. c 60 § 1.]

RCW 35.21.775 Provision of fire protection services to state-owned facilities.

Subject to the provisions of RCW 35.21.779, whenever a city or town has located within its territorial limits facilities, except those leased to a nontax-exempt person or organization, owned by the state or an agency or institution of the state, the state or agency or institution owning such facilities and the city or town may contract for an equitable share of fire protection services for the protection and safety of personnel and property, pursuant to chapter 39.34 RCW, as now or hereafter amended. Nothing in this section shall be construed to require the state, or any state agency or institution, to contract for services which are performed by the staff and equipment of such an entity or by a fire protection district pursuant to RCW 52.30.020.

[1992 c 117 § 4; 1985 c 6 § 4; 1984 c 230 § 82; 1983 c 146 § 1; 1979 ex.s. c 102 § 1.]

Notes:

Findings--1992 c 117: "The legislature finds that certain state-owned facilities and institutions impose a financial burden on the cities and towns responsible for providing fire protection services to those state facilities. The legislature endeavors pursuant to chapter 117, Laws of 1992, to establish a process whereby cities and towns that have a significant share of their total assessed valuation taken up by state-owned facilities can enter into fire

protection contracts with state agencies or institutions to provide a share of the jurisdiction's fire protection funding." [1992 c 117 § 3.]

RCW 35.21.778 Existing contracts for fire protection services and equipment not abrogated.

Nothing in chapter 117, Laws of 1992, shall be interpreted to abrogate existing contracts for fire protection services and equipment, nor be deemed to authorize cities and towns to negotiate additional contractual provisions to apply prior to the expiration of such existing contracts. Upon expiration of contracts negotiated prior to March 31, 1992, future contracts between such cities and towns and state agencies and institutions shall be governed by the provisions of RCW 35.21.775 and 35.21.779.

[1992 c 117 § 5.]

Notes:

Findings--1992 c 117: See note following RCW 35.21.775.

RCW 35.21.779 Fire protection services for state-owned facilities--Contracts with the department of community, trade, and economic development--Consolidation of negotiations with multiple state agencies--Arbitration.

(1) In cities or towns where the estimated value of state-owned facilities constitutes ten percent or more of the total assessed valuation, the state agency or institution owning the facilities shall contract with the city or town to pay an equitable share for fire protection services. The contract shall be negotiated as provided in subsections (2) through (6) of this section and shall provide for payment by the agency or institution to the city or town.

(2) A city or town seeking to enter into fire protection contract negotiations shall provide written notification to the department of community, trade, and economic development and the state agencies or institutions that own property within the jurisdiction, of its intent to contract for fire protection services. Where there are multiple state agencies located within a single jurisdiction, a city may choose to notify only the department of community, trade, and economic development, which in turn shall notify the agencies or institution that own property within the jurisdiction of the city's intent to contract for fire protection services. Any such notification shall be based on the valuation procedures, based on commonly accepted standards, adopted by the department of community, trade, and economic development in consultation with the department of general administration and the association of Washington cities.

(3) The department of community, trade, and economic development shall review any such notification to ensure that the valuation procedures and results are accurate. The department will notify each affected city or town and state agency or institution of the results of their review within thirty days of receipt of notification.

(4) The parties negotiating fire protection contracts under this section shall conduct those negotiations in good faith. Whenever there are multiple state agencies located within a single jurisdiction, every effort shall be made by the state to consolidate negotiations on behalf of all affected agencies.

(5) In the event of notification by one of the parties that an agreement cannot be reached

on the terms and conditions of a fire protection contract, the director of the department of community, trade, and economic development shall mediate a resolution of the disagreement. In the event of a continued impasse, the director of the department of community, trade, and economic development shall recommend a resolution.

(6) If the parties reject the recommendation of the director and an impasse continues, the director shall direct the parties to arbitration. The parties shall agree on a neutral arbitrator, and the fees and expenses of the arbitrator shall be shared equally between the parties. The arbitration shall be a final offer, total arbitration, with the arbitrator empowered only to pick the final offer of one of the parties or the recommended resolution by the director of the department of community, trade, and economic development. The decision of the arbitrator shall be final, binding, and nonappealable on the parties.

(7) The provisions of this section shall not apply if a city or town and a state agency or institution have contracted pursuant to RCW 35.21.775.

(8) The provisions of this section do not apply to cities and towns not meeting the conditions in subsection (1) of this section. Cities and towns not meeting the conditions of subsection (1) of this section may enter into contracts pursuant to RCW 35.21.775.

[1995 c 399 § 39; 1992 c 117 § 6.]

Notes:

Findings--1992 c 117: See note following RCW 35.21.775.

RCW 35.21.780 Laws, rules and regulations applicable to cities 500,000 or over deemed applicable to cities 400,000 or over.

On and after June 12, 1975, every law and rule or regulation of the state or any agency thereof which immediately prior to June 12, 1975 related to cities of five hundred thousand population or over shall be deemed to be applicable to cities of four hundred thousand population or over.

[1975 c 33 § 1.]

Notes:

Severability--1975 c 33: "If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 c 33 § 7.]

RCW 35.21.790 Revision of corporate boundary within street, road, or highway right of way by substituting right of way line--Not subject to review.

(1) The governing bodies of a county and any city or town located therein may by agreement revise any part of the corporate boundary of the city or town which coincides with the centerline, edge, or any portion of a public street, road or highway right of way by substituting therefor a right of way line of the same public street, road or highway so as fully to include or fully to exclude that segment of the public street, road or highway from the corporate limits of the city or town.

(2) The revision of a corporate boundary as authorized by this section shall become effective when approved by ordinance of the city or town council or commission and by ordinance or resolution of the county legislative authority. Such a boundary revision is not subject to potential review by a boundary review board.

[1989 c 84 § 10; 1975 1st ex.s. c 220 § 17.]

Notes:

Legislative finding, intent--1975 1st ex.s. c 220: See note following RCW 35.02.170.

Boundary line adjustment: RCW 35.13.300 through 35.13.330.

Use of right of way line as corporate boundary in incorporation proceeding--When right of way may be included in territory to be incorporated: RCW 35.02.170.

When right of way may be included in territory to be incorporated--Use of right of way line as corporate boundary in annexation: RCW 35.13.290.

RCW 35.21.800 Foreign trade zones--Legislative finding, intent.

It is the finding of the legislature that foreign trade zones serve an important public purpose by the creation of employment opportunities within the state and that the establishment of zones designed to accomplish this purpose is to be encouraged. It is the further intent of the legislature that the department of trade and economic development provide assistance to entities planning to apply to the United States for permission to establish such zones.

[1985 c 466 § 43; 1977 ex.s. c 196 § 3.]

Notes:

Effective date--Severability--1985 c 466: See notes following RCW 43.31.125.

Effective date--1977 ex.s. c 196: See note following RCW 24.46.010.

RCW 35.21.805 Foreign trade zones--Authority to apply for permission to establish, operate and maintain.

A city or town, as zone sponsor, may apply to the United States for permission to establish, operate, and maintain foreign trade zones: PROVIDED, That nothing herein shall be construed to prevent these zones from being operated and financed by a private corporation(s) on behalf of a city or town acting as zone sponsor.

[1977 ex.s. c 196 § 4.]

Notes:

Effective date--1977 ex.s. c 196: See note following RCW 24.46.010.

RCW 35.21.810 Hydroplane races--Providing for restrooms and other services in public parks for spectators--Admission fees--Authorized.

Any city or town may provide restrooms and other services in its public parks to be used by spectators of any hydroplane race held on a lake or river which is located adjacent to or within the city or town, and in addition any city or town may charge admission fees for persons to observe a hydroplane race from public park property which is sufficient to defray the costs of

the city or town accommodating spectators, cleaning up after the race, and other costs related to the hydroplane race. Any city or town may authorize the organization which sponsors a hydroplane race to provide restroom and other services for the public on park property and may authorize the organization to collect any admission fees charged by the city or town.

[1979 c 26 § 1.]

RCW 35.21.815 Hydroplane races--Levying of admission charges declared public park purpose--Reversion prohibited.

It is hereby declared to be a legitimate public park purpose for any city or town to levy an admission charge for spectators to view hydroplane races from park property. Property which has been conveyed to a city or town by the state for exclusive use in the city's or town's public park system or exclusively for public park, parkway, and boulevard purposes shall not revert to the state upon the levying of admission fees authorized in RCW 35.21.810.

[1979 c 26 § 2.]

RCW 35.21.820 Acquisition and disposal of vehicles for commuter ride sharing by city employees.

The power of any city, town, county, other municipal corporation, or quasi municipal corporation to acquire, hold, use, possess, and dispose of motor vehicles for official business shall include, but not be limited to, the power to acquire, hold, use, possess, and dispose of motor vehicles for commuter ride sharing by its employees, so long as such use is economical and advantageous to the city, town, county, other municipal corporation.

[1979 c 111 § 11.]

Notes:

Severability--1979 c 111: See note following RCW 46.74.010.

Ride sharing: Chapter 46.74 RCW.

RCW 35.21.830 Controls on rent for residential structures--Prohibited--Exceptions.

The imposition of controls on rent is of state-wide significance and is preempted by the state. No city or town of any class may enact, maintain, or enforce ordinances or other provisions which regulate the amount of rent to be charged for single family or multiple unit residential rental structures or sites other than properties in public ownership, under public management, or properties providing low-income rental housing under joint public-private agreements for the financing or provision of such low-income rental housing. This section shall not be construed as prohibiting any city or town from entering into agreements with private persons which regulate or control the amount of rent to be charged for rental properties.

[1981 c 75 § 1.]

Notes:

Applicability to floating home moorage sites--1981 c 75: "Nothing in this act shall be construed to preempt local ordinances that relate to the control of rents or other relationships at floating home moorage sites." [1981 c 75 § 3.]

Severability--1981 c 75: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 75 § 4.]

RCW 35.21.840 Taxation of motor carriers of freight for hire--Allocation of gross receipts.

The following principles shall allocate gross receipts of a motor carrier of freight for hire (called the "motor carrier" in this section) to prevent multiple taxation by two or more municipalities. They shall apply when two or more municipalities in this state impose a license fee or tax for the act or privilege of engaging in business activities; each municipality has a basis in local activity for imposing its tax; and the gross receipts measured by all taxing municipalities, added together, exceed the motor carrier's gross receipts.

(1) No municipality shall be entitled to an allocation of the gross receipts of a motor carrier on account of the use of its streets or highways when no pick-up or delivery occurs therein.

(2) Gross receipts of a motor carrier derived within a municipality, where it solicits orders and engages in business activities that are a significant factor in holding the market but where it maintains no office or terminal, shall be allocated equally between the municipality providing the local market and the municipality where the motor carrier's office or terminal is located. Where no such local solicitation and business activity occurs, all the gross receipts shall be allocated to the municipality where the office or terminal is located irrespective of the place of pick-up or delivery. The word "terminal" means a location at which any three of the following four occur: Dispatching takes place, from which trucks operate or are serviced, personnel report and receive assignments, and orders are regularly received from the public.

(3) Gross receipts of a motor carrier that are not attributable to transportation services, such as investment income, truck repair, and rental of equipment, shall be allocated to the office or terminal conducting such activities.

(4) Gross receipts of a motor carrier with an office or terminal in two or more municipalities in this state shall be allocated to the office or terminal at which the transportation services commenced.

[1982 c 169 § 1.]

Notes:

Applicability--1982 c 169: "This act applies to motor carriers of freight for hire only. Nothing in this act applies to a person engaged in the business of making sales at retail or wholesale or of providing storage services for tangible personal property." [1982 c 169 § 4.]

Motor freight carriers: Chapter 81.80 RCW.

Municipal business and occupation tax authorized: RCW 35.95.040.

RCW 35.21.845 Taxation of motor carriers of freight for hire--Tax allocation formula.

A motor carrier of freight for hire whose gross receipts are subject to multiple taxation by two or more municipalities in this state may request and thereupon shall be given a joint audit of the taxpayer's books and records by all of the taxing authorities seeking to tax all or part of such gross receipts. Such taxing authorities shall agree upon and establish a tax allocation formula which shall be binding upon the taxpayer and the taxing authorities participating in the audit or receiving a copy of such request from the taxpayer. Payment by the taxpayer of the taxes to each taxing authority in accordance with such tax allocation formula shall be a complete defense in any action by any taxing authority to recover additional taxes, interest, and/or penalties. A taxing municipality, whether or not a party to such joint audit, may seek a revision of the formula by giving written notice to each other taxing municipality concerned and the taxpayer. Any such revision as may be agreed upon by the taxing municipalities, or as may be decreed by a court of competent jurisdiction in an action initiated by one or more taxing authorities, shall apply only to gross receipts of the taxpayer received after the date of any such agreed revision or effective date of the judgment or order of any such court.

[1982 c 169 § 2.]

Notes:

Applicability--1982 c 169: See note following RCW 35.21.840.

RCW 35.21.850 Taxation of motor carriers of freight for hire--Limitation--Exceptions.

No demand for a fee or tax or penalty shall be made by a city or town against a motor carrier of freight for hire on gross income derived from providing transportation services more than four years after the close of the year in which the same accrued except (1) against a taxpayer who has been guilty of fraud or misrepresentation of a material fact; or (2) where a taxpayer has executed a written waiver of such limitations; or (3) against a taxpayer who has not registered as required by the ordinance of the city or town imposing such tax or fee, provided this subsection shall not apply to a taxpayer who has registered in any city or town where the taxpayer maintains an office or terminal, or in the case of a taxpayer who has paid a license fee or tax based on such gross receipts to any city or town levying same which may reasonably be construed to be the principal market of the taxpayer but in which he maintains no office or terminal.

[1982 c 169 § 3.]

Notes:

Applicability--1982 c 169: See note following RCW 35.21.840.

RCW 35.21.860 Electricity, telephone, or natural gas business, service provider--Franchise fees prohibited--Exceptions.

(1) No city or town may impose a franchise fee or any other fee or charge of whatever nature or description upon the light and power, or gas distribution businesses, as defined in RCW

82.16.010, or telephone business, as defined in RCW 82.04.065, or service provider for use of the right of way, except:

(a) A tax authorized by RCW 35.21.865 may be imposed;

(b) A fee may be charged to such businesses or service providers that recovers actual administrative expenses incurred by a city or town that are directly related to receiving and approving a permit, license, and franchise, to inspecting plans and construction, or to the preparation of a detailed statement pursuant to chapter 43.21C RCW;

(c) Taxes permitted by state law on service providers;

(d) Franchise requirements and fees for cable television services as allowed by federal law; and

(e) A site-specific charge pursuant to an agreement between the city or town and a service provider of personal wireless services acceptable to the parties for:

(i) The placement of new structures in the right of way regardless of height, unless the new structure is the result of a mandated relocation in which case no charge will be imposed if the previous location was not charged;

(ii) The placement of replacement structures when the replacement is necessary for the installation or attachment of wireless facilities, and the overall height of the replacement structure and the wireless facility is more than sixty feet; or

(iii) The placement of personal wireless facilities on structures owned by the city or town located in the right of way. However, a site-specific charge shall not apply to the placement of personal wireless facilities on existing structures, unless the structure is owned by the city or town.

A city or town is not required to approve the use permit for the placement of a facility for personal wireless services that meets one of the criteria in this subsection absent such an agreement. If the parties are unable to agree on the amount of the charge, the service provider may submit the amount of the charge to binding arbitration by serving notice on the city or town. Within thirty days of receipt of the initial notice, each party shall furnish a list of acceptable arbitrators. The parties shall select an arbitrator; failing to agree on an arbitrator, each party shall select one arbitrator and the two arbitrators shall select a third arbitrator for an arbitration panel. The arbitrator or arbitrators shall determine the charge based on comparable siting agreements involving public land and rights of way. The arbitrator or arbitrators shall not decide any other disputed issues, including but not limited to size, location, and zoning requirements. Costs of the arbitration, including compensation for the arbitrator's services, must be borne equally by the parties participating in the arbitration and each party shall bear its own costs and expenses, including legal fees and witness expenses, in connection with the arbitration proceeding.

(2) Subsection (1) of this section does not prohibit franchise fees imposed on an electrical energy, natural gas, or telephone business, by contract existing on April 20, 1982, with a city or town, for the duration of the contract, but the franchise fees shall be considered taxes for the purposes of the limitations established in RCW 35.21.865 and 35.21.870 to the extent the fees exceed the costs allowable under subsection (1) of this section.

[2000 c 83 § 8; 1983 2nd ex.s. c 3 § 39; 1982 1st ex.s. c 49 § 2.]

Notes:

Construction--Severability--Effective dates--1983 2nd ex.s. c 3: See notes following RCW 82.04.255.

Intent--Construction--Effective date--Fire district funding--1982 1st ex.s. c 49: See notes following RCW 35.21.710.

"Service provider" defined: RCW 35.99.010.

RCW 35.21.865 Electricity, telephone, or natural gas business--Limitations on tax rate changes.

No city or town may change the rate of tax it imposes on the privilege of conducting an electrical energy, natural gas, or telephone business which change applies to business activities occurring before the effective date of the change, and no rate change may take effect before the expiration of sixty days following the enactment of the ordinance establishing the change except as provided in RCW 35.21.870.

[1983 c 99 § 4; 1982 1st ex.s. c 49 § 3.]

Notes:

Severability--1983 c 99: See note following RCW 82.14.200.

Intent--Construction--Effective date--Fire district funding--1982 1st ex.s. c 49: See notes following RCW 35.21.710.

RCW 35.21.870 Electricity, telephone, natural gas, or steam energy business--Tax limited to six percent--Exception.

(1) No city or town may impose a tax on the privilege of conducting an electrical energy, natural gas, steam energy, or telephone business at a rate which exceeds six percent unless the rate is first approved by a majority of the voters of the city or town voting on such a proposition.

(2) If a city or town is imposing a rate of tax under subsection (1) of this section in excess of six percent on April 20, 1982, the city or town shall decrease the rate to a rate of six percent or less by reducing the rate each year on or before November 1st by ordinances to be effective on January 1st of the succeeding year, by an amount equal to one-tenth the difference between the tax rate on April 20, 1982, and six percent.

Nothing in this subsection prohibits a city or town from reducing its rates by amounts greater than the amounts required in this subsection.

Voter approved rate increases under subsection (1) of this section shall not be included in the computations under this subsection.

[1984 c 225 § 6; 1983 c 99 § 5; 1982 1st ex.s. c 49 § 4.]

Notes:

Rules--1984 c 225: See note following RCW 82.14.210.

Severability--1983 c 99: See note following RCW 82.14.200.

Intent--Construction--Effective date--Fire district funding--1982 1st ex.s. c 49: See notes following RCW 35.21.710.

RCW 35.21.871 Tax on telephone business--Deferral of rate reduction.

A city or town required by RCW 35.21.870(2) to reduce its rate of taxation on telephone business may defer for one year the required reduction in rates for the year 1987. If the delay in rate reductions authorized by the preceding sentence is inadequate for a city or town to offset the impact of revenue reductions arising from the removal of revenues from connecting fees, switching charges, or carrier access charges under the provisions of RCW 35.21.714, then the legislative body of such city or town may reimpose for 1987 the rates that such city or town had in effect upon telephone business during 1985. In each succeeding year, the city or town shall reduce the rate by one-tenth of the difference between the tax rate on April 20, 1982, and six percent.

[1986 c 70 § 3.]

RCW 35.21.875 Designation of official newspaper.

Each city and town shall designate an official newspaper by resolution. The newspaper shall be of general circulation in the city or town and have the qualifications prescribed by chapter 65.16 RCW.

[1985 c 469 § 99.]

RCW 35.21.880 Right of way donations--Credit against required improvements.

Where the zoning and planning provisions of a city or town require landscaping, parking, or other improvements as a condition to granting permits for commercial or industrial developments, the city or town may credit donations of right of way in excess of that required for traffic improvement against such landscaping, parking, or other requirements.

[1987 c 267 § 7.]

Notes:

Severability--1987 c 267: See RCW 47.14.910.

Right of way donations: Chapter 47.14 RCW.

RCW 35.21.890 Boundary changes--Providing factual information--Notice to boundary review board.

A city or town may provide factual information on the effects of a proposed boundary change on the city or town and the area potentially affected by the boundary change. A statement that the city or town has such information available, and copies of any printed materials or information available to be provided to the public shall be filled [filed] with the boundary review board for the board's information.

[1989 c 84 § 70.]

RCW 35.21.895 Regulation of automatic number or location identification--Prohibited.

No city or town may enact or enforce an ordinance or regulation mandating automatic number identification or automatic location identification for a private telecommunications system or for a provider of private shared telecommunications services.

[1995 c 243 § 6.]

Notes:

Findings--Severability--1995 c 243: See notes following RCW 80.36.555.

RCW 35.21.897 Mobile home, manufactured home, or park model moving or installing--Copies of permits--Definitions.

(1) A city or town shall transmit a copy of any permit issued to a tenant or the tenant's agent for a mobile home, manufactured home, or park model installation in a mobile home park to the landlord.

(2) A city or town shall transmit a copy of any permit issued to a person engaged in the business of moving or installing a mobile home, manufactured home, or park model in a mobile home park to the tenant and the landlord.

(3) As used in this section:

(a) "Landlord" has the same meaning as in RCW 59.20.030;

(b) "Mobile home park" has the same meaning as in RCW 59.20.030;

(c) "Mobile or manufactured home installation" has the same meaning as in RCW 43.63B.010; and

(d) "Tenant" has the same meaning as in RCW 59.20.030.

[1999 c 359 § 18.]

Notes:

Effective date--1999 c 359: See RCW 59.20.901.

Chapter 35.22 RCW
FIRST CLASS CITIES

Sections

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RCW 35.22.010 Laws governing.

Cities of the first class shall be organized and governed according to the law providing for the government of cities having a population of ten thousand or more inhabitants that have adopted a charter in accordance with Article XI, section 10 of the state Constitution.

[1997 c 361 § 12; 1965 c 7 § 35.22.010. Prior: 1890 p 143 § 23; RRS § 8947.]

Notes:
First class city, defined: RCW 35.01.010.

RCW 35.22.020 Mode of exercising powers, functions and duties.

The form of the organization and the manner and mode in which cities of the first class shall exercise the powers, functions and duties conferred upon them by law, with respect to their own government, shall be as provided in the charters thereof.

[1965 c 7 § 35.22.020. Prior: 1911 c 17 § 1; RRS § 8948.]

RCW 35.22.030 Cities having ten thousand or more population may frame charter for own government.

Any city with a population of ten thousand or more inhabitants may frame a charter for its own government.

[1965 ex.s. c 47 § 5; 1965 c 7 § 35.22.030. Prior: 1890 p 215 § 1; RRS § 8951.]

Notes:
Cities of ten thousand or more
may frame charters without change in classification: RCW 35.22.195.
permitted to frame charters: State Constitution Art. 11 § 10 (Amendment 40).

RCW 35.22.050 Election of freeholders to frame charter.

Whenever the population of a city is ten thousand or more, the legislative authority thereof shall provide by ordinance for an election to be held therein for the purpose of electing fifteen freeholders for the purpose of framing a charter for the city. The members of the board of freeholders must be qualified electors and must have been residents of the city for a period of at least two years prior to their election.

[1965 ex.s. c 47 § 7; 1965 c 7 § 35.22.050. Prior: 1890 p 216 § 3, part; RRS § 8953, part.]

RCW 35.22.055 Election of freeholders in cities of three hundred thousand or more population--Designation of positions--Rotation of names on ballots.

Notwithstanding any other provision of law, whenever the population of a city is three hundred thousand persons or more, not less than ten days before the time for filing declarations of candidacy for election of freeholders under Article XI, section 10 (Amendment 40), of the state Constitution, the city clerk shall designate the positions to be filled by consecutive number, commencing with one. The positions to be designated shall be dealt with as separate offices for all election purposes, and each candidate shall file for one, but only one, of the positions so designated.

In the printing of ballots, the positions of the names of candidates for each numbered position shall be changed as many times as there are candidates for the numbered positions, following insofar as applicable the procedure provided for in RCW 29.30.040 for the rotation of names on primary ballots, the intention being that ballots at the polls will reflect as closely as practicable the rotation procedure as provided for therein.

[1974 ex.s. c 1 § 1.]

Notes:

Severability--1974 ex.s. c 1: "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 1 § 3.]

RCW 35.22.060 Submission of charter--Publication.

The board of freeholders shall convene within ten days after their election and frame a charter for the city and within thirty days thereafter, they, or a majority of them, shall submit the charter to the legislative authority of the city, which, within five days thereafter, shall cause it to be published in the newspaper having the largest general circulation within the city at least once each week for four weeks next preceding the day of submitting the same to the electors for their

approval.

[1985 c 469 § 22; 1965 ex.s. c 47 § 8; 1965 c 7 § 35.22.060. Prior: 1890 p 216 § 3, part; RRS § 8953, part.]

Notes:
Submission of proposed charter, publication: State Constitution Art. 11 § 10 (Amendment 40).

RCW 35.22.070 Election on adoption of charter--Notice.

Within five days after the filing with the city clerk of affidavits of publication, which affidavits shall be filed immediately after the last publication, the legislative authority of the city shall initiate the proceedings for the submission of the proposed charter to the qualified voters of the city for their adoption or rejection at either a general or special election. At this election the first officers to serve under the provisions of the proposed charter shall also be elected. In electing from wards, the division into wards as specified in the proposed charter shall govern; in all other respects the then existing laws relating to such election shall govern. The notice shall specify the objects for which the election is held, and shall be given as required by law.

[1965 ex.s. c 47 § 9; 1965 c 7 § 35.22.070. Prior: (i) 1890 p 216 § 3, part; RRS § 8953, part. (ii) 1890 p 223 § 6, part; RRS § 8977, part.]

Notes:
Election on adoption of charter, notice: State Constitution Art. 11 § 10 (Amendment 40).

RCW 35.22.080 Conduct of elections.

The election of the members of the board of freeholders and that upon the proposition of adopting or rejecting the proposed charter and the officers to be elected thereunder, the returns of both elections, the canvassing thereof and the declaration of the result shall be governed by the laws regulating and controlling elections in the city.

[1965 c 7 § 35.22.080. Prior: (i) 1890 p 216 § 3, part; RRS § 8953, part. (ii) 1890 p 223 § 6, part; RRS § 8977, part. (iii) 1890 p 217 § 4, part; RRS § 8954, part.]

Notes:
Elections: Title 29 RCW.

RCW 35.22.090 Form of ballot.

The form of ballot in the election for the adoption or rejection of the proposed charter shall be: "For the proposed charter," "Against the proposed charter." In submitting the proposed charter or amendments thereto, any alternate article or proposition may be presented for the choice of the voters and may be voted on separately without prejudice to others. In submitting such amendment, article or proposition, the form of the ballot shall be: "For article No. . . . . of the charter," "Against article No. . . . . of the charter."

[1965 c 7 § 35.22.090. Prior: 1890 p 216 § 3, part; RRS § 8953, part.]

RCW 35.22.100 Certificates of election to officers.

If a majority of the votes cast at the election upon the adoption of the proposed charter favor it, certificates of election shall be issued to each officer elected at that election. Within ten days after the issuance of the certificates of election, the newly elected officers shall qualify as provided in the charter, and on the tenth day thereafter at twelve o'clock noon of that day, the officers so elected and qualified shall enter upon the duties of the offices to which they were elected and at such time the charter shall be authenticated, recorded, attested and go into effect. When so authenticated, recorded and attested, the charter shall become the organic law of the city and supersede any existing charter and amendments thereto and all special laws inconsistent therewith.

[1965 c 7 § 35.22.100. Prior: (i) 1890 p 223 § 6, part; RRS § 8977, part. (ii) 1890 p 217 § 4, part; RRS § 8954, part.]

RCW 35.22.110 Authentication of charter.

The authentication of the charter shall be by certificate of the mayor in substance as follows:

"I . . . . . ., mayor of the city of . . . . . do hereby certify that in accordance with the provisions of the Constitution and statutes of the State of Washington, the city of . . . . . caused fifteen freeholders to be elected on the . . . . day of . . . . . 19. . . to prepare a charter for the city; that due notice of that election was given in the manner provided by law and that the following persons were declared elected to prepare and propose a charter for the city, to wit: . . . . . .

That thereafter on the . . . . day of . . . . . 19. . . the board of freeholders returned a proposed charter for the city of . . . . . signed by the following members thereof: . . . . . .

That thereafter the proposed charter was published in (Indicate name of newspaper in which published) for at least once each week for four weeks next preceding the day of submitting the same to the electors for their approval. (Indicate dates of publication)

That thereafter on the . . . . day of . . . . . 19. . ., at an election duly called and held, the proposed charter was submitted to the qualified electors thereof, and the returns canvassed resulting as follows: For the proposed charter, ... votes; against the proposed charter, ... votes; majority for the proposed charter, ... votes; whereupon the charter was declared adopted by a majority of the qualified electors voting at the election.

I further certify that the foregoing is a full, true and complete copy of the proposed charter so voted upon and adopted as aforesaid.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix the corporate seal of said city at my office this . . . . day of . . . . . 19. . .

Attest:

. . . .
Mayor of the city of

Clerk of the city of . . . . . (Corporate Seal)."

Immediately after authentication, the authenticated charter shall be recorded by the city clerk in a book provided for that purpose known as the charter book of the city of . . . . . and when so recorded shall be attested by the clerk and mayor under the corporate seal of the city. All amendments shall be in like manner recorded and attested.

All courts shall take judicial notice of a charter and all amendments thereto when recorded and attested as required in this section.

[1965 ex.s. c 47 § 10; 1965 c 7 § 35.22.110. Prior: 1890 p 217 § 4, part; RRS § 8954, part.]

RCW 35.22.120 Petition for submission of charter amendment.

On petition of a number (equal to fifteen percent of the total number of votes cast at the last preceding general state election) of qualified voters of any municipality having adopted a charter under the laws of this state, asking the adoption of a specified charter amendment, providing for any matter within the realm of local affairs, or municipal business, the said amendment shall be submitted to the voters at the next regular municipal election, occurring thirty days or more after said petition is filed, and if approved by a majority of the local electors of the municipality voting upon it, such amendment shall become a part of the charter organic law governing such municipality.

[1965 c 7 § 35.22.120. Prior: 1949 c 233 § 1; 1903 c 186 § 1; Rem. Supp. 1949 § 8963.]

Notes:
Times for holding elections: Chapter 29.13 RCW.

RCW 35.22.130 Requisites of petition--Effect of favorable vote.

A petition containing the demand for the submission of the proposed charter amendment or for an election to be held for the purpose of electing a board of freeholders for the purpose of preparing a new charter for the city as provided in RCW 35.22.140 shall be filed with the city clerk and each signer shall write his place of residence after his signature. This and RCW 35.22.120 do not deprive city councils of the right to submit proposed charter amendments but affords a concurrent and additional method of submission.

[1967 c 123 § 2; 1965 c 7 § 35.22.130. Prior: (i) 1903 c 186 § 2; RRS § 8964. (ii) 1903 c 186 § 3; RRS § 8965.]

RCW 35.22.140 New or revised charter--Petition--Freeholders.

On the petition of a number of registered voters of a city equal to twenty-five percent of the total votes cast at the last preceding city election, the city council of a charter city shall, or

without such petition may, cause an election to be held for the purpose of electing a board of fifteen freeholders for the purpose of preparing a new charter for the city by altering, revising, adding to or repealing the existing charter including all amendments thereto. The members of the board of freeholders must be qualified electors and must have been residents in the city for a period of at least two years prior to their election. At such election the proposition of whether or not a board of freeholders shall be created at all shall be separately stated on the ballots and unless a majority of the votes cast upon that proposition favor it, no further steps shall be taken in the proceedings.

[1965 ex.s. c 47 § 11; 1965 c 7 § 35.22.140. Prior: 1945 c 55 1, part; 1925 ex.s. c 137 § 1, part; 1895 c 27 § 1, part; Rem. Supp. 1945 § 8955, part.]

Notes:
Amendment of charter: State Constitution Art. 11 § 10 (Amendment 40).

RCW 35.22.150 Submission of new charter.

Within ten days after the results of the election have been determined, if a majority of the votes cast favor the proceeding, the members of the board of freeholders elected thereat shall convene and prepare a new charter by altering, revising, adding to, or repealing the existing charter including all amendments thereto and within one year thereafter file it with the city clerk.

[1974 ex.s. c 1 § 2; 1965 c 7 § 35.22.150. Prior: 1945 c 55 § 1, part; 1925 ex.s. c 137 § 1, part; 1895 c 27 § 1, part; Rem. Supp. 1945 § 8955, part.]

Notes:
Severability--1974 ex.s. c 1: See note following RCW 35.22.055.

RCW 35.22.160 Election on adoption of new charter.

Upon the filing of the proposed new, altered, changed or revised charter with the city clerk, it shall be submitted to the qualified voters of the city at an election to be called therefor pursuant to the provisions of law applicable to the holding of elections in such city.

[1965 c 7 § 35.22.160. Prior: 1925 ex.s. c 137 § 2, part; 1895 c 27 § 2, part; RRS § 8956, part.]

Notes:
Times for holding elections: Chapter 29.13 RCW.

RCW 35.22.170 Publication of proposed charter.

The proposed new, altered or revised charter shall be published in the newspaper having the largest general circulation within the city at least once each week for four weeks next preceding the day of submitting the same to the electors for their approval.

[1985 c 469 § 23; 1965 ex.s. c 47 § 12; 1965 c 7 § 35.22.170. Prior: 1925 ex.s. c 137 § 3; 1895 c 27 § 3; RRS § 8957.]

Notes:
Publication of amendments to charter: State Constitution Art. 11 § 10 (Amendment 40).

RCW 35.22.180 Conduct of elections.

The election of the board of freeholders and that upon the proposition of adopting the proposed new, altered or revised charter, may be general or special elections and except as herein provided, said elections, the returns, the canvassing thereof and the declaration of the result shall be governed by the laws regulating and controlling elections in the city. In both cases the notice specifying the object of the election must be given at least ten days before the day of election.

[1965 c 7 § 35.22.180. Prior: (i) 1895 c 27 § 4; RRS § 8958. (ii) 1895 c 27 § 5; RRS § 8959.]

Notes:
Election on amendment to charter: State Constitution Art. 11 § 10 (Amendment 40).

RCW 35.22.190 Effect of favorable vote.

If a majority of the voters voting upon the adoption of the proposed new, altered or revised charter favor it, it shall become the charter of the city and the organic law thereof, superseding any existing charter. All bodies or offices abolished or dispensed with by the new, altered or revised charter, together with the emoluments thereof shall immediately cease to exist, and any new offices created shall be filled by appointment of the mayor until the next general election subject to such approval by the city council as may be required by the new, altered or revised charter.

[1965 c 7 § 35.22.190. Prior: (i) 1925 ex.s. c 137 § 2, part; 1895 c 27 § 2, part; RRS § 8956, part. (ii) 1895 c 27 § 6; RRS § 8962.]

Notes:
Times for holding elections: Chapter 29.13 RCW.

RCW 35.22.195 Powers of cities adopting charters.

Any city adopting a charter under Article XI, section 10 of the Constitution of the state of Washington, as amended by amendment 40, shall have all of the powers which are conferred upon incorporated cities and towns by Title 35 RCW, or other laws of the state, and all such powers as are usually exercised by municipal corporations of like character and degree.

[1965 ex.s. c 47 § 2. Formerly RCW 35.21.620.]

Notes:
Legislative powers of charter city: RCW 35.22.200.

RCW 35.22.200 Legislative powers of charter city--Where vested--Direct legislation.

The legislative powers of a charter city shall be vested in a mayor and a city council, to consist of such number of members and to have such powers as may be provided for in its charter. The charter may provide for direct legislation by the people through the initiative and referendum upon any matter within the scope of the powers, functions, or duties of the city. The mayor and council and such other elective officers as may be provided for in such charter shall be elected at such times and in such manner as provided in Title 29 RCW, and for such terms and shall perform such duties as may be prescribed in the charter, and shall receive compensation in accordance with the process or standards of a charter provision or ordinance which conforms with RCW 35.21.015.

[2001 c 73 § 2; 1965 ex.s. c 47 § 13; 1965 c 7 § 35.22.200. Prior: (i) 1890 p 223 § 6, part; RRS § 8977, part. (ii) 1927 c 52 § 1; 1911 c 17 § 2; RRS § 8949.]

NOTES:

Findings--Intent--Severability--2001 c 73: See notes following RCW 35.21.015.

Powers of cities adopting charters: RCW 35.22.195.

RCW 35.22.205 Compensation and hours of mayor and elected officials.

The compensation and the time to be devoted to the performance of the duties of the mayor and elected officials of all cities of the first class shall be as fixed by ordinance of said city irrespective of any city charter provisions.

[1965 c 7 § 35.22.205. Prior: 1957 c 113 § 1; 1955 c 354 § 1.]

RCW 35.22.210 Separate designation of councilmen in certain first class cities.

Any city of the first class having a population less than one hundred thousand by the last federal census and having a charter providing that each of its councilmen shall be the commissioner of an administrative department of such city, may by ordinance provide for the separate designation of such councilmen as officers, in accordance with such administrative departments, and for their filing for and election to office under such separate designations.

[1965 c 7 § 35.22.210. Prior: 1925 ex.s. c 61 § 1; RRS § 8948-1.]

RCW 35.22.220 Repeal of separate designation.

Whenever any such city shall have passed such an ordinance providing for such separate designations and for filing for and election to office in accordance therewith, such city shall have no power to repeal the same except by ordinance passed by the council of such city and submitted to the voters thereof at a general or special election and ratified by a majority of the voters voting thereon.

[1965 c 7 § 35.22.220. Prior: 1925 ex.s. c 61 § 2; RRS § 8948-2.]

Notes:

Times for holding elections: Chapter 29.13 RCW.

RCW 35.22.280 Specific powers enumerated.

Any city of the first class shall have power:

(1) To provide for general and special elections, for questions to be voted upon, and for the election of officers;

(2) To provide for levying and collecting taxes on real and personal property for its corporate uses and purposes, and to provide for the payment of the debts and expenses of the corporation;

(3) To control the finances and property of the corporation, and to acquire, by purchase or otherwise, such lands and other property as may be necessary for any part of the corporate uses provided for by its charter, and to dispose of any such property as the interests of the corporation may, from time to time, require;

(4) To borrow money for corporate purposes on the credit of the corporation, and to issue negotiable bonds therefor, on such conditions and in such manner as shall be prescribed in its charter; but no city shall, in any manner or for any purpose, become indebted to an amount in the aggregate to exceed the limitation of indebtedness prescribed by chapter 39.36 RCW as now or hereafter amended;

(5) To issue bonds in place of or to supply means to meet maturing bonds or other indebtedness, or for the consolidation or funding of the same;

(6) To purchase or appropriate private property within or without its corporate limits, for its corporate uses, upon making just compensation to the owners thereof, and to institute and maintain such proceedings as may be authorized by the general laws of the state for the appropriation of private property for public use;

(7) To lay out, establish, open, alter, widen, extend, grade, pave, plank, establish grades, or otherwise improve streets, alleys, avenues, sidewalks, wharves, parks, and other public grounds, and to regulate and control the use thereof, and to vacate the same, and to authorize or prohibit the use of electricity at, in, or upon any of said streets, or for other purposes, and to prescribe the terms and conditions upon which the same may be so used, and to regulate the use thereof;

(8) To change the grade of any street, highway, or alley within its corporate limits, and to provide for the payment of damages to any abutting owner or owners who shall have built or made other improvements upon such street, highway, or alley at any point opposite to the point where such change shall be made with reference to the grade of such street, highway, or alley as the same existed prior to such change;

(9) To authorize or prohibit the locating and constructing of any railroad or street railroad in any street, alley, or public place in such city, and to prescribe the terms and conditions upon which any such railroad or street railroad shall be located or constructed; to provide for the alteration, change of grade, or removal thereof; to regulate the moving and operation of railroad and street railroad trains, cars, and locomotives within the corporate limits of said city; and to provide by ordinance for the protection of all persons and property against injury in the use of such railroads or street railroads;

(10) To provide for making local improvements, and to levy and collect special

assessments on property benefited thereby, and for paying for the same or any portion thereof;

(11) To acquire, by purchase or otherwise, lands for public parks within or without the limits of such city, and to improve the same. When the language of any instrument by which any property is so acquired limits the use of said property to park purposes and contains a reservation of interest in favor of the grantor or any other person, and where it is found that the property so acquired is not needed for park purposes and that an exchange thereof for other property to be dedicated for park purposes is in the public interest, the city may, with the consent of the grantor or such other person, his heirs, successors, or assigns, exchange such property for other property to be dedicated for park purposes, and may make, execute, and deliver proper conveyances to effect the exchange. In any case where, owing to death or lapse of time, there is neither donor, heir, successor, or assignee to give consent, this consent may be executed by the city and filed for record with an affidavit setting forth all efforts made to locate people entitled to give such consent together with the facts which establish that no consent by such persons is attainable. Title to property so conveyed by the city shall vest in the grantee free and clear of any trust in favor of the public arising out of any prior dedication for park purposes, but the right of the public shall be transferred and preserved with like force and effect to the property received by the city in such exchange;

(12) To construct and keep in repair bridges, viaducts, and tunnels, and to regulate the use thereof;

(13) To determine what work shall be done or improvements made at the expense, in whole or in part, of the owners of the adjoining contiguous, or proximate property, or others specially benefited thereby; and to provide for the manner of making and collecting assessments therefor;

(14) To provide for erecting, purchasing, or otherwise acquiring waterworks, within or without the corporate limits of said city, to supply said city and its inhabitants with water, or authorize the construction of same by others when deemed for the best interests of such city and its inhabitants, and to regulate and control the use and price of the water so supplied;

(15) To provide for lighting the streets and all public places, and for furnishing the inhabitants thereof with gas or other lights, and to erect, or otherwise acquire, and to maintain the same, or to authorize the erection and maintenance of such works as may be necessary and convenient therefor, and to regulate and control the use thereof;

(16) To establish and regulate markets, and to provide for the weighing, measuring, and inspection of all articles of food and drink offered for sale thereat, or at any other place within its limits, by proper penalties, and to enforce the keeping of proper legal weights and measures by all vendors in such city, and to provide for the inspection thereof. Whenever the words "public markets" are used in this chapter, and the public market is managed in whole or in part by a public corporation created by a city, the words shall be construed to include all real or personal property located in a district or area designated by a city as a public market and traditionally devoted to providing farmers, crafts vendors and other merchants with retail space to market their wares to the public. Property located in such a district or area need not be exclusively or primarily used for such traditional public market retail activities and may include property used for other public purposes including, but not limited to, the provision of human services and

low-income or moderate-income housing;

(17) To erect and establish hospitals and pesthouses, and to control and regulate the same;

(18) To provide for establishing and maintaining reform schools for juvenile offenders;

(19) To provide for the establishment and maintenance of public libraries, and to appropriate, annually, such percent of all moneys collected for fines, penalties, and licenses as shall be prescribed by its charter, for the support of a city library, which shall, under such regulations as shall be prescribed by ordinance, be open for use by the public;

(20) To regulate the burial of the dead, and to establish and regulate cemeteries within or without the corporate limits, and to acquire land therefor by purchase or otherwise; to cause cemeteries to be removed beyond the limits of the corporation, and to prohibit their establishment within two miles of the boundaries thereof;

(21) To direct the location and construction of all buildings in which any trade or occupation offensive to the senses or deleterious to public health or safety shall be carried on, and to regulate the management thereof; and to prohibit the erection or maintenance of such buildings or structures, or the carrying on of such trade or occupation within the limits of such corporation, or within the distance of two miles beyond the boundaries thereof;

(22) To provide for the prevention and extinguishment of fires and to regulate or prohibit the transportation, keeping, or storage of all combustible or explosive materials within its corporate limits, and to regulate and restrain the use of fireworks;

(23) To establish fire limits and to make all such regulations for the erection and maintenance of buildings or other structures within its corporate limits as the safety of persons or property may require, and to cause all such buildings and places as may from any cause be in a dangerous state to be put in safe condition;

(24) To regulate the manner in which stone, brick, and other buildings, party walls, and partition fences shall be constructed and maintained;

(25) To deepen, widen, dock, cover, wall, alter, or change the channels of waterways and courses, and to provide for the construction and maintenance of all such works as may be required for the accommodation of commerce, including canals, slips, public landing places, wharves, docks, and levees, and to control and regulate the use thereof;

(26) To control, regulate, or prohibit the anchorage, moorage, and landing of all watercrafts and their cargoes within the jurisdiction of the corporation;

(27) To fix the rates of wharfage and dockage, and to provide for the collection thereof, and to provide for the imposition and collection of such harbor fees as may be consistent with the laws of the United States;

(28) To license, regulate, control, or restrain wharf boats, tugs, and other boats used about the harbor or within such jurisdiction;

(29) To require the owners of public halls or other buildings to provide suitable means of exit; to provide for the prevention and abatement of nuisances, for the cleaning and purification of watercourses and canals, for the drainage and filling up of ponds on private property within its limits, when the same shall be offensive to the senses or dangerous to health; to regulate and control, and to prevent and punish, the defilement or pollution of all streams running through or

into its corporate limits, and for the distance of five miles beyond its corporate limits, and on any stream or lake from which the water supply of said city is taken, for a distance of five miles beyond its source of supply; to provide for the cleaning of areas, vaults, and other places within its corporate limits which may be so kept as to become offensive to the senses or dangerous to health, and to make all such quarantine or other regulations as may be necessary for the preservation of the public health, and to remove all persons afflicted with any infectious or contagious disease to some suitable place to be provided for that purpose;

(30) To declare what shall be a nuisance, and to abate the same, and to impose fines upon parties who may create, continue, or suffer nuisances to exist;

(31) To regulate the selling or giving away of intoxicating, malt, vinous, mixed, or fermented liquors as authorized by the general laws of the state: PROVIDED, That no license shall be granted to any person or persons who shall not first comply with the general laws of the state in force at the time the same is granted;

(32) To grant licenses for any lawful purpose, and to fix by ordinance the amount to be paid therefor, and to provide for revoking the same: PROVIDED, That no license shall be granted to continue for longer than one year from the date thereof;

(33) To regulate the carrying on within its corporate limits of all occupations which are of such a nature as to affect the public health or the good order of said city, or to disturb the public peace, and which are not prohibited by law, and to provide for the punishment of all persons violating such regulations, and of all persons who knowingly permit the same to be violated in any building or upon any premises owned or controlled by them;

(34) To restrain and provide for the punishment of vagrants, mendicants, prostitutes, and other disorderly persons;

(35) To provide for the punishment of all disorderly conduct, and of all practices dangerous to public health or safety, and to make all regulations necessary for the preservation of public morality, health, peace, and good order within its limits, and to provide for the arrest, trial, and punishment of all persons charged with violating any of the ordinances of said city. The punishment shall not exceed a fine of five thousand dollars or imprisonment in the city jail for one year, or both such fine and imprisonment. The punishment for any criminal ordinance shall be the same as the punishment provided in state law for the same crime. Such cities alternatively may provide that violations of ordinances constitute a civil violation subject to monetary penalties, but no act which is a state crime may be made a civil violation;

(36) To project or extend its streets over and across any tidelands within its corporate limits, and along or across the harbor areas of such city, in such manner as will best promote the interests of commerce;

(37) To provide in their respective charters for a method to propose and adopt amendments thereto.

[1993 c 83 § 4; 1990 c 189 § 3; 1986 c 278 § 3; 1984 c 258 § 802; 1977 ex.s. c 316 § 20; 1971 ex.s. c 16 § 1; 1965 ex.s. c 116 § 2; 1965 c 7 § 35.22.280. Prior: 1890 p 218 § 5; RRS § 8966.]

Notes:

Effective date--1993 c 83: See note following RCW 35.21.163.

Severability--1986 c 278: See note following RCW 36.01.010.

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

Severability--1977 ex.s. c 316: See note following RCW 70.48.020.

RCW 35.22.282 City and town license fees and taxes on financial institutions.

See chapter 82.14A RCW.

RCW 35.22.283 City license fees or taxes on certain business activities to be at a single uniform rate.

See RCW 35.21.710.

RCW 35.22.284 Association of sheriffs and police chiefs.

See chapter 36.28A RCW.

RCW 35.22.285 Nonpolluting power generation by individual--Exemption from regulation--Authorization to contract with utility.

See chapter 80.58 RCW.

RCW 35.22.287 Hydroelectric resources--Separate legal authority--Creation by irrigation districts and cities, towns, or public utility districts.

See RCW 87.03.825 through 87.03.840.

RCW 35.22.288 Publication of ordinances or summary--Public notice of hearings and meeting agendas.

Promptly after adoption, the text of each ordinance or a summary of the content of each ordinance shall be published at least once in the official newspaper of the city. For purposes of this section, a summary shall mean a brief description which succinctly describes the main points of the ordinance. Publication of the title of an ordinance authorizing the issuance of bonds, notes, or other evidences of indebtedness shall constitute publication of a summary of that ordinance. When the city publishes a summary, the publication shall include a statement that the full text of the ordinance will be mailed upon request.

An inadvertent mistake or omission in publishing the text or a summary of the content of an ordinance shall not render the ordinance invalid.

In addition to the requirement that a city publish the text or a summary of the content of each adopted ordinance, every city shall establish a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. Such procedure may include, but not be limited to, written notification to the city's official newspaper, publication of a notice in the official newspaper, posting of upcoming council meeting agendas,

or such other processes as the city determines will satisfy the intent of this requirement.

[1994 c 273 § 7; 1988 c 168 § 1; 1985 c 469 § 100.]

RCW 35.22.290 Additional powers--Auditoriums, art museums.

Every city of the first class may lease, purchase, or construct, and maintain public auditoriums and art museums and may use and let them for such public and private purposes for such compensation and rental and upon such conditions as shall be prescribed by ordinance; it may issue negotiable bonds for the purchase and construction thereof on such conditions and in such manner as shall be prescribed by its charter and by general law for the borrowing of money for corporate purposes.

[1965 c 7 § 35.22.290. Prior: 1925 ex.s. c 81 § 1; 1923 c 179 § 1; RRS § 8981-2.]

RCW 35.22.300 Leasing of land for auditoriums, etc.

If a city of the first class has acquired title to land for public auditoriums or art museums, it may let it or any part thereof, together with the structures and improvements constructed or to be constructed thereon for such term as may be deemed proper and may raise the needed funds for financing the project, in whole or in part, by transferring or pledging the use and income thereof in such manner as the corporate authorities deem proper.

Any lessee under any such lease may mortgage the leasehold interest and may issue bonds to be secured by the mortgage and may pledge the rent and income of the property to accrue during the term of the lease or any part thereof for the due financing of the project: PROVIDED, That the corporate authorities may specify in any such lease such provisions and restrictions relating thereto as they shall deem proper.

[1965 c 7 § 35.22.300. Prior: 1925 c 12 § 1; RRS § 8981-3.]

RCW 35.22.302 Conveyance or lease of space above real property or structures or improvements.

The legislative authority of every city of the first and second class owning real property, not limited by dedication or trust to a particular public use, may convey or lease for public or private use any estate, right or interest in the areas above the surface of the ground of such real property or structures or improvements thereon: PROVIDED, That the estate, right or interest so created and conveyed and the use authorized in connection therewith will not in the judgment of said legislative authority be needed for or be inconsistent with the public purposes for which such property was acquired, is being used, or to which it is to be devoted: PROVIDED FURTHER, That the legislative authority may impose conditions and restrictions on the use to be made of the estate, right or interest conveyed or leased, in the same manner and to the same extent as may be done by any vendor or lessor of real estate.

No conveyance or lease authorized by this section shall permit, authorize or suffer the

lessee or grantee to encumber that portion of the real estate devoted to or needed for public purposes.

[1967 ex.s. c 99 § 1.]

RCW 35.22.305 Department for administration, etc., of property incident to civic center--Creation authorized--Supervision--Authority.

The legislative authority of any city of the first class of more than four hundred thousand population shall have, notwithstanding any charter or statutory provision to the contrary, authority by ordinance to create a separate department of municipal government for the administration, management and control of any multiple use city property, including improvements thereon, devoted to educational, cultural, recreational, entertainment, athletic, convention and such other uses as shall be declared by ordinance to be incident to a civic center. The supervision of said department shall be by a manager, board or commission to be appointed in the manner, receive such compensation and perform such duties as may be prescribed by ordinance which may include authority to enter into leases, concessions and other agreements on behalf of the city, appoint and remove employees subject to applicable civil service provisions, advertise events and publicize and otherwise promote the use of such civic center facilities, and operate, manage and control municipal off-street parking and public transportation facilities heretofore or hereafter erected primarily to serve such civic center. All expenditures, purchases and improvements made or performed by or under the direction of said department shall be subject to applicable charter provisions and statutes.

[1965 c 132 § 1.]

RCW 35.22.310 Cesspools, filling of--Removal of debris, etc.

Every city of the first class is empowered to provide for the filling and closing of cesspools and for the removing of garbage, debris, grass, weeds, and brush on property in the city.

[1965 c 7 § 35.22.310. Prior: 1907 c 89 § 1; RRS § 8972.]

RCW 35.22.320 Collection of cost of filling cesspools, etc.

Every city of the first class by general ordinance may prescribe the mode and manner of assessing, levying and collecting assessments upon property for filling and closing cesspools thereon and removing garbage, debris, grass, weeds, and brush and provide that the charges therefor shall be a lien on the property upon which such work is done and collected in such manner as is prescribed in the ordinance.

[1965 c 7 § 35.22.320. Prior: 1907 c 89 § 2; RRS § 8973.]

RCW 35.22.330 Radio communication.

Every city of the first class maintaining a harbor department may install, maintain, and operate in connection therewith wireless telegraph stations for the handling of official and commercial messages and for communicating with wireless land and shore stations under such regulations as the corporate authorities may prescribe and in accordance with the statutes and regulations of the federal government.

[1965 c 7 § 35.22.330. Prior: 1923 c 92 § 1; RRS § 8981-1.]

RCW 35.22.340 Streets--Railroad franchises in, along, over and across.

Every city of the first class may by ordinance authorize the location, construction, and operation of railroads in, along, over, and across any highway, street, alley, or public place in the city for such term of years and upon such conditions as the city council may by ordinance prescribe notwithstanding any provisions of the city charter limiting the length of terms of franchises or requiring franchises to contain a provision granting the city the right to appropriate by purchase the property of any corporation receiving a franchise, license, privilege, or authority: PROVIDED, That this does not apply to street railroads nor to railroads operated in connection with street railroads in and along the streets of such city.

[1965 c 7 § 35.22.340. Prior: 1907 c 41 § 1; RRS § 8971.]

RCW 35.22.350 Utilities--Collective bargaining with employees.

Every city of the first class which owns and operates a waterworks system, a light and power system, a street railway or other public utility, shall have power, through its proper officers, to deal with and to enter into contracts for periods not exceeding one year with its employees engaged in the construction, maintenance, or operation thereof through the accredited representatives of the employees including any labor organization or organizations authorized to act for them concerning wages, hours and conditions of labor in such employment, and every city having not less than one hundred forty thousand nor more than one hundred and seventy thousand population is empowered and authorized to immediately place in effect any adjustment or change in such wages, hours and conditions of labor of such employees as may be required to conform to the provisions of any such contract, irrespective of the provisions of any annual budget or act relating thereto: PROVIDED, That not more than one such contract not in conformity with any annual budget shall be made during any budget year, nor shall any such adjustment or change be made which would result in an excess of expenditures over revenues of such public utility.

[1965 c 7 § 35.22.350. Prior: 1955 c 145 § 1; 1951 c 21 § 1; 1935 c 37 § 1; RRS § 8966-5.]

Notes:

Labor regulations: Title 49 RCW.

RCW 35.22.360 Utilities--Wage adjustments.

Notwithstanding any annual budget or statute relating thereto, any city of the first class owning and operating a public utility, or the city's public utility department, may make an adjustment or change of the rate of daily wages of employees of any such public utility if such adjustment or change is accompanied by or is approximately coincidental with a shortening of the work week of the employees and if the adjustment or change will not result in any increase in pay per week, or excess of expenditures of the public utility over its revenues.

[1965 c 7 § 35.22.360. Prior: 1937 c 16 § 1; RRS § 9000-22a.]

RCW 35.22.362 Nuclear thermal power facilities--Joint development with public utility districts and electrical companies.

See chapter 54.44 RCW.

RCW 35.22.365 Public transportation systems in municipalities--Financing.

See chapter 35.95 RCW.

RCW 35.22.370 Wards--Division of city.

Notwithstanding that the charter of a city of the first class may forbid the city council from redividing the city into wards except at stated periods, if the city has failed to redivide the city into wards during any such period, the city council by ordinance may do so at any time thereafter: PROVIDED, That there shall not be more than one redivision into wards during any one period specified in the charter.

[1965 c 7 § 35.22.370. Prior: 1903 c 141 § 1; RRS § 8970.]

RCW 35.22.410 Wharves--City may let wharves or privileges thereon.

Every city of the first class may let the whole or any part of a wharf, or the privileges thereon owned by the city, for periods not to exceed one year in such manner, and upon such terms, as may be prescribed by a general ordinance.

[1965 c 7 § 35.22.410. Prior: 1911 c 67 § 1; RRS § 8967.]

RCW 35.22.415 Municipal airport located in unincorporated area--Subject to county comprehensive plan and zoning ordinances.

Whenever a first class city owns and operates a municipal airport which is located in an unincorporated area of a county, the airport shall be subject to the county's comprehensive plan and zoning ordinances in the same manner as if the airport were privately owned and operated.

[1979 ex.s. c 124 § 10.]

Notes:

Severability--1979 ex.s. c 124: See note following RCW 35A.14.015.

RCW 35.22.425 Criminal code repeals by city operating municipal court--Agreement covering costs of handling resulting criminal cases--Arbitration.

A city of the first class operating a municipal court may not repeal in its entirety that portion of its municipal code defining crimes or repeal a provision of its municipal code which defines a crime equivalent to an offense listed in RCW 46.63.020 unless the municipality has reached an agreement with the appropriate county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall include provisions for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW.

[1984 c 258 § 204.]

Notes:

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

RCW 35.22.570 Omnibus grant of powers to first class cities.

Any city adopting a charter under the provisions of this chapter shall have all the powers which are conferred upon incorporated cities and towns by this title or other laws of the state, and all such powers as are usually exercised by municipal corporations of like character and degree.

[1965 c 7 § 35.22.570. Prior: 1890 p 224 § 7; RRS § 8981.]

RCW 35.22.580 Diversion of local improvement moneys prohibited--Refund of excess.

Whenever any city of the first class shall levy and collect moneys by sale of bonds or otherwise for any local improvement by special assessment therefor, the same shall be carried in a special fund to be used for said purpose, and no part thereof shall be transferred or diverted to any other fund or use: PROVIDED, That any funds remaining after the payment of the whole cost and expense of such improvement, in excess of the total sum required to defray all the expenditures by the city on account thereof, shall be refunded on demand to the amount of such overpayment: PROVIDED FURTHER, That this section shall not be deemed to require the refunding of any balance in any local improvement fund after the payment of all outstanding

obligations issued against such fund, where such balance accrues from any saving in interest or from penalties collected upon delinquent assessments, but any such balance may be turned into the general fund or otherwise disposed of, as the legislative authority of such city may direct by ordinance. The provisions of this section relating to the refund of excess local improvement district funds shall not apply to any district whose obligations are guaranteed by the local improvement guaranty fund.

[1965 c 7 § 35.22.580. Prior: 1917 c 58 § 1; 1915 c 17 § 1; RRS § 8983. Formerly RCW 35.45.100.]

RCW 35.22.590 Bonds voted by people--Transfer of excess to redemption fund.

(1) Whenever the issuance or sale of bonds or other obligations of any city of the first class has been authorized by vote of the people, as provided by any existing charter or laws, for any special improvement or purpose, the proceeds of the sale of such bonds including premiums if any shall be carried in a special fund to be devoted to the purpose for which such bonds were authorized, and no portion of such bonds shall be transferred or diverted to any other fund or purpose: PROVIDED, That nothing herein shall be held to prevent the transfer to the interest and redemption fund of any balance remaining in the treasury after the completion of such improvement or purpose so authorized: PROVIDED FURTHER, That nothing herein shall prevent the city council from disposing of such bonds, or any portion thereof, in such amounts and at such times as it shall direct, but no such bonds shall be sold for less than par. Such bonds may be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 35; 1965 c 7 § 35.22.590. Prior: 1915 c 17 § 2; RRS § 8984. Formerly RCW 35.45.110.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Elections: Title 29 RCW.

RCW 35.22.600 Liability for violations of RCW 35.22.580 or 35.22.590.

Any ordinance, resolution, order or other action of any city council, board or officer, and every city warrant or other instrument in writing made in violation of any of the provisions of RCW 35.22.580 or 35.22.590 shall be void, and every officer, agent or employee of any such city, or member of the city council, or other board thereof, and every private person or corporation who knowingly commits any violation thereof or knowingly aids in such violation, shall be liable to the city concerned for all moneys so transferred, diverted or paid out, which liability shall also attach to and be enforceable against the official bond (if any) of any such officer, agent, employee, member of city council or board.

[1965 c 7 § 35.22.600. Prior: 1915 c 17 § 3; RRS § 8985. Formerly RCW 35.45.120.]

RCW 35.22.610 Police officers--Appointment without regard to residence authorized.

Notwithstanding the provisions of RCW 35.21.200, as now or hereafter amended, all cities of the first class shall have the right and authority to appoint and employ a person as a regular or special police officer of said city regardless of his place of residence or domicile at the date of his appointment.

This provision shall supersede any provision of any city charter to the contrary.

[1967 ex.s. c 37 § 1.]

Notes:

Residence requirements for appointive city officials and employees: RCW 35.21.200.

RCW 35.22.620 Public works or improvements--Limitations on work by public employees--Small works roster--Purchase of reused or recycled materials or products.

(1) As used in this section, the term "public works" means as defined in RCW 39.04.010.

(2) A first class city may have public works performed by contract pursuant to public notice and call for competitive bids. As limited by subsection (3) of this section, a first class city may have public works performed by city employees in any annual or biennial budget period equal to a dollar value not exceeding ten percent of the public works construction budget, including any amount in a supplemental public works construction budget, over the budget period. The amount of public works that a first class city has a county perform for it under RCW 35.77.020 shall be included within this ten percent limitation.

If a first class city has public works performed by public employees in any budget period that are in excess of this ten percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that city in its next budget period. Twenty percent of the motor vehicle fuel tax distributions to that city shall be withheld if two years after the year in which the excess amount of work occurred, the city has failed to so reduce the amount of public works that it has performed by public employees. The amount so withheld shall be distributed to the city when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been so reduced.

Whenever a first class city has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works within that budget period shall be done by contract pursuant to public notice and call for competitive bids.

The state auditor shall report to the state treasurer any first class city that exceeds this amount and the extent to which the city has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(3) In addition to the percentage limitation provided in subsection (2) of this section, a first class city with a population in excess of one hundred fifty thousand shall not have public employees perform a public works project in excess of fifty thousand dollars if more than a single craft or trade is involved with the public works project, or a public works project in excess of twenty-five thousand dollars if only a single craft or trade is involved with the public works

project or the public works project is street signalization or street lighting. In addition to the percentage limitation provided in subsection (2) of this section, a first class city with a population of one hundred fifty thousand or less shall not have public employees perform a public works project in excess of thirty-five thousand dollars if more than one craft or trade is involved with the public works project, or a public works project in excess of twenty thousand dollars if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

(4) In addition to the accounting and record-keeping requirements contained in RCW 39.04.070, every first class city annually shall prepare a report for the state auditor indicating the total public works construction budget and supplemental public works construction budget for that year, the total construction costs of public works performed by public employees for that year, and the amount of public works that is performed by public employees above or below ten percent of the total construction budget. However, if a city budgets on a biennial basis, this annual report shall indicate the amount of public works that is performed by public employees within the current biennial period that is above or below ten percent of the total biennial construction budget.

Each first class city with a population of one hundred fifty thousand or less shall use the form required by RCW 43.09.205 to account and record costs of public works in excess of five thousand dollars that are not let by contract.

(5) The cost of a separate public works project shall be the costs of materials, supplies, equipment, and labor on the construction of that project. The value of the public works budget shall be the value of all the separate public works projects within the budget.

(6) The competitive bidding requirements of this section may be waived by the city legislative authority pursuant to RCW 39.04.280 if an exemption contained within that section applies to the work or contract.

(7) In lieu of the procedures of subsections (2) and (6) of this section, a first class city may let contracts using the small works roster process in RCW 39.04.155.

Whenever possible, the city shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section.

(8) The allocation of public works projects to be performed by city employees shall not be subject to a collective bargaining agreement.

(9) This section does not apply to performance-based contracts, as defined in *RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW.

(10) Nothing in this section shall prohibit any first class city from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

[2000 c 138 § 203; 1998 c 278 § 2; 1993 c 198 § 9; 1989 c 431 § 59; 1987 c 120 § 1. Prior: 1985 c 219 § 1; 1985 c 169 § 6; 1979 ex.s. c 89 § 1; 1975 1st ex.s. c 56 § 1.]

NOTES:

***Reviser's note:** RCW 39.35A.020 was amended by 2001 c 214 § 18, changing subsection (3) to subsection (4).

Purpose--Part headings not law--2000 c 138: See notes following RCW 39.04.155.

Severability--1989 c 431: See RCW 70.95.901.

Competitive bidding violations by municipal officer, penalties: RCW 39.30.020.

Subcontractors to be identified by bidder, when: RCW 39.30.060.

RCW 35.22.625 Public works or improvements--Inapplicability of RCW 35.22.620 to certain agreements relating to water pollution control, solid waste handling facilities.

RCW 35.22.620 does not apply to the selection of persons or entities to construct or develop water pollution control facilities or to provide water pollution control services under RCW 70.150.040 or the selection of persons or entities to construct or develop solid waste handling facilities or to provide solid waste handling services under RCW 35.21.156.

[1989 c 399 § 4; 1987 c 436 § 8.]

RCW 35.22.630 Public works or improvements--Cost amounts--How determined.

The cost of any public work or improvement for the purposes of RCW 35.22.620 and 35.22.640 shall be the aggregate of all amounts to be paid for labor, material, and equipment on one continuous or interrelated project where work is to be performed simultaneously or in close sequence: PROVIDED, That the cost of water services and metering equipment furnished by any first class city in the course of a water service installation from the utility-owned main to and including the meter box assembly shall not be included as part of the aggregate cost as provided herein. The breaking down of any public work or improvement into units or accomplishing any public work or improvement by phases for the purpose of avoiding the minimum dollar amount prescribed in RCW 35.22.620 is contrary to public policy and is prohibited.

[1975 1st ex.s. c 56 § 2.]

RCW 35.22.635 Public works or improvements--Low bidder claiming error--Prohibition on later bid for same project.

A low bidder who claims error and fails to enter into a contract with a city for a public works project is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

[1996 c 18 § 1.]

RCW 35.22.640 Public works or improvements--Electrical distribution and generating systems--Customer may contract with qualified electrical contractor.

Cities of the first class are relieved from complying with the provisions of RCW 35.22.620 with respect to any public work or improvement relating solely to electrical

distribution and generating systems on public rights of way or on municipally owned property: PROVIDED, That if a city-owned electrical utility directly assesses its customers a service installation charge for a temporary service, permanent service, or expanded service, the customer may, with the written approval of the city-owned electric utility, contract with a qualified electrical contractor licensed under chapter 19.28 RCW to install any material or equipment in lieu of having city utility personnel perform the installation. In the event the city-owned electric utility denies the customer's request to utilize a private electrical contractor for such installation work, it shall provide the customer with written reasons for such denial: PROVIDED FURTHER, That nothing herein shall prevent any first class city from operating a solid waste department utilizing its own personnel.

If a customer elects to employ a private electrical contractor as provided in this section, the private electrical contractor shall be solely responsible for any damages resulting from the installation of any temporary service, permanent service, or expanded service and the city-owned electrical utility shall be immune from any tortious conduct actions as to that installation.

[1983 c 217 § 1; 1975 1st ex.s. c 56 § 3.]

RCW 35.22.650 Public works or improvements--Minority business, employees--Contract, contents.

All contracts by and between a first class city and contractors for any public work or improvement exceeding the sum of ten thousand dollars, or fifteen thousand dollars for construction of water mains, shall contain the following clause:

"Contractor agrees that he shall actively solicit the employment of minority group members. Contractor further agrees that he shall actively solicit bids for the subcontracting of goods or services from qualified minority businesses. Contractor shall furnish evidence of his compliance with these requirements of minority employment and solicitation. Contractor further agrees to consider the grant of subcontracts to said minority bidders on the basis of substantially equal proposals in the light most favorable to said minority businesses. The contractor shall be required to submit evidence of compliance with this section as part of the bid."

As used in this section, the term "minority business" means a business at least fifty-one percent of which is owned by minority group members. Minority group members include, but are not limited to, blacks, women, native Americans, Orientals, Eskimos, Aleuts, and Spanish Americans.

[1975 1st ex.s. c 56 § 4.]

RCW 35.22.660 Child care facilities--Review of need and demand--Adoption of ordinances.

If a first class city zones pursuant to its inherent charter authority and not pursuant to chapter 35.63 RCW, and does not provide for the siting of family day care homes in zones or areas that are designated for single family or other residential uses, and for the siting of mini-day care centers and day care centers in zones or areas that are designated for any residential or

commercial uses, the city shall conduct a review of the need and demand for child care facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 30, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the *department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the *department of community development as to why such implementing ordinances were not adopted.

[1989 c 335 § 7.]

Notes:

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Findings--Purpose--Severability--1989 c 335: See notes following RCW 35.63.170.

Definitions for RCW 35.22.660: See RCW 35.63.170.

RCW 35.22.680 Residential care facilities--Review of need and demand--Adoption of ordinances.

If a first class city zones pursuant to its inherent charter authority and not pursuant to chapter 35.63 RCW, and does not provide for the siting of residential care facilities in zones or areas that are designated for single family or other residential uses, the city shall conduct a review of the need and demand for the facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 30, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the *department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the *department of community development as to why such implementing ordinances were not adopted.

[1989 c 427 § 39.]

Notes:

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Severability--1989 c 427: See RCW 74.39.900.

RCW 35.22.685 Conditional and special use permit applications by parties licensed or certified by the department of social and health services or the department of

corrections--Mediation prior to appeal required.

A final decision by a hearing examiner involving a conditional or special use permit application under a home-rule charter that is requested by a party that is licensed or certified by the department of social and health services or the department of corrections is subject to mediation under RCW 35.63.260 before an appeal may be filed.

[1998 c 119 § 4.]

RCW 35.22.690 First class cities subject to limitations on moratoria, interim zoning controls.

A first class city that plans under the authority of its charter is subject to the provisions of RCW 35.63.200.

[1992 c 207 § 2.]

RCW 35.22.695 Planning regulations--Copies provided to county assessor.

By July 31, 1997, a first class city planning under RCW 36.70A.040 shall provide to the county assessor a copy of the first class city's comprehensive plan and development regulations in effect on July 1st of that year and shall thereafter provide any amendments to the plan and regulations that were adopted before July 31st of each following year.

[1996 c 254 § 2.]

RCW 35.22.700 Conformance with chapter 43.97 RCW required.

With respect to the National Scenic Area, as defined in the Columbia River Gorge National Scenic Area Act, P.L. 99-663, the exercise of any power or authority by a city pursuant to this chapter shall be subject to and in conformity with the requirements of chapter 43.97 RCW, including the Interstate Compact adopted by RCW 43.97.015, and with the management plan regulations and ordinances adopted by the Columbia River Gorge commission pursuant to the Compact.

[1987 c 499 § 5.]

RCW 35.22.900 Liberal construction.

The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this chapter, but the same shall be liberally construed for the purpose of carrying out the objects for which this chapter is intended.

[1965 c 7 § 35.22.900. Prior: 1890 p 224 § 8.]

Chapter 35.23 RCW

SECOND CLASS CITIES

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Inhabitants at time of organization: RCW 35.01.020.
Judgment against local governmental entity, enforcement: RCW 6.17.080.
Limitations on indebtedness: State Constitution Art. 7 § 2 (Amendments 55, 59), Art. 8 § 6 (Amendment 27), chapter 39.36 RCW, RCW 84.52.050.
Lost and found property: Chapter 63.21 RCW.
Lowlands, local improvement: Chapters 35.55, 35.56 RCW.

Municipal utilities: Chapter 35.92 RCW.
Municipal water and sewer facilities act: Chapter 35.91 RCW.
Officers, salaries of, not to be changed during term: State Constitution Art. 11 § 8 (Amendment 57).
Organization under general laws required: State Constitution Art. 11 § 10 (Amendment 40).
Parking, off-street facilities: Chapter 35.86 RCW.
Rules for courts of limited jurisdiction: Volume 0.
Sanitary fills: Chapter 35.73 RCW.
Service of summons on, personal service: RCW 4.28.080.
Sidewalks, construction and reconstruction, generally: Chapter 35.69 RCW.
Streets and alleys, grades at higher elevation, drainage impracticable on private abutting land, effect: Chapter 35.73 RCW.
Unclaimed property in hands of city police: Chapter 63.32 RCW.

RCW 35.23.010 Rights, powers and privileges--Exchange of park purpose property.

Every city of the second class shall be entitled "City of . . . . . ." (naming it), and by such name shall have perpetual succession; may sue and be sued in all courts and in all proceedings; shall have and use a common seal which it may alter at pleasure; may acquire, hold, lease, use and enjoy property of every kind and control and dispose of it for the common benefit; and, upon making a finding that any property acquired for park purposes is not useful for such purposes and that an exchange thereof for other property to be dedicated for park purposes is in the public interest, may, with the consent of the dedicator or donor, his heirs, successors or assigns, exchange such property for other property to be dedicated for park purposes and make, execute and deliver proper conveyances to effect the exchange. In any case where owing to death or lapse of time there is neither donor, heir, successor, nor assigns to give consent to the exchange, then this consent may be executed by the grantee. Title to property so conveyed by the city shall vest in the grantee free and clear of any trust in favor of the public arising out of any prior dedication for park purposes.

[1965 c 7 § 35.23.010. Prior: 1953 c 190 § 1; 1907 c 241 § 1; RRS § 9006.]

RCW 35.23.021 City officers enumerated--Compensation--Appointment and removal.

The government of a second class city shall be vested in a mayor, a city council of seven members, a city attorney, a clerk, a treasurer, all elective; and a chief of police, municipal judge, city engineer, street superintendent, health officer and such other appointive officers as may be provided for by ordinance: PROVIDED, That the council may enact an ordinance providing for the appointment of the city clerk, city attorney, and treasurer by the mayor, which appointment shall be subject to confirmation by a majority vote of the city council. Such ordinance shall be enacted and become effective not later than thirty days prior to the first day allowed for filing declarations of candidacy for such offices when such offices are subject to an approaching city primary election. Elective incumbent city clerks, city attorneys, and city treasurers shall serve for the remainder of their unexpired term notwithstanding any appointment made pursuant to this section and RCW 35.23.051. If a free public library and reading room is established, five library

trustees shall be appointed. The city council by ordinance shall prescribe the duties and fix the compensation of all officers and employees: PROVIDED, That the provisions of any such ordinance shall not be inconsistent with any statute: PROVIDED FURTHER, That where the city council finds that the appointment of a full time city engineer is unnecessary, it may in lieu of such appointment, by resolution provide for the performance of necessary engineering services on either a part time, temporary or periodic basis by a qualified engineering firm, pursuant to any reasonable contract.

The mayor shall appoint and at his or her pleasure may remove all appointive officers except as otherwise provided herein: PROVIDED, That municipal judges shall be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering the judge incapable of performing the duties of his or her office. Every appointment or removal must be in writing signed by the mayor and filed with the city clerk.

[1994 c 81 § 35; 1993 c 47 § 1; 1987 c 3 § 9; 1969 c 116 § 1; 1965 ex.s. c 116 § 9; 1965 c 7 § 35.24.020. Prior: 1961 c 81 § 1; 1955 c 365 § 2; 1955 c 55 § 5; prior: (i) 1915 c 184 § 2; 1891 c 156 § 4; 1890 p 179 § 105; RRS § 9115. (ii) 1929 c 182 § 1, part; 1927 c 159 § 1; 1915 c 184 § 3, part; 1893 c 57 § 1; 1891 c 156 § 1; 1890 p 179 § 106; RRS § 9116, part. (iii) 1915 c 184 § 28; 1890 p 196 § 137; RRS § 9142. Formerly RCW 35.24.020.]

Notes:

Severability--1987 c 3: See note following RCW 3.46.020.

RCW 35.23.031 Eligibility to hold elective office.

No person is eligible to hold an elective office in a second class city unless the person is a resident and registered voter in the city.

[1997 c 361 § 7.]

RCW 35.23.051 Elections--Terms of office--Positions and wards.

General municipal elections in second class cities shall be held biennially in the odd-numbered years and shall be subject to general election law.

The terms of office of the mayor, city attorney, clerk, and treasurer shall be four years and until their successors are elected and qualified and assume office in accordance with RCW 29.04.170: PROVIDED, That if the offices of city attorney, clerk, and treasurer are made appointive, the city attorney, clerk, and treasurer shall not be appointed for a definite term: PROVIDED FURTHER, That the term of the elected treasurer shall not commence in the same biennium in which the term of the mayor commences, nor in which the terms of the city attorney and clerk commence if they are elected.

Council positions shall be numbered in each second class city so that council position seven has a two-year term of office and council positions one through six shall each have four-year terms of office. Each councilmember shall remain in office until a successor is elected and qualified and assumes office in accordance with RCW 29.04.170.

In its discretion the council of a second class city may divide the city by ordinance, into a convenient number of wards, not exceeding six, fix the boundaries of the wards, and change the

ward boundaries from time to time and as provided in RCW 29.70.100. No change in the boundaries of any ward shall be made within one hundred twenty days next before the date of a general municipal election, nor within twenty months after the wards have been established or altered. However, if a boundary change results in one ward being represented by more councilmembers than the number to which it is entitled, those having the shortest unexpired terms shall be assigned by the council to wards where there is a vacancy, and the councilmembers so assigned shall be deemed to be residents of the wards to which they are assigned for purposes of determining whether those positions are vacant.

Whenever such city is so divided into wards, the city council shall designate by ordinance the number of councilmembers to be elected from each ward, apportioning the same in proportion to the population of the wards. Thereafter the councilmembers so designated shall be elected by the voters resident in such ward, or by general vote of the whole city as may be designated in such ordinance. Council position seven shall not be associated with a ward and the person elected to that position may reside anywhere in the city and voters throughout the city may vote at a primary to nominate candidates for position seven, when a primary is necessary, and at a general election to elect the person to council position seven. Additional territory that is added to the city shall, by act of the council, be annexed to contiguous wards without affecting the right to redistrict at the expiration of twenty months after last previous division. The removal of a councilmember from the ward for which he or she was elected shall create a vacancy in such office.

Wards shall be redrawn as provided in chapter 29.70 RCW. Wards shall be used as follows: (1) Only a resident of the ward may be a candidate for, or hold office as, a councilmember of the ward; and (2) only voters of the ward may vote at a primary to nominate candidates for a councilmember of the ward. Voters of the entire city may vote at the general election to elect a councilmember of a ward, unless the city had prior to January 1, 1994, limited the voting in the general election for any or all council positions to only voters residing within the ward associated with the council positions. If a city had so limited the voting in the general election to only voters residing within the ward, then the city shall be authorized to continue to do so. The elections for the remaining council position or council positions that are not associated with a ward shall be conducted as if the wards did not exist.

[1997 c 361 § 13; 1995 c 134 § 8. Prior: 1994 c 223 § 17; 1994 c 81 § 36; 1979 ex.s. c 126 § 22; 1969 c 116 § 2; 1965 c 7 § 35.24.050; prior: 1963 c 200 § 15; 1959 c 86 § 4; 1955 c 365 § 3; 1955 c 55 § 6; prior: (i) 1929 c 182 § 1, part; 1927 c 159 § 1; 1915 c 184 § 3, part; 1893 c 57 § 1; 1891 c 156 § 1; 1890 p 179 § 106; RRS § 9116, part. (ii) 1941 c 108 § 1; 1939 c 87 § 1; Rem. Supp. 1941 § 9116-1. Formerly RCW 35.24.050.]

Notes:

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

RCW 35.23.081 Oath and bond of officers.

In a city of the second class, the treasurer, city attorney, clerk, chief of police, and such other officers as the council may require shall each, before entering upon the duties of office, take an oath of office and execute and file with the clerk an official bond in such penal sum as

the council shall determine, conditioned for the faithful performance of his or her duties and otherwise conditioned as may be provided by ordinance. The oath of office shall be filed with the county auditor.

[1994 c 81 § 37; 1987 c 3 § 10; 1986 c 167 § 18; 1965 c 7 § 35.24.080. Prior: 1915 c 184 § 5; 1893 c 70 § 1; 1890 p 179 § 107; RRS § 9118. Formerly RCW 35.24.080.]

Notes:

Severability--1987 c 3: See note following RCW 3.46.020.

Severability--1986 c 167: See note following RCW 29.01.055.

RCW 35.23.091 Compensation of officers--Expenses--Nonstate pensions.

The mayor and the members of the city council may be reimbursed for actual expenses incurred in the discharge of their official duties, upon presentation of a claim therefor, after allowance and approval thereof, by resolution of the city council; and each city councilmember may be paid for attending council meetings an amount which shall be fixed by ordinance and may be revised from time to time by ordinance, but any increase or reduction in the compensation attaching to an office shall not be applicable to the term then being served by the incumbent.

The city attorney, clerk and treasurer, if elective, shall severally receive at stated times a compensation to be fixed by ordinance by the city council.

The mayor and other officers shall receive such compensation as may be fixed by the city council at the time the estimates are made as provided by law.

Any city that provides a pension for any of its employees under a plan not administered by the state must notify the state auditor of the existence of the plan at the time of an audit of the city by the auditor. No city may establish a pension plan for its employees that is not administered by the state, except that any defined contribution plan in existence as of January 1, 1990, is deemed to have been authorized. No city that provides a defined contribution plan for its employees as authorized by this section may make any material changes in the terms or conditions of the plan after June 7, 1990.

[1990 c 212 § 1; 1973 1st ex.s. c 87 § 1; 1969 ex.s. c 270 § 8; 1965 c 105 § 1; 1965 c 7 § 35.24.090. Prior: 1961 c 89 § 7; 1941 c 115 § 1; 1915 c 184 § 7; 1893 c 70 § 2; 1890 p 180 § 109; Rem. Supp. 1941 § 9120. Formerly RCW 35.24.090.]

RCW 35.23.101 Vacancies.

The council of a second class city may declare a council position vacant if the councilmember is absent for three consecutive regular meetings without permission of the council. In addition, a vacancy in an elective office shall occur and shall be filled as provided in chapter 42.12 RCW.

Vacancies in offices other than that of mayor or city councilmember shall be filled by appointment of the mayor.

If there is a temporary vacancy in an appointive office due to illness, absence from the

city or other temporary inability to act, the mayor may appoint a temporary appointee to exercise the duties of the office until the temporary disability of the incumbent is removed.

[1995 c 134 § 9. Prior: 1994 c 223 § 19; 1994 c 81 § 38; 1965 c 7 § 35.24.100; prior: (i) 1919 c 113 § 1; 1915 c 184 § 6; 1890 p 180 § 108; RRS § 9119. (ii) 1907 c 228 § 5, part; RRS § 9203, part. Formerly RCW 35.24.100.]

Notes:
Vacancies in office of mayor filled from among city council members: RCW 35.23.191.

RCW 35.23.111 City attorney--Duties.

The city attorney shall advise the city authorities and officers in all legal matters pertaining to the business of the city and shall approve all ordinances as to form. He shall represent the city in all actions brought by or against the city or against city officials in their official capacity. He shall perform such other duties as the city council by ordinance may direct.

[1965 c 7 § 35.24.110. Prior: 1915 c 184 § 26; 1893 c 70 § 11; 1890 p 192 § 132; RRS § 9140. Formerly RCW 35.24.110.]

Notes:
Employment of legal interns: RCW 35.21.760.

RCW 35.23.121 City clerk--Duties--Deputies.

The city clerk shall keep a full and true record of every act and proceeding of the city council and keep such books, accounts and make such reports as may be required by the state auditor. The city clerk shall record all ordinances, annexing thereto his or her certificate giving the number and title of the ordinance, stating that the ordinance was published and posted according to law and that the record is a true and correct copy thereof. The record copy with the clerk's certificate shall be prima facie evidence of the contents of the ordinance and of its passage and publication and shall be admissible as such evidence in any court or proceeding.

The city clerk shall be custodian of the seal of the city and shall have authority to acknowledge the execution of all instruments by the city which require acknowledgment.

The city clerk may appoint a deputy for whose acts he or she and his or her bondsmen shall be responsible, and he or she and his or her deputy shall have authority to take all necessary affidavits to claims against the city and certify them without charge.

The city clerk shall perform such other duties as may be required by statute or ordinance.

[1995 c 301 § 36; 1965 c 7 § 35.24.120. Prior: 1915 c 184 § 25; RRS § 9139. Formerly RCW 35.24.120.]

RCW 35.23.131 City treasurer--Duties.

The city treasurer shall receive and safely keep all money which comes into his hands as treasurer, for all of which he shall execute triplicate receipts, one to be filed with the city clerk. He shall receive all money due the city and disburse it on warrants issued by the clerk countersigned by the mayor, and not otherwise. He shall make monthly settlements with the city

clerk at which time he shall deliver to the clerk the duplicate receipts for all money received and all canceled warrants as evidence of money paid.

[1965 c 7 § 35.24.130. Prior: 1915 c 184 § 24; 1893 c 70 § 8; 1890 p 192 § 132; RRS § 9138. Formerly RCW 35.24.130.]

RCW 35.23.134 Association of sheriffs and police chiefs.

See chapter 36.28A RCW.

RCW 35.23.141 Duty of officers collecting moneys.

Every officer collecting or receiving any money belonging to or for the use of the city shall settle with the clerk and immediately pay it into the treasury on the order of the clerk to be credited to the fund to which it belongs.

[1965 c 7 § 35.24.140. Prior: 1915 c 184 § 30; 1890 p 197 § 139; RRS § 9144. Formerly RCW 35.24.140.]

RCW 35.23.142 Combination of offices of treasurer with clerk--Authorized.

The city council of any city of the second class is authorized to provide by ordinance that the office of treasurer shall be combined with that of clerk, or that the office of clerk shall be combined with that of treasurer: PROVIDED, That such ordinance shall not be voted upon until the next regular meeting after its introduction.

[1994 c 81 § 39; 1969 c 116 § 3. Formerly RCW 35.24.142.]

RCW 35.23.144 Combination of offices of treasurer with clerk--Powers of clerk.

In the event that the office of treasurer is combined with the office of clerk so as to become the office of clerk-treasurer, the clerk shall exercise all the powers vested in and perform all the duties required to be performed by the treasurer, and in cases where the law requires the treasurer to sign or execute any papers or documents, it shall not be necessary for the clerk to sign as treasurer, but shall be sufficient if he signs as clerk.

[1969 c 116 § 4. Formerly RCW 35.24.144.]

RCW 35.23.146 Combination of offices of treasurer with clerk--Powers of treasurer.

In the event that the office of clerk is combined with the office of treasurer so as to become the office of treasurer-clerk, the treasurer shall exercise all the powers vested in and perform all the duties required to be performed by the clerk.

[1969 c 116 § 5. Formerly RCW 35.24.146.]

RCW 35.23.148 Combination of offices of treasurer with

clerk--Ordinance--Termination of combined offices.

The ordinance provided for combining said offices shall provide the date when the combination shall become effective, which date shall not be less than three months from the date when the ordinance becomes effective; and on and after said date the office of treasurer or clerk, as the case may be, shall be abolished. Any city which as herein provided, combined the office of treasurer with that of clerk or the office of clerk with that of treasurer may terminate such combination by ordinance, fixing the time when the combination shall cease and thereafter the duties of the offices shall be performed by separate officials: PROVIDED, That if the office of treasurer was combined with that of clerk, or an elective office of clerk was combined with the office of treasurer, the mayor shall appoint a treasurer and clerk who shall serve until the next regular municipal general election when a treasurer and clerk shall be elected for the term as provided by law unless such city has enacted an ordinance in accordance with *RCW 35.24.020.

[1969 c 116 § 6. Formerly RCW 35.24.148.]

Notes:

***Reviser's note:** RCW 35.24.020 was recodified as RCW 35.23.021 pursuant to 1994 c 81 § 90.

RCW 35.23.161 Chief of police and police department.

The department of police in a city of the second class shall be under the direction and control of the chief of police subject to the direction of the mayor. Any police officer may pursue and arrest violators of city ordinances beyond the city limits.

Every citizen shall lend the police chief aid, when required, for the arrest of offenders and maintenance of public order. With the concurrence of the mayor, the police chief may appoint additional police officers to serve for one day only under orders of the chief in the preservation of public order.

The police chief shall have the same authority as that conferred upon sheriffs for the suppression of any riot, public tumult, disturbance of the peace, or resistance against the laws or the public authorities in the lawful exercise of their functions and shall be entitled to the same protection.

The police chief shall perform such other services as may be required by statute or ordinances of the city.

[1994 c 81 § 40; 1987 c 3 § 11; 1977 ex.s. c 316 § 22; 1965 c 7 § 35.24.160. Prior: 1915 c 184 § 27; 1893 c 70 § 12; 1890 p 195 § 136; RRS § 9141. Formerly RCW 35.24.160.]

Notes:

Severability--1987 c 3: See note following RCW 3.46.020.

Severability--1977 ex.s. c 316: See note following RCW 70.48.020.

Commencement of actions: Chapter 4.28 RCW.

Duties of chief law enforcement officer receiving found property: RCW 63.21.050.

Law enforcement chaplains authorized: Chapter 41.22 RCW.

Unclaimed property in hands of city police: Chapter 63.32 RCW.

RCW 35.23.170 Park commissioners.

Councils of second class cities and towns may provide by ordinance, for a board of park commissioners, not to exceed seven in number, to be appointed by the mayor, with the consent of the city council, from citizens of recognized fitness for such position. No commissioner shall receive any compensation. The first commissioners shall determine by lot whose term of office shall expire each year, and a new commissioner shall be appointed annually to serve for a term of years corresponding in number to the number of commissioners in order that one term shall expire each year. Such board of park commissioners shall have only such powers and authority with respect to the management, supervision, and control of parks and recreational facilities and programs as are granted to it by the council.

[1994 c 81 § 16; 1973 c 76 § 1; 1965 c 7 § 35.23.170. Prior: 1953 c 86 § 1; 1925 ex.s. c 121 § 1; 1907 c 228 § 2; RRS § 9200.]

RCW 35.23.181 City council--Oath--Meetings.

The city council and mayor shall meet in January next succeeding the date of each general municipal election, and shall take the oath of office, and shall hold regular meetings at least once during each month but not to exceed one regular meeting in each week, at such times as may be fixed by ordinance.

Special meetings may be called by the mayor by written notice as provided in RCW 42.30.080. No ordinances shall be passed or contract let or entered into, or bill for the payment of money allowed at any special meeting.

All meetings of the city council shall be held at such place as may be designated by the city council. All final actions on resolutions and ordinances must take place within the corporate limits of the city. All meetings of the city council must be public.

[1993 c 199 § 2; 1965 c 7 § 35.24.180. Prior: 1915 c 184 § 10, part; 1893 c 70 § 3; 1890 p 181 § 113; RRS § 9123, part. Formerly RCW 35.24.180.]

RCW 35.23.191 City council--Mayor pro tempore.

The members of the city council, at their first meeting each calendar year and thereafter whenever a vacancy occurs in the office of mayor pro tempore, shall elect from among their number a mayor pro tempore, who shall hold office at the pleasure of the council and in case of the absence of the mayor, perform the duties of mayor except that he or she shall not have the power to appoint or remove any officer or to veto any ordinance. If a vacancy occurs in the office of mayor, the city council at their next regular meeting shall elect from among their number a mayor, who shall serve until a mayor is elected and certified at the next municipal election.

The mayor and the mayor pro tempore shall have power to administer oaths and affirmations, take affidavits and certify them. The mayor or the mayor pro tempore when acting as mayor, shall sign all conveyances made by the city and all instruments which require the seal of the city.

[1994 c 81 § 41; 1969 c 101 § 3; 1965 c 7 § 35.24.190. Prior: (i) 1915 c 184 § 10, part; 1893 c 70 § 3; 1890 p 181 § 113; RRS § 9123, part. (ii) 1915 c 184 § 23; RRS § 9137. Formerly RCW 35.24.190.]

RCW 35.23.201 City council--Meetings--Journal.

All meetings of the council shall be presided over by the mayor, or, in the mayor's absence, by the mayor pro tempore. The mayor shall have a vote only in the case of a tie in the votes of the councilmembers. If the clerk is absent from a council meeting, the mayor or mayor pro tempore shall appoint one of the members of the council as clerk pro tempore. The appointment of a councilmember as mayor pro tempore or clerk pro tempore shall not in any way abridge the councilmember's right to vote upon all questions coming before the council.

The clerk shall keep a correct journal of all proceedings and at the desire of any member the ayes and noes shall be taken on any question and entered in the journal.

[1994 c 81 § 42; 1965 c 107 § 1; 1965 c 7 § 35.24.200. Prior: (i) 1915 c 184 § 13, part; 1890 p 182 § 115; RRS § 9126, part. (ii) 1915 c 184 § 11, part; 1891 c 156 § 2; 1890 p 182 § 114; RRS § 9124, part. Formerly RCW 35.24.200.]

RCW 35.23.211 Ordinances--Style--Requisites--Veto.

The enacting clause of all ordinances in a second class city shall be as follows: "The city council of the city of . . . . . do ordain as follows:"

No ordinance shall contain more than one subject and that must be clearly expressed in its title.

No ordinance or any section thereof shall be revised or amended unless the new ordinance sets forth the revised ordinance or the amended section at full length.

No ordinance and no resolution or order shall have any validity or effect unless passed by the votes of at least four councilmembers.

No ordinance shall take effect until five days after the date of its publication unless otherwise provided in this title.

Every ordinance which passes the council in order to become valid must be presented to the mayor; if the mayor approves it, the mayor shall sign it, but if not, the mayor shall return it with written objections to the council and the council shall cause the mayor's objections to be entered at large upon the journal and proceed to a reconsideration thereof. If upon reconsideration five members of the council voting upon a call of yeas and nays favor its passage, the ordinance shall become valid notwithstanding the mayor's veto. If the mayor fails for ten days to either approve or veto an ordinance, it shall become valid without the approval of the mayor.

Every ordinance shall be signed by the mayor and attested by the clerk.

[1994 c 81 § 43; 1965 c 7 § 35.24.210. Prior: (i) 1915 c 184 § 11, part; 1891 c 156 § 2; 1890 p 182 § 114; RRS § 9124, part. (ii) 1915 c 184 § 12, part; 1893 c 70 § 4; 1890 p 182 § 116; RRS § 9125, part. (iii) 1915 c 184 § 18, part; 1890 p 186 § 118; RRS § 9132, part. Formerly RCW 35.24.210.]

Notes:
Codification of city or town ordinances: RCW 35.21.500 through 35.21.570.

RCW 35.23.221 Ordinances--Publication--Summary--Public notice of hearings and meeting agendas.

Promptly after adoption, the text of each ordinance or a summary of the content of each ordinance shall be published at least once in the city's official newspaper.

For purposes of this section, a summary shall mean a brief description which succinctly describes the main points of the ordinance. Publication of the title of an ordinance authorizing the issuance of bonds, notes, or other evidences of indebtedness shall constitute publication of a summary of that ordinance. When the city publishes a summary, the publication shall include a statement that the full text of the ordinance will be mailed upon request.

An inadvertent mistake or omission in publishing the text or a summary of the content of an ordinance shall not render the ordinance invalid.

In addition to the requirement that a city publish the text or a summary of the content of each adopted ordinance, every city shall establish a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. Such procedure may include, but not be limited to, written notification to the city's official newspaper, publication of a notice in the official newspaper, posting of upcoming council meeting agendas, or such other processes as the city determines will satisfy the intent of this requirement.

[1994 c 273 § 10; 1988 c 168 § 4; 1987 c 400 § 1; 1985 c 469 § 25; 1965 c 7 § 35.24.220. Prior: (i) 1915 c 184 § 18, part; 1890 p 186 § 118; RRS § 9132, part. (ii) 1915 c 184 § 12, part; 1893 c 70 § 4; 1890 p 182 § 116; RRS § 9125, part. Formerly RCW 35.24.220.]

RCW 35.23.251 Ordinances granting franchises--Requisites.

No ordinance or resolution granting any franchise for any purpose shall be passed by the city council on the day of its introduction, nor for five days thereafter, nor at any other than a regular meeting nor without first being submitted to the city attorney.

No franchise or valuable privilege shall be granted unless by the vote of at least five members of the city council.

The city council may require a bond in a reasonable amount for any person or corporation obtaining a franchise from the city conditioned for the faithful performance of the conditions and terms of the franchise and providing a recovery on the bond in case of failure to perform the terms and conditions of franchise.

[1965 c 7 § 35.24.250. Prior: (i) 1915 c 184 § 12, part; 1893 c 70 § 4; 1890 p 182 § 116; RRS § 9125, part. (ii) 1907 c 228 § 1, part; RRS § 9199, part. Formerly RCW 35.24.250.]

RCW 35.23.261 Audit and allowance of demands against city.

All demands against the city shall be presented to and audited by the city council in

accordance with such regulations as it may by ordinance prescribe; and upon the allowance of a demand, the clerk shall draw a warrant upon the treasurer for it, which warrant shall be countersigned by the mayor and shall specify for what purpose it is drawn and out of which fund it is to be paid.

[1965 c 7 § 35.24.260. Prior: 1915 c 184 § 19; 1890 p 186 § 119; RRS § 9133. Formerly RCW 35.24.260.]

RCW 35.23.270 City council--Quorum--Rules--Journal, etc.

A majority of the councilmembers shall constitute a quorum for the transaction of business. A less number may compel the attendance of absent members and may adjourn from time to time. The council shall determine its rules of proceedings. The council may punish their members for disorderly conduct and upon written charges entered upon the journal therefor, may, after trial, expel a member by two-thirds vote of all the members elected. All orders of the city council shall be entered upon the journal of its proceedings, which journal shall be signed by the officer who presided at the meeting. The journal shall be kept by the clerk under the council's direction.

[1994 c 81 § 17; 1965 c 7 § 35.23.270. Prior: (i) 1907 c 241 § 28, part; 1890 p 148 § 37; RRS § 9033, part. (ii) 1907 c 241 § 59; 1890 p 159 § 49; RRS § 9062.]

RCW 35.23.290 City council--Entry of ayes and noes on journal.

At any time, at the request of any two members the ayes and noes on any question may be taken and entered upon the journal and they must be so taken and entered upon the passage of all ordinances appropriating money, imposing taxes, abolishing licenses, increasing or lessening the amount to be paid for licenses.

[1965 c 7 § 35.23.290. Prior: (i) 1907 c 241 § 28, part; 1890 p 148 § 37; RRS § 9033, part. (ii) 1907 c 241 § 60; 1890 p 159 § 50; RRS § 9063.]

RCW 35.23.311 Eminent domain.

Whenever it shall become necessary for the city to take or damage private property for the purpose of establishing, laying out, extending and widening streets and other public highways and places within the city, or for the purpose of securing rights-of-way for drains, sewers and aqueducts, and for the purpose of widening, straightening or diverting the channels of streams and the improvement of waterfronts, or any other public purpose, and the city council cannot agree with the owner thereof as to the price to be paid, the city council may proceed to acquire, take or damage the same in the manner provided by chapter 8.12 RCW or by chapter 8.20 RCW.

[1965 c 7 § 35.24.310. Prior: 1915 c 184 § 22; RRS § 9136. Formerly RCW 35.24.310.]

RCW 35.23.330 Limitation on allowance of claims, warrants, etc.

No claim shall be allowed against the city by the city council, nor shall the city council order any warrants to be drawn except at a general meeting of the council. The council shall never allow, make valid, or recognize any demand against the city which was not a valid claim against it when the obligation was created, nor authorize to be paid any demand which without such action would be invalid or which is then barred by the statute of limitations, or for which the city was never liable, and any such action shall be void.

[1965 c 7 § 35.23.330. Prior: (i) 1907 c 241 § 35; RRS § 9042. (ii) 1907 c 241 § 72, part; RRS § 9075, part.]

RCW 35.23.331 Nuisances.

Every act or thing done or being within the limits of a second class city which is declared by law or by ordinance to be a nuisance shall be a nuisance and shall be so considered in all actions and proceedings. All remedies given by law for the prevention and abatement of nuisances shall apply thereto.

[1994 c 81 § 46; 1965 c 7 § 35.24.330. Prior: 1915 c 184 § 21; 1890 p 187 § 123; RRS § 9135. Formerly RCW 35.24.330.]

Notes:
Public nuisances: Chapter 9.66 RCW.

RCW 35.23.351 Application of RCW 35.23.352 to certain agreements relating to water pollution control, solid waste handling facilities.

RCW 35.23.352 does not apply to the selection of persons or entities to construct or develop water pollution control facilities or to provide water pollution control services under RCW 70.150.040 or the selection of persons or entities to construct or develop solid waste handling facilities or to provide solid waste handling services under RCW 35.21.156.

[1989 c 399 § 5; 1986 c 244 § 10.]

Notes:
Severability--1986 c 244: See RCW 70.150.905.

RCW 35.23.352 Public works--Contracts--Bids--Small works roster--Purchasing requirements, recycled or reused materials or products.

(1) Any second class city or any town may construct any public works, as defined in RCW 39.04.010, by contract or day labor without calling for bids therefor whenever the estimated cost of the work or improvement, including cost of materials, supplies and equipment will not exceed the sum of thirty thousand dollars if more than one craft or trade is involved with the public works, or twenty thousand dollars if a single craft or trade is involved with the public works or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be

performed by day labor on a single project.

Whenever the cost of the public work or improvement, including materials, supplies and equipment, will exceed these figures, the same shall be done by contract. All such contracts shall be let at public bidding upon publication of notice calling for sealed bids upon the work. The notice shall be published in the official newspaper, or a newspaper of general circulation most likely to bring responsive bids, at least thirteen days prior to the last date upon which bids will be received. The notice shall generally state the nature of the work to be done that plans and specifications therefor shall then be on file in the city or town hall for public inspections, and require that bids be sealed and filed with the council or commission within the time specified therein. Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal deposit. The council or commission of the city or town shall let the contract to the lowest responsible bidder or shall have power by resolution to reject any or all bids and to make further calls for bids in the same manner as the original call.

When the contract is let then all bid proposal deposits shall be returned to the bidders except that of the successful bidder which shall be retained until a contract is entered into and a bond to perform the work furnished, with surety satisfactory to the council or commission, in accordance with RCW 39.08.030. If the bidder fails to enter into the contract in accordance with his or her bid and furnish a bond within ten days from the date at which he or she is notified that he or she is the successful bidder, the check or postal money order and the amount thereof shall be forfeited to the council or commission or the council or commission shall recover the amount of the surety bond. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

If no bid is received on the first call the council or commission may readvertise and make a second call, or may enter into a contract without any further call or may purchase the supplies, material or equipment and perform the work or improvement by day labor.

(2) The allocation of public works projects to be performed by city or town employees shall not be subject to a collective bargaining agreement.

(3) In lieu of the procedures of subsection (1) of this section, a second class city or a town may let contracts using the small works roster process provided in RCW 39.04.155.

Whenever possible, the city or town shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section.

(4) The form required by RCW 43.09.205 shall be to account and record costs of public works in excess of five thousand dollars that are not let by contract.

(5) The cost of a separate public works project shall be the costs of the materials, equipment, supplies, and labor on that construction project.

(6) Any purchase of supplies, material, or equipment, except for public work or improvement, where the cost thereof exceeds seven thousand five hundred dollars shall be made upon call for bids.

(7) Bids shall be called annually and at a time and in the manner prescribed by ordinance for the publication in a newspaper of general circulation in the city or town of all notices or

newspaper publications required by law. The contract shall be awarded to the lowest responsible bidder.

(8) For advertisement and formal sealed bidding to be dispensed with as to purchases with an estimated value of fifteen thousand dollars or less, the council or commission must authorize by resolution, use of the uniform procedure provided in RCW 39.04.190.

(9) The city or town legislative authority may waive the competitive bidding requirements of this section pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

(10) This section does not apply to performance-based contracts, as defined in *RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW.

(11) Nothing in this section shall prohibit any second class city or any town from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

[2000 c 138 § 204; 1998 c 278 § 3; 1996 c 18 § 2. Prior: 1994 c 273 § 9; 1994 c 81 § 18; 1993 c 198 § 10; 1989 c 431 § 56; 1988 c 168 § 3; 1987 c 120 § 2; prior: 1985 c 469 § 24; 1985 c 219 § 2; 1985 c 169 § 7; 1979 ex.s. c 89 § 2; 1977 ex.s. c 41 § 1; 1974 ex.s. c 74 § 2; 1965 c 114 § 1; 1965 c 7 § 35.23.352; prior: 1957 c 121 § 1; 1951 c 211 § 1; prior: (i) 1907 c 241 § 52; RRS § 9055. (ii) 1915 c 184 § 31; RRS § 9145. (iii) 1947 c 151 § 1; 1890 p 209 § 166; Rem. Supp. 1947 § 9185.]

NOTES:

***Reviser's note:** RCW 39.35A.020 was amended by 2001 c 214 § 18, changing subsection (3) to subsection (4).

Purpose--Part headings not law--2000 c 138: See notes following RCW 39.04.155.

Severability--1989 c 431: See RCW 70.95.901.

Competitive bidding violations by municipal officer, penalties: RCW 39.30.020.

Subcontractors to be identified by bidder, when: RCW 39.30.060.

RCW 35.23.371 Taxation--Street poll tax.

A second class city may impose upon and collect from every inhabitant of the city over the age of eighteen years an annual street poll tax not exceeding two dollars and no other road poll tax shall be collected within the limits of the city.

[1994 c 81 § 47; 1973 1st ex.s. c 154 § 51; 1971 ex.s. c 292 § 61; 1965 c 7 § 35.24.370. Prior: 1905 c 75 § 1, part; 1890 p 201 § 154; RRS § 9210, part. Formerly RCW 35.24.370.]

Notes:

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

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

RCW 35.23.380 Exclusive franchises prohibited.

No exclusive franchise or privilege shall be granted for the use of any street, alley, highway, or public place or any part thereof.

[1965 c 7 § 35.23.380. Prior: 1907 c 241 § 32; RRS § 9039.]

RCW 35.23.410 Leasing of street ends on waterfront.

The city council may lease for business purposes portions of the ends of streets terminating in the waterfront or navigable waters of the city with the written consent of all the property owners whose properties abut upon the portion proposed to be leased. The lease may be made for any period not exceeding fifteen years but must provide that at intervals of every five years during the term, the rental to be paid by the lessee shall be readjusted between him and the city by mutual agreement, or if they cannot agree by a board of arbitration, one to be chosen by the city, one by the lessee and the third by the other two, their decision to be final. The vote of two-thirds of all the councilmen elected is necessary to authorize such a lease.

[1965 c 7 § 35.23.410. Prior: 1907 c 241 § 67, part; RRS § 9070, part.]

RCW 35.23.420 Notice of lease to be published before execution.

No lease of a portion of the end of a street terminating in the waterfront or navigable waters of the city shall be made until a notice describing the portion of the street proposed to be leased, to whom and for what purpose leased and the proposed rental to be paid has been published by the city clerk in the official newspaper at least fifteen days prior to the execution of the lease.

[1965 c 7 § 35.23.420. Prior: 1907 c 241 § 67, part; RRS § 9070, part.]

RCW 35.23.430 Railroads in streets to be assessed for street improvement.

If an improvement is made upon a street occupied by a street railway or any railroad enjoying a franchise on the street, the city council shall assess against the railroad its just proportion of making the improvement which shall be not less than the expense of improving the space between the rails of the railroad and for a distance of one foot on each side. The assessment against the railroad shall be made on the rolls of the improvement district the same as against other property in the district and shall be a lien on that portion of the railroad within the district from the time of the equalization of the roll. The lien may be foreclosed by a civil action in superior court and the same period of redemption from any sale on foreclosure shall be allowed as is allowed in cases of sale of real estate upon execution.

[1965 c 7 § 35.23.430. Prior: 1907 c 241 § 65; RRS § 9068.]

RCW 35.23.440 Specific powers enumerated.

The city council of each second class city shall have power and authority:

(1) Ordinances: To make and pass all ordinances, orders, and resolutions not repugnant to the Constitution of the United States or the state of Washington, or the provisions of this title, necessary for the municipal government and management of the affairs of the city, for the execution of the powers vested in said body corporate, and for the carrying into effect of the provisions of this title.

(2) License of shows: To fix and collect a license tax, for the purposes of revenue and regulation, on theatres, melodeons, balls, concerts, dances, theatrical, circus, or other performances, and all performances where an admission fee is charged, or which may be held in any house or place where wines or liquors are sold to the participators; also all shows, billiard tables, pool tables, bowling alleys, exhibitions, or amusements.

(3) Hotels, etc., licenses: To fix and collect a license tax for the purposes of revenue and regulation on and to regulate all taverns, hotels, restaurants, banks, brokers, manufactories, livery stables, express companies and persons engaged in transmitting letters or packages, railroad, stage, and steamboat companies or owners, whose principal place of business is in such city, or who have an agency therein.

(4) Peddlers', etc., licenses: To license, for the purposes of revenue and regulation, tax, prohibit, suppress, and regulate all raffles, hawkers, peddlers, pawnbrokers, refreshment or coffee stands, booths, or sheds; and to regulate as authorized by state law all tippling houses, dram shops, saloons, bars, and barrooms.

(5) Dance houses: To prohibit or suppress, or to license and regulate all dance houses, fandango houses, or any exhibition or show of any animal or animals.

(6) License vehicles: To license for the purposes of revenue and regulation, and to tax hackney coaches, cabs, omnibuses, drays, market wagons, and all other vehicles used for hire, and to regulate their stands, and to fix the rates to be charged for the transportation of persons, baggage, and property.

(7) Hotel runners: To license or suppress runners for steamboats, taverns, or hotels.

(8) License generally: To fix and collect a license tax for the purposes of revenue and regulation, upon all occupations and trades, and all and every kind of business authorized by law not heretofore specified: PROVIDED, That on any business, trade, or calling not provided by law to be licensed for state and county purposes, the amount of license shall be fixed at the discretion of the city council, as they may deem the interests and good order of the city may require.

(9) Riots: To prevent and restrain any riot or riotous assemblages, disturbance of the peace, or disorderly conduct in any place, house, or street in the city.

(10) Nuisances: To declare what shall be deemed nuisances; to prevent, remove, and abate nuisances at the expense of the parties creating, causing, or committing or maintaining the same, and to levy a special assessment on the land or premises whereon the nuisance is situated to defray the cost or to reimburse the city for the cost of abating the same.

(11) Stock pound: To establish, maintain, and regulate a common pound for estrays, and to appoint a poundkeeper, who shall be paid out of the fines and fees imposed and collected of the owners of any animals impounded, and from no other source; to prevent and regulate the running at large of any and all domestic animals within the city limits or any parts thereof, and to regulate or prevent the keeping of such animals within any part of the city.

(12) Control of certain trades: To control and regulate slaughterhouses, washhouses, laundries, tanneries, forges, and offensive trades, and to provide for their exclusion or removal from the city limits, or from any part thereof.

(13) Street cleaning: To provide, by regulation, for the prevention and summary removal

of all filth and garbage in streets, sloughs, alleys, back yards, or public grounds of such city, or elsewhere therein.

(14) Gambling, etc.: To prohibit and suppress all gaming and all gambling or disorderly houses, and houses of ill fame, and all immoral and indecent amusements, exhibitions, and shows.

(15) Markets: To establish and regulate markets and market places.

(16) Speed of railroad cars: To fix and regulate the speed at which any railroad cars, streetcars, automobiles, or other vehicles may run within the city limits, or any portion thereof.

(17) City commons: To provide for and regulate the commons of the city.

(18) Fast driving: To regulate or prohibit fast driving or riding in any portion of the city.

(19) Combustibles: To regulate or prohibit the loading or storage of gunpowder and combustible or explosive materials in the city, or transporting the same through its streets or over its waters.

(20) Property: To have, purchase, hold, use, and enjoy property of every name or kind whatsoever, and to sell, lease, transfer, mortgage, convey, control, or improve the same; to build, erect, or construct houses, buildings, or structures of any kind needful for the use or purposes of such city.

(21) Fire department: To establish, continue, regulate, and maintain a fire department for such city, to change or reorganize the same, and to disband any company or companies of the said department; also, to discontinue and disband said fire department, and to create, organize, establish, and maintain a paid fire department for such city.

(22) Water supply: To adopt, enter into, and carry out means for securing a supply of water for the use of such city or its inhabitants, or for irrigation purposes therein.

(23) Overflow of water: To prevent the overflow of the city or to secure its drainage, and to assess the cost thereof to the property benefited.

(24) House numbers: To provide for the numbering of houses.

(25) Health board: To establish a board of health; to prevent the introduction and spread of disease; to establish a city infirmary and to provide for the indigent sick; and to provide and enforce regulations for the protection of health, cleanliness, peace, and good order of the city; to establish and maintain hospitals within or without the city limits; to control and regulate interments and to prohibit them within the city limits.

(26) Harbors and wharves: To build, alter, improve, keep in repair, and control the waterfront; to erect, regulate, and repair wharves, and to fix the rate of wharfage and transit of wharf, and levy dues upon vessels and commodities; and to provide for the regulation of berths, landing, stationing, and removing steamboats, sail vessels, rafts, barges, and all other watercraft; to fix the rate of speed at which steamboats and other steam watercraft may run along the waterfront of the city; to build bridges so as not to interfere with navigation; to provide for the removal of obstructions to the navigation of any channel or watercourses or channels.

(27) License of steamers: To license steamers, boats, and vessels used in any watercourse in the city, and to fix and collect a license tax thereon.

(28) Ferry licenses: To license ferries and toll bridges under the law regulating the granting of such license.

(29) Penalty for violation of ordinances: To provide that violations of ordinances with the punishment for any offense not exceeding a fine of five thousand dollars or imprisonment for more than one year, or both fine and imprisonment, but the punishment for any criminal ordinance shall be the same as the punishment provided in state law for the same crime. Alternatively, such a city may provide that a violation of an ordinance constitutes a civil violation subject to monetary penalties or to determine and impose fines for forfeitures and penalties, but no act which is a state crime may be made a civil violation. A violation of an order, regulation, or ordinance relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of an order, regulation, or ordinance equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor.

(30) Police department: To create and establish a city police; to prescribe their duties and their compensation; and to provide for the regulation and government of the same.

(31) Examine official accounts: To examine, either in open session or by committee, the accounts or doings of all officers or other persons having the care, management, or disposition of moneys, property, or business of the city.

(32) Contracts: To make all appropriations, contracts, or agreements for the use or benefit of the city and in the city's name.

(33) Streets and sidewalks: To provide by ordinance for the opening, laying out, altering, extending, repairing, grading, paving, planking, graveling, macadamizing, or otherwise improving of public streets, avenues, and other public ways, or any portion of any thereof; and for the construction, regulation, and repair of sidewalks and other street improvements, all at the expense of the property to be benefited thereby, without any recourse, in any event, upon the city for any portion of the expense of such work, or any delinquency of the property holders or owners, and to provide for the forced sale thereof for such purposes; to establish a uniform grade for streets, avenues, sidewalks, and squares, and to enforce the observance thereof.

(34) Waterways: To clear, cleanse, alter, straighten, widen, fill up, or close any waterway, drain, or sewer, or any watercourse in such city when not declared by law to be navigable, and to assess the expense thereof, in whole or in part, to the property specially benefited.

(35) Sewerage: To adopt, provide for, establish, and maintain a general system of sewerage, draining, or both, and the regulation thereof; to provide funds by local assessments on the property benefited for the purpose aforesaid and to determine the manner, terms, and place of connection with main or central lines of pipes, sewers, or drains established, and compel compliance with and conformity to such general system of sewerage or drainage, or both, and the regulations of said council thereto relating, by the infliction of suitable penalties and forfeitures against persons and property, or either, for nonconformity to, or failure to comply with the provisions of such system and regulations or either.

(36) Buildings and parks: To provide for all public buildings, public parks, or squares, necessary or proper for the use of the city.

(37) Franchises: To permit the use of the streets for railroad or other public service purposes.

(38) Payment of judgments: To order paid any final judgment against such city, but none of its lands or property of any kind or nature, taxes, revenue, franchise, or rights, or interest, shall be attached, levied upon, or sold in or under any process whatsoever.

(39) Weighing of fuel: To regulate the sale of coal and wood in such city, and may appoint a measurer of wood and weigher of coal for the city, and define his duties, and may prescribe his term of office, and the fees he shall receive for his services: PROVIDED, That such fees shall in all cases be paid by the parties requiring such service.

(40) Hospitals, etc.: To erect and establish hospitals and pesthouses and to control and regulate the same.

(41) Waterworks: To provide for the erection, purchase, or otherwise acquiring of waterworks within or without the corporate limits of the city to supply such city and its inhabitants with water, and to regulate and control the use and price of the water so supplied.

(42) City lights: To provide for lighting the streets and all public places of the city and for furnishing the inhabitants of the city with gas, electric, or other light, and for the ownership, purchase or acquisition, construction, or maintenance of such works as may be necessary or convenient therefor: PROVIDED, That no purchase of any such water plant or light plant shall be made without first submitting the question of such purchase to the electors of the city.

(43) Parks: To acquire by purchase or otherwise land for public parks, within or without the limits of the city, and to improve the same.

(44) Bridges: To construct and keep in repair bridges, and to regulate the use thereof.

(45) Power of eminent domain: In the name of and for the use and benefit of the city, to exercise the right of eminent domain, and to condemn lands and property for the purposes of streets, alleys, parks, public grounds, waterworks, or for any other municipal purpose and to acquire by purchase or otherwise such lands and property as may be deemed necessary for any of the corporate uses provided for by this title, as the interests of the city may from time to time require.

(46) To provide for the assessment of taxes: To provide for the assessment, levying, and collecting of taxes on real and personal property for the corporate uses and purposes of the city and to provide for the payment of the debts and expenses of the corporation.

(47) Local improvements: To provide for making local improvements, and to levy and collect special assessments on the property benefited thereby and for paying the same or any portion thereof; to determine what work shall be done or improvements made, at the expense, in whole or in part, of the adjoining, contiguous, or proximate property, and to provide for the manner of making and collecting assessments therefor.

(48) Cemeteries: To regulate the burial of the dead and to establish and regulate cemeteries, within or without the corporate limits, and to acquire lands therefor by purchase or otherwise.

(49) Fire limits: To establish fire limits with proper regulations and to make all needful regulations for the erection and maintenance of buildings or other structures within the corporate limits as safety of persons or property may require, and to cause all such buildings and places as may from any cause be in a dangerous state to be put in a safe condition; to regulate the manner in which stone, brick, and other buildings, party walls, and partition fences shall be constructed

and maintained.

(50) Safety and sanitary measures: To require the owners of public halls, theaters, hotels, and other buildings to provide suitable means of exit and proper fire escapes; to provide for the cleaning and purification of watercourses and canals and for the draining and filling up of ponds on private property within its limits when the same shall be offensive to the senses or dangerous to the health, and to charge the expense thereof to the property specially benefited, and to regulate and control and provide for the prevention and punishment of the defilement or pollution of all streams running in or through its corporate limits and a distance of five miles beyond its corporate limits, and of any stream or lake from which the water supply of the city is or may be taken and for a distance of five miles beyond its source of supply, and to make all quarantine and other regulations as may be necessary for the preservation of the public health and to remove all persons afflicted with any contagious disease to some suitable place to be provided for that purpose.

(51) To regulate liquor traffic: To regulate the selling or giving away of intoxicating, spirituous, malt, vinous, mixed, or fermented liquors as authorized by the general laws of the state.

(52) To establish streets on tidelands: To project or extend or establish streets over and across any tidelands within the limits of such city.

(53) To provide for the general welfare.

[1994 c 81 § 19; 1993 c 83 § 5; 1986 c 278 § 4. Prior: 1984 c 258 § 803; 1984 c 189 § 5; 1979 ex.s. c 136 § 28; 1977 ex.s. c 316 § 21; 1965 ex.s. c 116 § 7; 1965 c 7 § 35.23.440; prior: 1907 c 241 § 29; 1890 p 148 § 38; RRS § 9034.]

Notes:

Effective date--1994 c 81 § 19: "Section 19 of this act shall take effect July 1, 1994." [1994 c 81 § 91.]

Effective date--1993 c 83: See note following RCW 35.21.163.

Severability--1986 c 278: See note following RCW 36.01.010.

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

Effective date--Severability--1979 ex.s. c 136: See notes following RCW 46.63.010.

Severability--1977 ex.s. c 316: See note following RCW 70.48.020.

RCW 35.23.442 City and town license fees and taxes on financial institutions.

See chapter 82.14A RCW.

RCW 35.23.443 City license fees or taxes on certain business activities to be at a single uniform rate.

See RCW 35.21.710.

RCW 35.23.444 Nonpolluting power generation by individual--Exemption from regulation--Authorization to contract with utility.

See chapter 80.58 RCW.

RCW 35.23.445 Hydroelectric resources--Separate legal authority--Creation by irrigation districts and cities, towns, or public utility districts.

See RCW 87.03.825 through 87.03.840.

RCW 35.23.452 Additional powers--Acquisition, control, and disposition of property.

The city council of such city shall have power to purchase, lease, or otherwise acquire real estate and personal property necessary or proper for municipal purposes and to control, lease, sublease, convey or otherwise dispose of the same; to acquire and plat land for cemeteries and parks and provide for the regulation thereof, including but not limited to the right to lease any waterfront and other lands adjacent thereto owned by it for manufacturing, commercial or other business purposes; including but not limited to the right to lease for wharf, dock and other purposes of navigation and commerce such portions of its streets which bound upon or terminate in its waterfront or the navigable waters of such city, subject, however, to the written consent of the lessees of a majority of the square feet frontage of the harbor area abutting on any street proposed to be so leased. No lease of streets or waterfront shall be for longer than ten years and the rental therefor shall be fixed by the city council. Every such lease shall contain a clause that at intervals of every five years during the term thereof the rental to be paid by the lessee shall be readjusted between the lessee and the city by mutual agreement, or in default of such mutual agreement that the rental shall be fixed by arbitrators to be appointed one by the city council, one by the lessee and the third by the two thus appointed. No such lease shall be made until the city council has first caused notice thereof to be published in the official newspaper of such city at least fifteen days and in one issue thereof each week prior to the making of such lease, which notice shall describe the portion of the street proposed to be leased, to whom, for what purpose, and the rental to be charged therefor. The city may improve part of such waterfront or street extensions by building inclines, wharves, gridirons and other accommodations for shipping, commerce and navigation and may charge and collect for service and use thereof reasonable rates and tolls.

[1965 c 7 § 35.24.300. Prior: 1963 c 155 § 1; 1915 c 184 § 15; RRS § 9128. Formerly RCW 35.24.300.]

RCW 35.23.454 Additional powers--Parking meter revenue for revenue bonds.

All second class cities and towns are authorized to use parking meter revenue as a base for obtaining revenue bonds for use in improvement of streets, roads, alleys, and such other related public works.

[1994 c 81 § 44; 1965 c 7 § 35.24.305. Prior: 1957 c 166 § 1. Formerly RCW 35.24.305.]

RCW 35.23.455 Additional powers--Construction and operation of boat harbors,

marinas, docks, etc.

The legislative body of any second class city or town which contains, or abuts upon, any bay, lake, sound, river or other navigable waters, may construct, operate and maintain any boat harbor, marina, dock or other public improvement, for the purposes of commerce, recreation or navigation.

[1994 c 81 § 20; 1965 c 154 § 1.]

RCW 35.23.456 Additional powers--Ambulances and first aid equipment.

A second class city, where commercial ambulance service is not readily available, shall have the power:

(1) To authorize the operation of municipally-owned ambulances which may serve the city and may serve for emergencies surrounding rural areas;

(2) To authorize the operation of other municipally-owned first aid equipment which may serve the city and surrounding rural areas;

(3) To contract with the county or with another municipality for emergency use of city-owned ambulances or other first aid equipment: PROVIDED, That the county or other municipality shall contribute at least the cost of maintenance and operation of the equipment attributable to its use thereof; and

(4) To provide that such ambulance service may be used to transport persons in need of emergency hospital care to hospitals beyond the city limits.

The council may, in its discretion, make a charge for the service authorized by this section: PROVIDED, That such ambulance service shall not enter into competition or competitive bidding where private ambulance service is available.

[1994 c 81 § 45; 1965 c 7 § 35.24.306. Prior: 1963 c 131 § 1. Formerly RCW 35.24.306.]

RCW 35.23.457 Conveyance or lease of space above real property or structures or improvements.

See RCW 35.22.302.

RCW 35.23.460 Employees' group insurance--False arrest insurance.

Subject to chapter 48.62 RCW, any second class city or town may contract with an insurance company authorized to do business in this state to provide group insurance for its employees including group false arrest insurance for its law enforcement personnel, and pursuant thereto may use a portion of its revenues to pay an employer's portion of the premium for such insurance, and may make deductions from the payrolls of employees for the amount of the employees' contribution and may apply the amount deducted in payment of the employees' portion of the premium.

[1994 c 81 § 21; 1991 sp.s. c 30 § 19; 1965 c 7 § 35.23.460. Prior: 1963 c 127 § 1; 1947 c 162 § 1; RRS § 9592-160.]

Notes:

Effective date, implementation, application--Severability--1991 sp.s. c 30: See RCW 48.62.900 and 48.62.901.

RCW 35.23.470 Publicity fund.

Every city of the second class may create a publicity fund to be used exclusively for exploiting and advertising the general advantages and opportunities of the city and its vicinity. After providing by ordinance for a publicity fund the city council may use therefor an annual amount not exceeding sixty-two and one-half cents per thousand dollars of assessed valuation of the taxable property in the city.

[1994 c 81 § 22; 1973 1st ex.s. c 195 § 16; 1965 c 7 § 35.23.470. Prior: 1913 c 57 § 1; RRS § 9035.]

Notes:

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 35.23.480 Publicity board.

The publicity board administering the publicity fund shall consist of three members nominated by a recognized commercial organization in the city, then appointed by the mayor and confirmed by at least a two-thirds vote of the city council. The commercial organization must be incorporated, must be representative and public, devoted exclusively to the work usually devolving upon such organizations and have not less than two hundred bona fide dues-paying members; if more than one organization in the city meets the qualifications, the oldest one shall be designated to make the nominations.

Members of the publicity board must be resident property owners and voters in the city and after their appointment and confirmation must qualify by taking the oath of office and filing a bond with the city in the sum of one thousand dollars conditioned upon the faithful performance of their duties. They shall be appointed in December and their terms shall be for one year commencing on the second Monday in January after their appointment and until their successors are appointed and qualified. Any member of the board may be removed by the mayor at the request of the organization which nominated the members after a majority vote of the entire membership of the organization favoring the removal, taken at a regular meeting.

Members of the publicity board shall serve without remuneration.

[1965 c 7 § 35.23.480. Prior: 1913 c 57 § 2, part; RRS § 9036, part.]

RCW 35.23.490 Limitations on use of publicity fund.

All expenditures shall be made under direction of the board of publicity. No part of the publicity fund shall ever be paid to any newspaper, magazine, or periodical published within the city or county in which the city is situated, for advertising, or write-ups or for any other service or purpose and no part of the fund shall be expended for the purpose of making exhibits at any fair, exposition or the like.

[1965 c 7 § 35.23.490. Prior: 1913 c 57 § 2, part; RRS § 9036, part.]

RCW 35.23.505 Local improvement guaranty fund--Investment in city's own guaranteed bonds.

The city treasurer of any second class city, by and with the consent of the city council or finance committee of the city council, may invest any portion of its local improvement guaranty fund in the city's own guaranteed local improvement bonds in an amount not to exceed ten percent of the total issue of bonds in any one local improvement district: PROVIDED, That no such investment shall be made in an amount which will affect the ability of the local improvement guaranty fund to meet its obligations as they accrue, and that if all the bonds have the same maturity, the bonds having the highest numbers shall be purchased.

The interest received shall be credited to the local improvement guaranty fund.

[1994 c 81 § 48; 1965 c 7 § 35.24.400. Prior: 1941 c 145 § 2; RRS § 9138-2. Formerly RCW 35.24.400.]

Notes:

Local improvements

bonds and warrants: Chapter 35.45 RCW.

nonguaranteed bonds: Chapter 35.48 RCW.

RCW 35.23.515 Utilities--City may contract for service or construct own facilities.

The city council of every city of the second class may contract for supplying the city with water, light, power, and heat for municipal purposes; and within or without the city may acquire, construct, repair, and manage pumps, aqueducts, reservoirs, plants, or other works necessary or proper for irrigation purposes or for supplying water, light, power, or heat or any byproduct thereof for the use of the city and any person within the city and dispose of any excess of its supply to any person without the city.

[1994 c 81 § 49; 1965 c 7 § 35.24.410. Prior: 1917 c 124 § 1, part; 1915 c 184 § 16, part; RRS § 9129, part. Formerly RCW 35.24.410.]

RCW 35.23.525 Utilities--Method of acquisition--Bonds.

To pay the original cost of water, light, power, or heat systems, every city of the second class may issue:

(1) General bonds to be retired by general tax levies against all the property within the city limits then existing or as they may thereafter be extended; or

(2) Utility bonds under the general authority given to all cities for the acquisition or construction of public utilities.

Extensions to plants may be made either

(1) By general bond issue,

(2) By general tax levies, or

(3) By creating local improvement districts in accordance with statutes governing their

establishment.

[1994 c 81 § 50; 1965 c 7 § 35.24.420. Prior: 1917 c 124 § 1, part; 1915 c 184 § 16, part; RRS § 9129, part. Formerly RCW 35.24.420.]

RCW 35.23.535 Utilities--Maintenance and operation--Rates.

No taxes shall be imposed for maintenance and operating charges of city owned water, light, power, or heating works or systems.

Rates shall be fixed by ordinance for supplying water, light, power, or heat for commercial, domestic, or irrigation purposes sufficient to pay for all operating and maintenance charges. If the rates in force produce a greater amount than is necessary to meet operating and maintenance charges, the rates may be reduced or the excess income may be transferred to the city's current expense fund.

Complete separate accounts for municipal utilities must be kept under the system and on forms prescribed by the state auditor.

The term "maintenance and operating charges," as used in this section includes all necessary repairs, replacement, interest on any debts incurred in acquiring, constructing, repairing and operating plants and departments and all depreciation charges. This term shall also include an annual charge equal to four percent on the cost of the plant or system, as determined by the state auditor to be paid into the current expense fund, except that where utility bonds have been or may hereafter be issued and are unpaid no payment shall be required into the current expense fund until such bonds are paid.

[1995 c 301 § 37; 1965 c 7 § 35.24.430. Prior: 1917 c 124 § 1, part; 1915 c 184 § 16, part; RRS § 9129, part. Formerly RCW 35.24.430.]

RCW 35.23.545 Procedure to attack consolidation or annexation of territory.

Proceedings attacking the validity of the consolidation of a city of the second class or the annexation of territory to a city of the second class shall be by quo warranto only, instituted by the prosecuting attorney of the county in which the city is located or by a person interested in the proceedings whose interest must clearly be shown. The quo warranto proceedings must be commenced within one year after the consolidation or annexation proceedings complained of and no error, irregularity, or defect of any kind shall be the basis for invalidating a consolidation or annexation after one year.

[1994 c 81 § 51; 1965 c 7 § 35.24.440. Prior: 1923 c 153 § 1; RRS § 8913-1. Formerly RCW 35.24.440.]

Notes:

Validating--1923 c 153: "All proceedings for the consolidation of cities of the third class and for the annexation of any unincorporated territory described in any abstract filed with the secretary of state in any such annexation proceeding to a city of the third class heretofore had, or attempted to be had, and over which such consolidated cities or annexed territory such city has exercised jurisdiction for a period of one year after the filing of such abstract with the secretary of state, are hereby ratified and validated as of the date of filing such abstract, irrespective of the fact that such consolidated cities, or any part thereof, are separated by a body of navigable water

or that such annexed territory, or any part thereof, is separated from such city by a body of navigable water, and irrespective of any failure to file a petition for such consolidation or annexation, or to give proper notice of election or of any other defect occurring in such consolidation or annexation proceedings, and all territory so sought to be annexed is hereby declared to be a part of such annexing city as of the date of filing such abstract, and such cities so consolidated are hereby declared to be one municipal corporation as of the date of filing such abstract. All proceedings since the date of the filing of such abstract heretofore had or attempted to be had by any such city within or including such annexed territory, or any part thereof, in the creation of local improvement districts and the making of local improvements, the levying of special assessments and the issuance of bonds therein and also in the levy of taxes, making of contracts, incurring of indebtedness and the issuance of bonds therefor are hereby ratified, validated and confirmed. PROVIDED, That nothing in this act contained shall affect the rights of any parties in any proceedings now pending in any court of record in this state and the rights of such parties therein shall be determined and adjudicated as the same existed prior to the passage of this act." [1923 c 153 § 2.] This applies to RCW 35.23.545.

RCW 35.23.555 Criminal code repeals by city operating municipal court--Agreement covering costs of handling resulting criminal cases--Arbitration.

A city of the second class operating a municipal court may not repeal in its entirety that portion of its municipal code defining crimes or repeal a provision of its municipal code which defines a crime equivalent to an offense listed in RCW 46.63.020 unless the municipality has reached an agreement with the appropriate county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall include provisions for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW.

[1994 c 81 § 52; 1984 c 258 § 206. Formerly RCW 35.24.455.]

Notes:

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

RCW 35.23.560 Waterworks--Construction by city or by district assessments.

All cities and towns within the state, other than cities of the first class, which are empowered to construct waterworks for irrigation and domestic purposes, may do so either by the entire city or by assessment districts as the mayor and council may determine.

[1965 c 7 § 35.23.560. Prior: 1901 c 117 § 1; RRS § 9526.]

RCW 35.23.570 Waterworks--Plans--Special assessments.

Before letting any contract for the construction of any waterworks for irrigation and domestic purposes, the mayor and council shall by ordinance or resolution adopt the plans

therefor and shall fix and establish the assessment district, if the same is to be constructed at the expense of the district, and such cities and towns are authorized to charge the expense of such waterworks for irrigation and domestic purposes to all the property included within such district which is contiguous or proximate to any streets in which any main pipe or lateral pipe of such waterworks for irrigation and domestic purposes, is to be placed, and to levy special assessments upon such property to pay therefor, which assessment shall be levied in accordance with the last general assessment of the property within said district for city purposes.

[1994 c 81 § 23; 1965 c 7 § 35.23.570. Prior: 1901 c 117 § 2; RRS § 9527.]

RCW 35.23.580 Waterworks--Procedure--Bonds.

For the purpose of providing for, constructing and maintaining such waterworks for irrigation and domestic purposes and issuing bonds to pay therefor, such cities and towns may proceed in all ways in accordance with, and apply all the provisions of, law relating to local improvement assessments.

[1965 c 7 § 35.23.580. Prior: 1901 c 117 § 3; RRS § 9528.]

RCW 35.23.680 Cities of ten thousand or more may frame charter without changing classification.

See chapter 35.22 RCW.

RCW 35.23.800 Code city retaining former second class city plan--Elective officers.

In a city initially classified as a second class city prior to January 1, 1993, that retained its second class city plan of government when the city reorganized as a noncharter code city, the elective officers shall consist of a mayor, twelve councilmembers, a city clerk, and a city treasurer.

[1994 c 81 § 24; 1987 c 3 § 6; 1965 c 7 § 35.23.020. Prior: 1949 c 83 § 1; 1907 c 241 § 2; RRS § 9007. Formerly RCW 35.23.020.]

Notes:

Severability--1987 c 3: See note following RCW 3.46.020.

RCW 35.23.805 Code city retaining former second class city plan--Elections--Terms of office.

In a city initially classified as a second class city prior to January 1, 1993, that retained its second class city plan of government when the city reorganized as a noncharter code city, the terms of office of mayor, city clerk, city treasurer and councilmembers shall be four years, and until their successors are elected and qualified and assume office in accordance with RCW 29.04.170, but not more than six councilmembers normally shall be elected in any one year to fill a full term.

[1994 c 81 § 25; 1987 c 3 § 7; 1979 ex.s. c 126 § 21; 1965 c 7 § 35.23.040. Prior: 1963 c 200 § 14; 1959 c 86 § 3; prior: (i) 1951 c 71 § 1; 1909 c 120 § 4; 1907 c 241 § 3; RRS § 9008. (ii) 1951 c 71 § 1; 1907 c 241 § 4; RRS § 9009. Formerly RCW 35.23.040.]

Notes:

Severability--1987 c 3: See note following RCW 3.46.020.

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

RCW 35.23.810 Code city retaining former second class city plan--Mayor--General duties.

In a city initially classified as a second class city prior to January 1, 1993, that retained its second class city plan of government when the city reorganized as a noncharter code city, the mayor shall be the chief executive officer of the city and shall:

(1) Have general supervision over the several departments of the city government and over all its interests;

(2) Preside over the city council when present;

(3) Once in three months, submit a general statement of the condition of the various departments and recommend to the city council such measures as the mayor deems expedient for the public health or improvement of the city, its finances or government; and

(4) Countersign all warrants and licenses, deeds, leases and contracts requiring signature issued under and by authority of the city.

If there is a vacancy in the office of mayor or the mayor is absent from the city, or is unable from any cause to discharge the duties of the office, the president of the council shall act as mayor, exercise all the powers and be subject to all the duties of the mayor.

[1994 c 81 § 26; 1965 c 7 § 35.23.080. Prior: (i) 1907 c 241 § 16, part; RRS § 9021, part. (ii) 1907 c 241 § 17, part; RRS § 9022, part. Formerly RCW 35.23.080.]

RCW 35.23.815 Code city retaining former second class city plan--Appointive officers.

In a city initially classified as a second class city prior to January 1, 1993, that retained its second class city plan of government when the city reorganized as a noncharter code city, the appointive officers shall be a chief of police, city attorney, health officer, and street commissioner; the council may also create by ordinance the offices of superintendent of irrigation, city engineer, harbor master, pound keeper, city jailer, chief of the fire department, and any other offices necessary to discharge the functions of the city and for whose election or appointment no other provision is made. If a paid fire department is established therein a chief engineer and one or more assistant engineers may be appointed. If a free library and reading room is established therein five library trustees shall be appointed. The council by ordinance shall prescribe the duties of the officers and fix their compensation subject to the provisions of any statutes pertaining thereto.

[1994 c 81 § 27; 1965 c 7 § 35.23.120. Prior: 1949 c 83 § 2; Rem. Supp. 1949 § 9007A. Formerly RCW 35.23.120.]

RCW 35.23.820 Code city retaining former second class city plan--Health officer.

In a city initially classified as a second class city prior to January 1, 1993, that retained its second class city plan of government when the city reorganized as a noncharter code city, the council shall create the office of city health officer, prescribe the duties and qualifications of this office and fix the compensation for the office.

[1994 c 81 § 28; 1965 c 7 § 35.23.150. Prior: 1907 c 241 § 64; RRS § 9067. Formerly RCW 35.23.150.]

RCW 35.23.825 Code city retaining former second class city plan--Street commissioner.

In a city initially classified as a second class city prior to January 1, 1993, that retained its second class city plan of government when the city reorganized as a noncharter code city, the street commissioner shall be under the direction of the mayor and city council shall have control of the streets and public places of the city and shall perform such duties as the city council may prescribe.

[1994 c 81 § 29; 1965 c 7 § 35.23.160. Prior: 1907 c 241 § 23; RRS § 9028. Formerly RCW 35.23.160.]

RCW 35.23.830 Code city retaining former second class city plan--Appointment of officers--Confirmation.

In a city initially classified as a second class city prior to January 1, 1993, that retained its second class city plan of government when the city reorganized as a noncharter code city, the mayor shall appoint all the appointive officers of the city subject to confirmation by the city council. If the council refuses to confirm any nomination of the mayor, the mayor shall nominate another person for that office within ten days thereafter, and may continue to so nominate until a nominee is confirmed. If the mayor fails to make another nomination for the same office within ten days after the rejection of a nominee, the city council shall elect a suitable person to fill the office during the term. The affirmative vote of not less than seven councilmembers is necessary to confirm any nomination made by the mayor.

[1994 c 81 § 30; 1965 c 7 § 35.23.180. Prior: 1907 c 241 § 8, part; 1890 p 145 § 25; RRS § 9013, part. Formerly RCW 35.23.180.]

RCW 35.23.835 Code city retaining former second class city plan--Oath and bond of officers.

Before entering upon official duties and within ten days after receiving notice of being elected or appointed to city office, every officer of a city initially classified as a second class city prior to January 1, 1993, that retained its second class city plan of government when the city reorganized as a noncharter code city shall qualify by taking the oath of office and by filing such bond duly approved as may be required. The oath of office shall be filed with the county auditor.

If no notice of election or appointment was received, the officer must qualify on or before the date fixed for the assumption of the duties of the office. The city council shall fix the amount of all official bonds and may designate what officers shall be required to give bonds in addition to those required to do so by statute.

All official bonds shall be approved by the city council and when so approved shall be filed with the city clerk except the city clerk's which shall be filed with the mayor. No city officer shall be eligible as a surety upon any bond running to the city as obligee.

The city council may require a new or additional bond of any officer whenever it deems it expedient.

[1994 c 81 § 31; 1987 c 3 § 8; 1986 c 167 § 17; 1965 c 7 § 35.23.190. Prior: (i) 1907 c 241 § 10, part; 1890 p 145 § 29; RRS § 9015, part. (ii) 1907 c 241 § 11; 1890 p 145 § 29; RRS § 9016. Formerly RCW 35.23.190.]

Notes:

Severability--1987 c 3: See note following RCW 3.46.020.

Severability--1986 c 167: See note following RCW 29.01.055.

RCW 35.23.840 Code city retaining former second class city plan--City council--How constituted.

In a city initially classified as a second class city prior to January 1, 1993, that retained its second class city plan of government when the city reorganized as a noncharter code city, the mayor and twelve councilmembers shall constitute the city council. At the first council meeting in each calendar year, the city council shall elect one of their own body to serve as president of the council.

The mayor shall preside at all meetings at which the mayor is present. In the absence of the mayor, the president of the council shall preside. In the absence of both the mayor and the president of the council, the council may elect a president pro tempore from its own body. The president pro tempore shall have all the powers of the president of the council during the session of the council at which the president pro tempore is presiding.

[1994 c 81 § 32; 1965 c 7 § 35.23.250. Prior: (i) 1907 c 241 § 17, part; RRS § 9022, part. (ii) 1907 c 247 § 27; RRS § 9032. (iii) 1907 c 241 § 28, part; 1890 p 148 § 37; RRS § 9033, part. Formerly RCW 35.23.250.]

RCW 35.23.845 Code city retaining former second class city plan--City council--Presiding officer--Voting rights.

In a city initially classified as a second class city prior to January 1, 1993, that retained its second class city plan of government when the city reorganized as a noncharter code city, the mayor shall have a vote only in the case of a tie in the votes of the councilmembers. The president of the council while presiding or the president pro tempore shall have the right to vote upon all questions coming before the council.

A majority of all the members elected shall be necessary to pass any ordinance appropriating for any purpose the sum of five hundred dollars or upwards or any ordinance imposing any assessment, tax, or license or in any wise increasing or diminishing the city

revenue.

[1994 c 81 § 33; 1965 c 7 § 35.23.280. Prior: (i) 1907 c 241 § 28, part; 1890 p 148 § 37; RRS § 9033, part. (ii) 1907 c 241 § 61; 1890 p 159 § 51; RRS § 9064. Formerly RCW 35.23.280.]

RCW 35.23.850 Code city retaining former second class city plan--Wards--Division of city into.

In any city initially classified as a second class city prior to January 1, 1993, that retained its second class city plan of government when the city reorganized as a noncharter code city, the city council may divide the city into wards, not exceeding six in all, or change the boundaries of existing wards at any time less than one hundred twenty days before a municipal general election. No change in the boundaries of wards shall affect the term of any councilmember, and councilmembers shall serve out their terms in the wards of their residences at the time of their elections. However, if these boundary changes result in one ward being represented by more councilmembers than the number to which it is entitled, those having the shortest unexpired terms shall be assigned by the council to wards where there is a vacancy, and the councilmembers so assigned shall be deemed to be residents of the wards to which they are assigned for purposes of determining whether those positions are vacant.

The representation of each ward in the city council shall be in proportion to the population as nearly as is practicable.

Wards shall be redrawn as provided in chapter 29.70 RCW. Wards shall be used as follows: (1) Only a resident of the ward may be a candidate for, or hold office as, a councilmember of the ward; and (2) only voters of the ward may vote at a primary to nominate candidates for a councilmember of the ward. Voters of the entire city may vote at the general election to elect a councilmember of a ward, unless the city had prior to January 1, 1994, limited the voting in the general election for any or all council positions to only voters residing within the ward associated with the council positions. If a city had so limited the voting in the general election to only voters residing within the ward, then the city shall be authorized to continue to do so. The elections for the remaining council position or council positions that are not associated with a ward shall be conducted as if the wards did not exist.

[1995 c 134 § 10. Prior: 1994 c 223 § 16; 1994 c 81 § 34; 1965 c 7 § 35.23.530; prior: 1907 c 241 § 14; 1890 p 147 § 35; RRS § 9019. Formerly RCW 35.23.530.]

Chapter 35.27 RCW
TOWNS

Sections

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Notes:
Accident claims against: RCW 35.31.040, 35.31.050.
Acquisition of interests in land for conservation, protection, preservation, or open space purposes by towns: RCW 64.04.130.
Actions against
public corporations: RCW 4.08.120.
state: Chapter 4.92 RCW.
Actions by in corporate name: RCW 4.08.110.
Advancement in classification: RCW 35.06.010.
Classification as: RCW 35.01.040.
Code of ethics for public officers and employees: Chapters 42.23 and 42.52 RCW.
Corporate stock or bonds not to be owned by: State Constitution Art. 8 § 7.
Credit not to be loaned, exception: State Constitution Art. 8 § 7.
Group false arrest insurance: RCW 35.23.460.
Incorporation and annexation restrictions as to area: RCW 35.21.010.
Inhabitants at time of organization: RCW 35.01.040.
Insurance, group for employees: RCW 35.23.460.
Judgment against public corporations, enforcement: RCW 6.17.080.
Limitation upon actions by public corporations: RCW 4.16.160.
Limitations on indebtedness: State Constitution Art. 7 § 2 (Amendments 55, 59), Art. 8 § 6 (Amendment 27), chapter 39.36 RCW, RCW 84.52.050.
Lost and found property: Chapter 63.21 RCW.
Metropolitan park districts, withdrawal from: RCW 35.61.010.
Municipal utilities: Chapter 35.92 RCW.
Municipal water and sewer facilities act: Chapter 35.91 RCW.
Organization under general laws required: State Constitution Art. 11 § 10 (Amendment 40).
Park commissioners: RCW 35.23.170.
Parking meter revenue, basis for revenue bonds: RCW 35.23.454.
Plats
regulation of surveys and plats: RCW 58.10.040.
resurvey and correction of: RCW 58.10.030.
Revenue bonds, parking meter revenue as basis for: RCW 35.23.454.
School districts, educational service districts, agreements with other governmental entities for transportation of students or the public, or for other noncommon school purposes--Limitations: RCW 28A.160.120.
Service of summons on, personal service: RCW 4.28.080.
Sidewalks, construction, initial: Chapter 35.70 RCW.
Taxes, power of municipalities: State Constitution Art. 11 § 12.
Unclaimed property in hands of city police: Chapter 63.32 RCW.

RCW 35.27.010 Rights, powers, and privileges.

Every town shall be entitled the "Town of . . . . . ." (naming it), and by such name shall have perpetual succession, may sue, and be sued in all courts and places, and in all proceedings whatever; shall have and use a common seal, alterable at the pleasure of the town authorities, and may purchase, lease, receive, hold, and enjoy real and personal property and control, lease, sublease, convey, or otherwise dispose of the same for the common benefit.

[1994 c 273 § 11; 1994 c 81 § 53; 1965 c 7 § 35.27.010. Prior: 1890 p 198 § 142; RRS § 9163.]

Notes:

Reviser's note: This section was amended by 1994 c 81 § 53 and by 1994 c 273 § 11, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

RCW 35.27.030 Uncertain boundaries--Petition--Request for examination.

Whenever a petition is presented to the council of any incorporated town in this state, signed by not less than five electors of such town, setting forth that in the belief of the petitioners, the boundaries of said town are indefinite and uncertain and that on account of such indefiniteness and uncertainty the legality of the taxes levied within such town are in danger of being affected, and setting forth the particular causes or reasons of such alleged indefiniteness or uncertainty, it shall be the duty of the town council to cause the petition to be filed and recorded by the clerk, and to cause a copy of the same to be made and certified by the clerk and the corporate seal of such town to be attached to said certificate, and the mayor of such town shall forthwith present said certified copy of the petition to the board of county commissioners of the county wherein said town is situated, with a written request to be signed by him as such mayor that the said board of county commissioners proceed to examine the boundaries of such town or city, and make the same definite and certain.

[1965 c 7 § 35.27.030. Prior: 1899 c 79 § 1; RRS § 9195.]

RCW 35.27.040 Duty of county commissioners.

The board of county commissioners upon receipt of the certified copy of said petition, and the request aforesaid, shall cause the same to be filed in the office of the county auditor and forthwith proceed to examine the boundaries of the town and make the same definite and certain. For this purpose they may employ a competent surveyor, and shall commence at some recognized and undisputed point on the boundary line of the town, if such there be, and if there is no such recognized and undisputed point, they shall establish a starting point from the best data at their command and from such starting point they shall run a boundary line by courses and distances around such town, in one tract or body.

[1965 c 7 § 35.27.040. Prior: 1899 c 79 § 2; RRS § 9196.]

RCW 35.27.050 Report of survey.

The board of county commissioners, without unnecessary delay, shall make and file a report of their doings in the premises in the office of the county auditor, who shall transmit a certified copy thereof under the seal of the county, to the clerk of the town, and the clerk shall record the same in the records of the town, and keep the copy on file in his office. The report shall contain the description of the boundary of the town, as fixed by the board, written in plain words and figures and the boundaries so made and fixed shall be the boundaries of the town, and

all the territory included within the boundary lines so established shall be included in the town, and be a part thereof.

[1965 c 7 § 35.27.050. Prior: 1899 c 79 § 3; RRS § 9197.]

RCW 35.27.060 Expense of proceedings.

The expense of such proceedings shall be paid by the town at whose request the same is incurred. The county commissioners shall each receive as compensation, an amount not exceeding the amount allowed by law for their usual services as commissioners, and, any surveyor or other assistants employed by them, a reasonable compensation to be fixed and certified by said commissioners.

[1965 c 7 § 35.27.060. Prior: 1899 c 79 § 4; RRS § 9198.]

RCW 35.27.070 Town officers enumerated.

The government of a town shall be vested in a mayor and a council consisting of five members and a treasurer, all elective; the mayor shall appoint a clerk and a marshal; and may appoint a town attorney, pound master, street superintendent, a civil engineer, and such police and other subordinate officers and employees as may be provided for by ordinance. All appointive officers and employees shall hold office at the pleasure of the mayor, subject to any applicable law, rule, or regulation relating to civil service, and shall not be subject to confirmation by the town council.

[1997 c 361 § 3; 1993 c 47 § 2; 1987 c 3 § 12; 1965 ex.s. c 116 § 14; 1965 c 7 § 35.27.070. Prior: 1961 c 89 § 3; prior: (i) 1903 c 113 § 4; 1890 p 198 § 143; RRS § 9164. (ii) 1941 c 108 § 2; 1939 c 87 § 2; Rem. Supp. 1941 § 9165-1a. (iii) 1943 c 183 § 1, part; 1941 c 91 § 1, part; 1911 c 33 § 1, part; 1903 c 113 § 5, part; 1890 p 198 § 144, part; Rem. Supp. 1943 § 9165.]

Notes:

Severability--1987 c 3: See note following RCW 3.46.020.

RCW 35.27.080 Eligibility to hold elective office.

No person shall be eligible to or hold an elective office in a town unless he or she is a resident and registered voter in the town.

[1997 c 361 § 8; 1965 c 7 § 35.27.080. Prior: 1890 p 200 § 149; RRS § 9170.]

RCW 35.27.090 Elections--Terms of office.

All general municipal elections in towns shall be held biennially in the odd-numbered years as provided in RCW 29.13.020. The term of office of the mayor and treasurer shall be four years and until their successors are elected and qualified and assume office in accordance with RCW 29.04.170: PROVIDED, That the term of the treasurer shall not commence in the same biennium in which the term of the mayor commences. Councilmen shall be elected for four year

terms and until their successors are elected and qualified and assume office in accordance with RCW 29.04.170; three at one election and two at the next succeeding biennial election.

[1979 ex.s. c 126 § 23; 1965 c 7 § 35.27.090. Prior: 1963 c 200 § 16; 1961 c 89 § 4; prior: 1955 c 55 § 7; 1943 c 183 § 1, part; 1941 c 91 § 1, part; 1911 c 33 § 1, part; 1903 c 113 § 5, part; 1890 p 198 § 144, part; Rem. Supp. 1943 § 9165, part.]

Notes:

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

RCW 35.27.100 Conduct of elections.

All elections in towns shall be held in accordance with the general election laws of the state.

[1994 c 223 § 21; 1965 c 7 § 35.27.100. Prior: 1890 p 200 § 148; RRS § 9169.]

Notes:

Elections: Title 29 RCW.

RCW 35.27.120 Oath and bond of officers.

Every officer of a town before entering upon the duties of his office shall take and file with the county auditor his oath of office. The clerk, treasurer, and marshal before entering upon their respective duties shall also each execute a bond approved by the council in such penal sum as the council by ordinance may determine, conditioned for the faithful performance of his duties including in the same bond the duties of all offices of which he is made ex officio incumbent.

All bonds, when approved, shall be filed with the town clerk, except the bonds of the clerk which shall be filed with the mayor.

[1986 c 167 § 19; 1965 c 7 § 35.27.120. Prior: 1890 p 199 § 145; RRS § 9166.]

Notes:

Severability--1986 c 167: See note following RCW 29.01.055.

RCW 35.27.130 Compensation of officers and employees--Expenses--Nonstate pensions.

The mayor and members of the town council may be reimbursed for actual expenses incurred in the discharge of their official duties upon presentation of a claim therefor and its allowance and approval by resolution of the town council. The mayor and members of the council may also receive such salary as the council may fix by ordinance.

The treasurer and treasurer-clerk shall severally receive at stated times a compensation to be fixed by ordinance.

The compensation of all other officers and employees shall be fixed from time to time by the council.

Any town that provides a pension for any of its employees under a plan not administered

by the state must notify the state auditor of the existence of the plan at the time of an audit of the town by the auditor. No town may establish a pension plan for its employees that is not administered by the state, except that any defined contribution plan in existence as of January 1, 1990, is deemed to have been authorized. No town that provides a defined contribution plan for its employees as authorized by this section may make any material changes in the terms or conditions of the plan after June 7, 1990.

[1993 c 47 § 3; 1990 c 212 § 2; 1973 1st ex.s. c 87 § 2; 1969 ex.s. c 270 § 9; 1965 c 105 § 2; 1965 c 7 § 35.27.130. Prior: 1961 c 89 § 5; prior: (i) 1941 c 115 § 2; 1890 p 200 § 147; Rem. Supp. 1941 § 9168. (ii) 1921 c 24 § 1, part; 1890 p 209 § 168, part; RRS § 9187, part. (iii) 1890 p 214 § 173; RRS § 9191. (iv) 1943 c 183 § 1, part; 1941 c 91 § 1, part; 1911 c 33 § 1, part; 1903 c 113 § 5, part; 1890 p 198 § 144, part; RRS § 9165, part.]

RCW 35.27.140 Vacancies.

The council of a town may declare a council position vacant if that councilmember is absent from the town for three consecutive council meetings without the permission of the council. In addition, a vacancy in an elective office shall occur and shall be filled as provided in chapter 42.12 RCW.

A vacancy in any other office shall be filled by appointment by the mayor.

[1994 c 223 § 22; 1965 c 7 § 35.27.140. Prior: (i) 1903 c 113 § 6; 1890 p 199 § 146; RRS § 9167. (ii) 1907 c 228 § 5, part; RRS § 9203, part.]

RCW 35.27.160 Mayor--Duties--Powers--Mayor pro tempore.

The mayor shall preside over all meetings of the council at which he or she is present. A mayor pro tempore may be chosen by the council for a specified period of time, not to exceed six months, to act as the mayor in the absence of the mayor. The mayor shall sign all warrants drawn on the treasurer and shall sign all written contracts entered into by the town. The mayor may administer oaths and affirmations, and take affidavits and certify them. The mayor shall sign all conveyances made by the town and all instruments which require the seal of the town.

The mayor is authorized to acknowledge the execution of all instruments executed by the town which require acknowledgment.

[1988 c 196 § 1; 1965 c 7 § 35.27.160. Prior: 1890 p 209 § 167; RRS § 9186.]

RCW 35.27.170 Town treasurer--Duties.

The town treasurer shall receive and safely keep all money which comes into his hands as treasurer, for all of which he shall give duplicate receipts, one of which shall be filed with the clerk. He shall pay out the money on warrants signed by the mayor and countersigned by the clerk and not otherwise. He shall make monthly settlements with the clerk.

[1965 c 7 § 35.27.170. Prior: 1961 c 89 § 6; prior: 1921 c 24 § 1, part; 1890 p 209 § 168, part; RRS § 9187, part.]

RCW 35.27.180 Treasurer and clerk may be combined.

The council of every town may provide by ordinance that the office of treasurer be combined with that of clerk or that the office of clerk be combined with that of treasurer. This ordinance shall not be voted upon until the next regular meeting after its introduction and shall require the vote of at least two-thirds of the council. The ordinance shall provide the date when the consolidation shall take place which date shall be not less than three months from the date the ordinance goes into effect.

[1965 c 7 § 35.27.180. Prior: (i) 1945 c 58 § 1; Rem. Supp. 1945 § 9177-1. (ii) 1945 c 58 § 4, part; Rem. Supp. 1945 § 9177-4, part.]

RCW 35.27.190 Effect of consolidation of offices.

Upon the consolidation of the office of treasurer with that of clerk, the office of treasurer shall be abolished and the clerk shall exercise all the powers and perform all the duties required by statute or ordinance to be performed by the treasurer; in the execution of any papers his designation as clerk shall be sufficient.

Upon the consolidation of the office of clerk with that of treasurer, the treasurer shall exercise all the powers vested in and perform all the duties required to be performed by the clerk.

[1965 c 7 § 35.27.190. Prior: (i) 1945 c 58 § 2; Rem. Supp. 1945 § 9177-2. (ii) 1945 c 58 § 3; Rem. Supp. 1945 § 9177-3.]

RCW 35.27.200 Abandonment of consolidation.

Every town which has combined the office of treasurer with that of clerk or the office of clerk with that of treasurer may terminate the combination by ordinance, fixing the time when the combination shall cease and providing that the duties thereafter be performed by separate officials. If the office of treasurer was combined with that of clerk, the mayor shall appoint a treasurer who shall serve until the next town election when a treasurer shall be elected for the term as provided by law.

[1965 c 7 § 35.27.200. Prior: 1945 c 58 § 4, part; Rem. Supp. 1945 § 9177-4, part.]

RCW 35.27.210 Duty of officers collecting moneys.

Every officer collecting or receiving any money belonging to a town shall settle for it with the clerk on the first Monday of each month and immediately pay it into the treasury on the order of the clerk to be credited to the fund to which it belongs.

[1965 c 7 § 35.27.210. Prior: 1890 p 214 § 175; RRS § 9193.]

RCW 35.27.220 Town clerk--Duties.

The town clerk shall be custodian of the seal of the town. He may appoint a deputy for

whose acts he and his bondsmen shall be responsible; he and his deputy may administer oaths or affirmations and certify to them, and may take affidavits and depositions to be used in any court or proceeding in the state.

He shall make a quarterly statement in writing showing the receipts and expenditures of the town for the preceding quarter and the amount remaining in the treasury.

At the end of every fiscal year he shall make a full and detailed statement of receipts and expenditures of the preceding year and a full statement of the financial condition of the town which shall be published.

He shall perform such other services as may be required by statute or by ordinances of the town council.

He shall keep a full and true account of all the proceedings of the council.

[1965 c 7 § 35.27.220. Prior: 1890 p 210 § 170, part; RRS § 9188, part.]

RCW 35.27.230 Records to be kept by clerk.

The proceedings of the town council shall be kept in a book marked "records of council."

The town clerk shall keep a book marked "town accounts," in which shall be entered on the debit side all moneys received by the town including but not limited to proceeds from licenses and general taxes and in which shall be entered on the credit side all warrants drawn on the treasury.

He shall also keep a book marked "marshal's account" in which he shall charge the marshal with all licenses delivered to him and credit him with all money collected and paid in.

He shall also keep a book marked "treasurer's account" in which he shall keep a full account of the transactions of the town with the treasurer.

He shall also keep a book marked "licenses" in which he shall enter all licenses issued by him--the date thereof, to whom issued, for what, the time they expire, and the amount paid.

Each of the foregoing books, except the records of the council, shall have a general index sufficiently comprehensive to enable a person readily to ascertain matters contained therein.

He shall also keep a book marked "demands and warrants" in which he shall enter every demand against the town at the time of filing it. He shall state therein the final disposition of each demand and if it is allowed and a warrant drawn, he shall state the number of the warrant and its date. This book shall contain an index in which reference shall be made to each demand.

[1965 c 7 § 35.27.230. Prior: 1890 p 210 § 170, part; RRS § 9188, part.]

RCW 35.27.240 Town marshal--Police department.

The department of police in a town shall be under the direction and control of the marshal subject to the direction of the mayor. He may pursue and arrest violators of town ordinances beyond the town limits.

His lawful orders shall be promptly executed by deputies, police officers and watchmen. Every citizen shall lend him aid, when required, for the arrest of offenders and maintenance of public order. He may appoint, subject to the approval of the mayor, one or more deputies, for

whose acts he and his bondsmen shall be responsible, whose compensation shall be fixed by the council. With the concurrence of the mayor, he may appoint additional policemen for one day only when necessary for the preservation of public order.

He shall have the same authority as that conferred upon sheriffs for the suppression of any riot, public tumult, disturbance of the peace, or resistance against the laws or public authorities in the lawful exercise of their functions and shall be entitled to the same protection.

He shall execute and return all process issued and directed to him by any legal authority and for his services shall receive the same fees as are paid to constables. He shall perform such other services as the council by ordinance may require.

[1987 c 3 § 13; 1977 ex.s. c 316 § 24; 1965 c 125 § 1; 1965 c 7 § 35.27.240. Prior: 1963 c 191 § 1; 1890 p 213 § 172; RRS § 9190.]

Notes:

Severability--1987 c 3: See note following RCW 3.46.020.
Severability--1977 ex.s. c 316: See note following RCW 70.48.020.

RCW 35.27.250 Town attorney--Duties.

The town attorney shall advise the town authorities and officers in all legal matters pertaining to the business of the town.

[1965 c 7 § 35.27.250. Prior: 1890 p 212 § 171; RRS § 9189.]

Notes:
Employment of legal interns: RCW 35.21.760.

RCW 35.27.260 Park commissioners.

See RCW 35.23.170.

RCW 35.27.270 Town council--Oath--Meetings.

The town council shall meet in January succeeding the date of the general municipal election, shall take the oath of office, and shall hold regular meetings at least once each month at such times as may be fixed by ordinance. Special meetings may be called at any time by the mayor or by three councilmembers, by written notice as provided in RCW 42.30.080. No resolution or order for the payment of money shall be passed at any other than a regular meeting. No such resolution or order shall be valid unless passed by the votes of at least three councilmembers.

All meetings of the council shall be held at such places as may be designated by the town council. All final actions on resolutions and ordinances must take place within the corporate limits of the town. All meetings of the town council must be public.

[1993 c 199 § 1; 1965 c 7 § 35.27.270. Prior: (i) 1890 p 200 § 150; RRS § 9171. (ii) 1890 p 201 § 153, part; RRS § 9174, part.]

Notes:
Times for holding elections: Chapter 29.13 RCW.

RCW 35.27.280 Town council--Quorum--Rules--Journal.

A majority of the councilmen shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.

The mayor shall preside at all meetings of the council. The mayor shall have a vote only in case of a tie in the votes of the councilmen. In the absence of the mayor the council may appoint a president pro tempore; in the absence of the clerk, the mayor or president pro tempore, shall appoint one of the council members as clerk pro tempore. The council may establish rules for the conduct of its proceedings and punish any members or other person for disorderly behavior at any meeting. At the desire of any member, the ayes and noes shall be taken on any question and entered in the journal.

[1965 c 107 § 2; 1965 c 7 § 35.27.280. Prior: (i) 1890 p 201 § 151; RRS § 9172. (ii) 1890 p 201 § 152, part; RRS § 9173, part.]

RCW 35.27.290 Ordinances--Style--Signatures.

The enacting clause of all ordinances shall be as follows: "Be it ordained by the council of the town of . . . . ."

Every ordinance shall be signed by the mayor and attested by the clerk.

[1965 c 7 § 35.27.290. Prior: 1917 c 99 § 1, part; 1890 p 204 § 155, part; RRS § 9178, part.]

RCW 35.27.300 Ordinances--Publication--Summary--Public notice of hearings and meeting agendas.

Promptly after adoption, the text of each ordinance or a summary of the content of each ordinance shall be published at least once in the official newspaper of the town.

For purposes of this section, a summary shall mean a brief description which succinctly describes the main points of the ordinance. Publication of the title of an ordinance authorizing the issuance of bonds, notes, or other evidences of indebtedness shall constitute publication of a summary of that ordinance. When the town publishes a summary, the publication shall include a statement that the full text of the ordinance will be mailed upon request.

An inadvertent mistake or omission in publishing the text or a summary of the content of an ordinance shall not render the ordinance invalid.

In addition to the requirement that a town publish the text or a summary of the content of each adopted ordinance, every town shall establish a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. Such procedure may include, but not be limited to, written notification to the town's official newspaper, publication of a notice in the official newspaper, posting of upcoming council

meeting agendas, or such other processes as the town determines will satisfy the intent of this requirement.

[1994 c 273 § 12; 1988 c 168 § 5; 1987 c 400 § 2; 1985 c 469 § 26; 1965 c 7 § 35.27.300. Prior: 1917 c 99 § 1, part; 1890 p 204 § 155, part; RRS § 9178, part.]

RCW 35.27.310 Ordinances--Clerk to keep book of ordinances.

The town clerk shall keep a book marked "ordinances" into which he shall copy all town ordinances, with his certificate annexed to said copy stating that the foregoing ordinance is a true and correct copy of an ordinance of the town, and giving the number and title of the ordinance, and stating that it has been published or posted according to law. Such record copy, with the clerk's certificate, shall be prima facie evidence of the contents of the ordinance and of its passage and publication, and shall be admissible as such in any court or proceeding. Such record shall not be filed in any case but shall be returned to the custody of the clerk. Nothing herein shall be construed to prevent the proof of the passage and publication of ordinances in the usual way. The book of ordinances shall have a general index sufficiently comprehensive to enable a person readily to ascertain matters contained therein.

[1965 c 7 § 35.27.310. Prior: 1890 p 210 § 170, part; RRS § 9188, part.]

RCW 35.27.330 Ordinances granting franchises--Requisites.

No ordinance or resolution granting any franchise for any purpose shall be passed by the council on the day of its introduction, nor within five days thereafter, nor at any other than a regular meeting, and no such ordinance or resolution shall have any validity or effect unless passed by the vote of at least three councilmen. The town council may require a bond in a reasonable amount from any persons and corporations obtaining a franchise from the town conditioned for the faithful performance of the conditions and terms of the franchise and providing a recovery on the bond in case of failure to perform the terms and conditions of the franchise.

[1965 c 7 § 35.27.330. Prior: (i) 1890 p 201 § 153, part; RRS § 9174, part. (ii) 1907 c 228 § 1, part; RRS § 9199, part.]

RCW 35.27.340 Audit and allowance of demands against town.

All demands against a town shall be presented to and audited by the council in accordance with such regulations as they may by ordinance prescribe. Upon allowance of a demand the mayor shall draw a warrant therefor upon the treasurer; the warrant shall be countersigned by the clerk and shall specify the purpose for which it is drawn.

The town clerk and his deputy shall take all necessary affidavits to claims against the town and certify them.

[1965 c 7 § 35.27.340. Prior: (i) 1890 p 210 § 170, part; RRS § 9188, part. (ii) 1890 p 204 § 156; RRS § 9179.]

RCW 35.27.350 Contract for town printing.

Every town may designate any daily or weekly newspaper published or of general circulation therein as its official newspaper and all notices published in that newspaper for the period and in the manner provided by law or the ordinances of the town shall be due and legal notice.

[1965 c 7 § 35.27.350. Prior: 1903 c 120 § 1; RRS § 9177.]

RCW 35.27.362 Contracts, purchases, advertising--Call for bids--Exceptions.

See RCW 35.23.352.

RCW 35.27.370 Specific powers enumerated.

The council of said town shall have power:

(1) To pass ordinances not in conflict with the Constitution and laws of this state, or of the United States;

(2) To purchase, lease or receive such real estate and personal property as may be necessary or proper for municipal purposes, and to control, dispose of and convey the same for the benefit of the town; to acquire, own, and hold real estate for cemetery purposes either within or without the corporate limits, to sell and dispose of such real estate, to plat or replat such real estate into cemetery lots and to sell and dispose of any and all lots therein, and to operate, improve and maintain the same as a cemetery;

(3) To contract for supplying the town with water for municipal purposes, or to acquire, construct, repair and manage pumps, aqueducts, reservoirs, or other works necessary or proper for supplying water for use of such town or its inhabitants, or for irrigating purposes therein;

(4) To establish, build and repair bridges, to establish, lay out, alter, widen, extend, keep open, improve, and repair streets, sidewalks, alleys, squares and other public highways and places within the town, and to drain, sprinkle and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, plank, macadamize, gravel and curb the same, in whole or in part, and to construct gutters, culverts, sidewalks and crosswalks therein, or on any part thereof; to cause to be planted, set out and cultivated trees therein, and generally to manage and control all such highways and places;

(5) To establish, construct and maintain drains and sewers, and shall have power to compel all property owners on streets along which sewers are constructed to make proper connections therewith, and to use the same for proper purposes when such property is improved by the erection thereon of a building or buildings; and in case the owners of such improved property on such streets shall fail to make such connections within the time fixed by such council, they may cause such connections to be made, and to assess against the property in front of which such connections are made the costs and expenses thereof;

(6) To provide fire engines and all other necessary or proper apparatus for the prevention

and extinguishment of fires;

(7) To impose and collect an annual license on every dog within the limits of the town, to prohibit dogs running at large, and to provide for the killing of all dogs found at large and not duly licensed;

(8) To levy and collect annually a property tax, for the payment of current expenses and for the payment of indebtedness (if any indebtedness exists) within the limits authorized by law;

(9) To license, for purposes of regulation and revenue, all and every kind of business, authorized by law and transacted and carried on in such town; and all shows, exhibitions and lawful games carried on therein and within one mile of the corporate limits thereof; to fix the rate of license tax upon the same, and to provide for the collection of the same, by suit or otherwise; to regulate, restrain, or prohibit the running at large of any and all domestic animals within the city limits, or any part or parts thereof, and to regulate the keeping of such animals within any part of the city; to establish, maintain and regulate a common pound for estrays, and to appoint a poundkeeper, who shall be paid out of the fines and fees imposed on, and collected from, the owners of any impounded stock;

(10) To improve the rivers and streams flowing through such town or adjoining the same; to widen, straighten and deepen the channels thereof, and to remove obstructions therefrom; to prevent the pollution of streams or water running through such town, and for this purpose shall have jurisdiction for two miles in either direction; to improve the waterfront of the town, and to construct and maintain embankments and other works to protect such town from overflow;

(11) To erect and maintain buildings for municipal purposes;

(12) To grant franchises or permits to use and occupy the surface, the overhead and the underground of streets, alleys and other public ways, under such terms and conditions as it shall deem fit, for any and all purposes, including but not being limited to the construction, maintenance and operation of railroads, street railways, transportation systems, water, gas and steam systems, telephone and telegraph systems, electric lines, signal systems, surface, aerial and underground tramways;

(13) To punish the keepers and inmates and lessors of houses of ill fame, and keepers and lessors of gambling houses and rooms and other places where gambling is carried on or permitted, gamblers and keepers of gambling tables;

(14) To impose fines, penalties and forfeitures for any and all violations of ordinances, and for any breach or violation of any ordinance, to fix the penalty by fine or imprisonment, or both; but no such fine shall exceed five thousand dollars, nor the term of imprisonment exceed one year, except that the punishment for any criminal ordinance shall be the same as the punishment provided in state law for the same crime; or to provide that violations of ordinances constitute a civil violation subject to a monetary penalty, but no act which is a state crime may be made a civil violation;

(15) To operate ambulance service which may serve the town and surrounding rural areas and, in the discretion of the council, to make a charge for such service;

(16) To make all such ordinances, bylaws, rules, regulations and resolutions not inconsistent with the Constitution and laws of the state of Washington, as may be deemed expedient to maintain the peace, good government and welfare of the town and its trade,

commerce and manufacturers, and to do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter.

[1993 c 83 § 7; 1986 c 278 § 6; 1984 c 258 § 805; 1977 ex.s. c 316 § 25; 1965 ex.s. c 116 § 15; 1965 c 127 § 1; 1965 c 7 § 35.27.370. Prior: 1955 c 378 § 4; 1949 c 151 § 1; 1945 c 214 § 1; 1941 c 74 § 1; 1927 c 207 § 1; 1925 ex.s. c 159 § 1; 1895 c 32 § 1; 1890 p 201 § 154; Rem. Supp. 1949 § 9175.]

Notes:

Effective date--1993 c 83: See note following RCW 35.21.163.

Severability--1986 c 278: See note following RCW 36.01.010.

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

Severability--1977 ex.s. c 316: See note following RCW 70.48.020.

Validating--1925 ex.s. c 159: "All franchises, permits and rights of way heretofore granted by any municipality of the fourth class to any person, firm or corporation, to construct, maintain or operate surface, underground and aerial tramways and other means of conveyance over, above, across, upon and along its streets, highways and alleys are hereby validated, ratified and confirmed." [1925 ex.s. c 159 § 2.]

RCW 35.27.372 City and town license fees and taxes on financial institutions.

See chapter 82.14A RCW.

RCW 35.27.373 City license fees or taxes on certain business activities to be at a single uniform rate.

See RCW 35.21.710.

RCW 35.27.375 Additional powers--Parking meter revenue for revenue bonds.

See RCW 35.23.454.

RCW 35.27.376 Nonpolluting power generation by individual--Exemption from regulation--Authorization to contract with utility.

See chapter 80.58 RCW.

RCW 35.27.377 Hydroelectric resources--Separate legal authority--Creation by irrigation districts and cities, towns, or public utility districts.

See RCW 87.03.825 through 87.03.840.

RCW 35.27.380 Additional powers--Eminent domain.

Whenever it becomes necessary for a town to take or damage private property for the purpose of establishing, laying out, extending, and widening streets and other public highways and places within the town, or for the purpose of rights-of-way for drains, sewers, and aqueducts, and for the purpose of widening, straightening, or diverting the channels of streams and the improvement of waterfronts, and the council cannot agree with the owner thereof as to the price

to be paid, the council may direct proceedings to be taken under the general laws of the state to procure the same.

[1965 c 7 § 35.27.380. Prior: 1890 p 207 § 162; RRS § 9182.]

Notes:
Eminent domain: Chapter 8.12 RCW.

RCW 35.27.385 Additional powers--Construction and operation of boat harbors, marinas, docks, etc.

See RCW 35.23.455.

RCW 35.27.390 Employees' group insurance.

See RCW 35.23.460.

RCW 35.27.400 Fire limits--Parks.

Towns are hereby given the power to establish fire limits with proper regulations; to acquire by purchase or otherwise, lands for public parks within or without the limits of the town, and to improve the same.

[1965 c 7 § 35.27.400. Prior: 1961 c 58 § 1; 1899 c 103 § 1; RRS § 9176.]

RCW 35.27.410 Nuisances.

Every act or thing done or being within the limits of a town, which is declared by law or by ordinance to be a nuisance shall be a nuisance and shall be so considered in all actions and proceedings. All remedies given by law for the prevention and abatement of nuisances shall apply thereto.

[1965 c 7 § 35.27.410. Prior: 1890 p 205 § 160; RRS § 9181.]

Notes:
Nuisances: Chapter 9.66 RCW.

RCW 35.27.500 Taxation--Street poll tax.

A town may impose upon and collect from every inhabitant of the town over eighteen years of age an annual street poll tax not exceeding two dollars and no other road poll tax shall be collected within the limits of the town.

[1973 1st ex.s. c 154 § 52; 1971 ex.s. c 292 § 62; 1965 c 7 § 35.27.500. Prior: 1905 c 75 § 1, part; RRS § 9210, part.]

Notes:

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

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

RCW 35.27.510 Utilities--Transfer of part of net earnings to current expense fund.

When any special fund of a public utility department of a town has retired all bond and warrant indebtedness and is on a cash basis, if a reserve or depreciation fund has been created in an amount satisfactory to the state auditor and if the fixing of the rates of the utility is governed by contract with the supplier of water, electrical energy, or other commodity sold by the town to its inhabitants, and the rates are at the lowest possible figure, the town council may set aside such portion of the net earnings of the utility as it may deem advisable and transfer it to the town's current expense fund: PROVIDED, That no amount in excess of fifty percent of the net earnings shall be so set aside and transferred except with the unanimous approval of the council and mayor.

[1995 c 301 § 38; 1965 c 7 § 35.27.510. Prior: 1939 c 96 § 1; 1929 c 98 § 1; RRS § 9185-1.]

RCW 35.27.515 Criminal code repeals by town operating municipal court--Agreement covering costs of handling resulting criminal cases--Arbitration.

A town operating a municipal court may not repeal in its entirety that portion of its municipal code defining crimes or repeal a provision of its municipal code which defines a crime equivalent to an offense listed in RCW 46.63.020 unless the municipality has reached an agreement with the appropriate county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall include provisions for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW.

[1984 c 258 § 207.]

Notes:

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

RCW 35.27.550 Off-street parking space and facilities--Authorized--Declared public use.

Towns are authorized to provide off-street parking space and facilities for motor vehicles, and the use of real property for such purpose is declared to be a public use.

[1994 c 81 § 54; 1965 c 7 § 35.27.550. Prior: 1961 c 33 § 1.]

Notes:

Off-street parking facilities, cities of the first, second, and third classes: Chapter 35.86 RCW.

RCW 35.27.560 Off-street parking space and facilities--Financing.

In order to provide for off-street parking space and/or facilities, such towns are authorized, in addition to their powers for financing public improvements, to finance their acquisition through the issuance and sale of revenue bonds and general obligation bonds. Any bonds issued by such towns pursuant to this section shall be issued in the manner and within the limitations prescribed by the Constitution and the laws of this state. In addition local improvement districts may be created and their financing procedures used for this purpose in accordance with the provisions of Title 35 RCW, as now or hereafter amended. Such towns may finance from their general budget, costs of land acquisition, planning, engineering, location, design and construction to the off-street parking.

[1965 c 7 § 35.27.560. Prior: 1961 c 33 § 2.]

RCW 35.27.570 Off-street parking space and facilities--Acquisition and disposition of real property.

Such towns are authorized to obtain by lease, purchase, donation and/or gift, or by eminent domain in the manner provided by law for the exercise of this power by cities, such real property for off-street parking as the legislative bodies thereof determine to be necessary by ordinance. Such property may be sold, transferred, exchanged, leased, or otherwise disposed of by the town when its legislative body has determined by ordinance such property is no longer necessary for off-street parking purposes.

[1965 c 7 § 35.27.570. Prior: 1961 c 33 § 3.]

Notes:
Eminent domain: Chapter 8.12 RCW.

RCW 35.27.580 Off-street parking space and facilities--Operation--Lease.

Such towns are authorized to establish the methods of operation of off-street parking space and/or facilities by ordinance, which may include leasing or municipal operation.

[1965 c 7 § 35.27.580. Prior: 1961 c 33 § 4.]

RCW 35.27.590 Off-street parking space and facilities--Hearing prior to establishment.

Before the establishment of any off-street parking space and/or facilities, the town shall hold a public hearing thereon, prior to the adoption of any ordinance relating to the leasing or acquisition of property, and for the financing thereof for this purpose.

[1965 c 7 § 35.27.590. Prior: 1961 c 33 § 5.]

RCW 35.27.600 Off-street parking space and facilities--Construction.

Insofar as the provisions of RCW 35.27.550 through 35.27.600 are inconsistent with the provisions of any other law, the provisions of RCW 35.27.550 through 35.27.600 shall be controlling.

[1965 c 7 § 35.27.600. Prior: 1961 c 33 § 7.]

Chapter 35.30 RCW
UNCLASSIFIED CITIES

Sections

35.30.010 Additional powers.
35.30.011 Nonpolluting power generation by individual--Exemption from regulation--Authorization to contract with utility.
35.30.014 Hydroelectric resources--Separate legal authority--Creation by irrigation districts and cities, towns, or public utility districts.
35.30.018 Publication of ordinances or summary--Public notice of hearings and meeting agendas.
35.30.020 Sewer systems--Sewer fund.
35.30.030 Assessment, levy and collection of taxes.
35.30.040 Limitation of indebtedness.
35.30.050 Additional indebtedness with popular vote.
35.30.060 Additional indebtedness for municipal utilities.
35.30.100 Criminal code repeal by city operating municipal court--Agreement covering costs of handling resulting criminal cases--Arbitration.

RCW 35.30.010 Additional powers.

The council, or other legislative body, of all cities within the state of Washington which were created by special charter prior to the adoption of the state Constitution, and which have not since reincorporated under any general statute, shall have, in addition to the powers specially granted by the charter of such cities, the following powers:

(1) To construct, establish and maintain drains and sewers.

(2) To impose and collect an annual license not exceeding two dollars on every dog owned or harbored within the limits of the city.

(3) To levy and collect annually a property tax on all property within such city.

(4) To license all shows, exhibitions and lawful games carried on therein; and to fix the rates of license tax upon the same, and to provide for the collection of the same by suit or otherwise.

(5) To permit, under such restrictions as they may deem proper, the construction and maintenance of telephone, telegraph and electric light lines therein.

(6) To impose fines, penalties and forfeitures for any and all violations of ordinances; and

for any breach or violation of any ordinance, to fix the penalty by fine or imprisonment or both, but no such fine shall exceed five thousand dollars nor the term of imprisonment exceed one year.

(7) To cause all persons imprisoned for violation of any ordinance to labor on the streets or other public property or works within the city.

(8) To make all such ordinances, bylaws and regulations, not inconsistent with the Constitution and laws of the state of Washington, as may be deemed expedient to maintain the peace, good government and welfare of the city, and to do and perform any and all other acts and things necessary and proper to carry out the purposes of the municipal corporation.

[1984 c 258 § 806; 1965 c 7 § 35.30.010. Prior: 1899 c 69 § 1; RRS § 8944.]

Notes:

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

RCW 35.30.011 Nonpolluting power generation by individual--Exemption from regulation--Authorization to contract with utility.

See chapter 80.58 RCW.

RCW 35.30.014 Hydroelectric resources--Separate legal authority--Creation by irrigation districts and cities, towns, or public utility districts.

See RCW 87.03.825 through 87.03.840.

RCW 35.30.018 Publication of ordinances or summary--Public notice of hearings and meeting agendas.

Promptly after adoption, the text of each ordinance or a summary of the content of each ordinance shall be published at least once in the official newspaper of the city.

For purposes of this section, a summary shall mean a brief description which succinctly describes the main points of the ordinance. Publication of the title of an ordinance authorizing the issuance of bonds, notes, or other evidences of indebtedness shall constitute publication of a summary of that ordinance. When the city publishes a summary, the publication shall include a statement that the full text of the ordinance will be mailed upon request.

An inadvertent mistake or omission in publishing the text or a summary of the content of an ordinance shall not render the ordinance invalid.

In addition to the requirement that a city publish the text or a summary of the content of each adopted ordinance, every city shall establish a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. Such procedure may include, but not be limited to, written notification to the city's official newspaper, publication of a notice in the official newspaper, posting of upcoming council meeting agendas, or such other processes as the city determines will satisfy the intent of this requirement.

[1994 c 273 § 13; 1988 c 168 § 6; 1985 c 469 § 101.]

RCW 35.30.020 Sewer systems--Sewer fund.

The city council of all unclassified cities in this state are authorized to construct a sewer or system of sewers and to keep the same in repair; the cost of such sewer or sewers shall be paid from a special fund to be known as the "sewer fund" to be provided by the city council, which fund shall be created by a tax on all the property within the limits of such city: PROVIDED, That such tax shall not exceed one dollar and twenty-five cents per thousand dollars of the assessed value of all real and personal property within such city for any one year. Whenever it shall become necessary for the city to take or damage private property for the purpose of making or repairing sewers, and the city council cannot agree with the owner as to the price to be paid, the city council may direct proceedings to be taken by law for the condemnation of such property for such purpose.

[1973 1st ex.s. c 195 § 18; 1965 c 7 § 35.30.020. Prior: 1899 c 69 § 2; RRS § 8945.]

Notes:

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 35.30.030 Assessment, levy and collection of taxes.

The city council shall have power to provide by ordinance a complete system for the assessment, levy, and collection of all city taxes. All taxes assessed together with any percentage imposed for delinquency and the cost of collection, shall constitute liens on the property assessed from and after the first day of November each year; which liens may be enforced by a summary sale of such property, and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance or by action in any court of competent jurisdiction to foreclose such liens: PROVIDED, That any property sold for taxes shall be subject to redemption within the time and within the manner provided or that may hereafter be provided by law for the redemption of property sold for state and county taxes.

[1965 c 7 § 35.30.030. Prior: 1899 c 69 § 3; RRS § 8946.]

RCW 35.30.040 Limitation of indebtedness.

Whenever it is deemed advisable to do so by the city council thereof, any city having a corporate existence in this state at the time of the adoption of the Constitution thereof is hereby authorized and empowered to borrow money and to contract indebtedness in any other manner for general municipal purposes, not exceeding in amount, together with the existing general indebtedness of the city, the amount of indebtedness authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred without the assent of the voters.

[1965 c 7 § 35.30.040. Prior: 1890 p 225 § 1; RRS § 9532.]

Notes:

Construction--1890 p 227: "That when this act comes in conflict with any provision, limitation or

restriction in any local or special law or charter existing at the time that the Constitution of the State of Washington was adopted, this statute shall govern and control." [1890 p 227 § 6.] This applies to RCW 35.30.040 through 35.30.060.

Limitations upon indebtedness: State Constitution Art. 7 § 2 (Amendments 55, 59), Art. 8 § 6 (Amendment 27), chapter 39.36 RCW, RCW 84.52.050.

RCW 35.30.050 Additional indebtedness with popular vote.

Any such city may borrow money or contract indebtedness for strictly municipal purposes over the amount specified in RCW 35.30.040, but not exceeding in amount, together with existing general indebtedness, the amount of indebtedness authorized by chapter 39.36 RCW as now or hereafter amended, to be incurred with the assent of the voters, through the council of the city, whenever three-fifths of the voters assent thereto, at an election to be held for that purpose, at such time, upon such reasonable notice, and in the manner presented by the city council, not inconsistent with the general election laws.

[1965 c 7 § 35.30.050. Prior: 1890 p 225 § 2; RRS § 9533.]

Notes:

Elections: Title 29 RCW.

RCW 35.30.060 Additional indebtedness for municipal utilities.

In addition to the powers granted in RCW 35.30.040 and 35.30.050, any such city, through its council may borrow money or contract indebtedness not exceeding in amount the amount of indebtedness authorized by chapter 39.36 RCW, as now or hereafter amended, for the purpose of supplying the city with water, artificial light, or sewers, when the plants used therefor are owned and controlled by the city, whenever three-fifths of the voters assent thereto at an election to be held for that purpose, according to the provisions of RCW 35.30.050.

[1965 c 7 § 35.30.060. Prior: 1890 p 225 § 3; RRS § 9534.]

RCW 35.30.100 Criminal code repeal by city operating municipal court--Agreement covering costs of handling resulting criminal cases--Arbitration.

A city operating a municipal court may not repeal in its entirety that portion of its municipal code defining crimes unless the municipality has reached an agreement with the appropriate county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall include provisions for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have

agreed to submit to arbitration under chapter 7.04 RCW.

[1984 c 258 § 208.]

Notes:

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

Chapter 35.31 RCW
ACCIDENT CLAIMS AND FUNDS

Sections

35.31.020 Charter cities--Manner of filing.
35.31.040 Noncharter cities and towns--Manner of filing--Report.
35.31.050 Accident fund--Warrants for judgments.
35.31.060 Tax levy for fund.
35.31.070 Surplus to current expense fund.

Notes:

Actions against
public corporations: RCW 4.08.120.
state: Chapter 4.92 RCW.
Claims, reports, etc., filing: RCW 1.12.070.
Tortious conduct of political subdivision, municipal corporations and quasi municipal corporations, liability for damages: Chapter 4.96 RCW.

RCW 35.31.020 Charter cities--Manner of filing.

The provisions of chapter 35.31 RCW shall be applied notwithstanding any provisions to the contrary in any charter of any city permitted by law to have a charter; however, charter provisions not inconsistent herewith shall continue to apply. All claims for damages against a charter city shall be filed in the manner set forth in chapter 4.96 RCW.

[1993 c 449 § 7; 1967 c 164 § 12; 1965 c 7 § 35.31.020. Prior: 1957 c 224 § 3; 1917 c 96 § 1; 1915 c 148 § 1; 1909 c 83 § 2; RRS § 9479.]

Notes:

Purpose--Severability--1993 c 449: See notes following RCW 4.96.010.
Purpose--Severability--1967 c 164: See notes following RCW 4.96.010.
Tortious conduct of political subdivisions and municipal corporations, liability for damages: Chapter 4.96 RCW.

RCW 35.31.040 Noncharter cities and towns--Manner of filing--Report.

All claims for damages against noncharter cities and towns shall be filed in the manner set forth in chapter 4.96 RCW.

No ordinance or resolution shall be passed allowing such claim or any part thereof, or appropriating any money or other property to pay or satisfy the same or any part thereof, until

the claim has first been referred to the proper department or committee, nor until such department or committee has made its report to the council thereon pursuant to such reference.

[1993 c 449 § 8; 1989 c 74 § 1; 1967 c 164 § 13; 1965 c 7 § 35.31.040. Prior: 1957 c 224 § 4; 1915 c 148 § 2; 1909 c 167 § 1; RRS § 9481.]

Notes:

Purpose--Severability--1993 c 449: See notes following RCW 4.96.010.

Purpose--Severability--1967 c 164: See notes following RCW 4.96.010.

Actions against political subdivisions, municipal corporations, and quasi municipal corporations: Chapter 4.96 RCW.

Limitation of actions: Chapter 4.16 RCW.

RCW 35.31.050 Accident fund--Warrants for judgments.

Every city of the second class and town may create an accident fund upon which the clerk shall draw warrants for the full amount of any judgment including interest and costs against the city or town on account of personal injuries suffered by any person as shown by a transcript of the judgment duly certified to the clerk. The warrants shall be issued in denominations not less than one hundred dollars nor more than five hundred dollars; they shall draw interest at the rate of six percent per annum, shall be numbered consecutively and be paid in the order of their issue.

[1994 c 81 § 55; 1965 c 7 § 35.31.050. Prior: (i) 1909 c 128 § 1; RRS § 9482. (ii) 1909 c 128 § 2; RRS § 9483. (iii) 1909 c 128 § 5; RRS § 9486.]

RCW 35.31.060 Tax levy for fund.

The city or town council after the drawing of warrants against the accident fund shall estimate the amount necessary to pay the warrants with accrued interest thereon, and shall levy a tax sufficient to pay that amount not exceeding seventy-five cents per thousand dollars of assessed value. If a single levy of seventy-five cents per thousand dollars of assessed value is not sufficient, an annual levy of seventy-five cents per thousand dollars of assessed value shall be made until the warrants and interest are fully paid.

[1973 1st ex.s. c 195 § 19; 1965 c 7 § 35.31.060. Prior: 1909 c 128 § 3; RRS § 9484.]

Notes:

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 35.31.070 Surplus to current expense fund.

If there is no judgment outstanding against the city or town for personal injuries the money remaining in the accident fund after the payment of the warrants drawn on that fund and interest in full shall be transferred to the current expense fund.

[1965 c 7 § 35.31.070. Prior: 1909 c 128 § 4; RRS § 9485.]

Chapter 35.32A RCW
BUDGETS IN CITIES OVER 300,000

Sections

35.32A.010 Budget to be enacted--Exempted functions or programs.
35.32A.020 Budget director.
35.32A.030 Estimates of revenues and expenditures--Preparation of proposed budget--Submission to city council--Copies--Publication.
35.32A.040 Consideration by city council--Hearings--Revision by council.
35.32A.050 Adoption of budget--Expenditure allowances constitute appropriations--Reappropriations--Transfers of allowances.
35.32A.060 Emergency fund.
35.32A.070 Utilities--Exemption from budgetary control.
35.32A.080 Unexpended appropriations--Annual--Operating and maintenance--Capital and betterment outlays.
35.32A.090 Budget mandatory--Other expenditures void--Liability of public officials--Penalty.
35.32A.900 Short title.
35.32A.910 Severability--1967 c 7.

Notes:

Budgets

expenditures for streets: RCW 35.76.060.

leases with or without option to purchase, budget to provide for payment of rentals: RCW 35.42.220.

Limitations upon indebtedness: State Constitution Art. 7 § 2 (Amendments 55, 59), Art. 8 § 6 (Amendment 27), chapter 39.36 RCW, RCW 84.52.050.

RCW 35.32A.010 Budget to be enacted--Exempted functions or programs.

In each city of over three hundred thousand population, there shall be enacted annually by the legislative authority a budget covering all functions or programs of such city except in those cities in which an ordinance has been adopted under RCW 35.34.040 providing for a biennial budget, in which case this chapter does not apply. In addition, this chapter shall not apply to any municipal transportation system managed by a separate commission, the making of expenditures from proceeds of general obligation and revenue bond sales, or the expenditure of moneys derived from grants, gifts, bequests or devises for specified purposes.

[1985 c 175 § 3; 1967 c 7 § 3.]

RCW 35.32A.020 Budget director.

There shall be a budget director, appointed by the mayor without regard to civil service rules and regulations and subject to confirmation by a majority of the members of the city council, who shall be in charge of the city budget office and, under the direction of the mayor, shall be responsible for preparing the budget and supervising its execution. The budget director

may be removed by the mayor upon filing with the city council a statement of his reasons therefor.

[1967 c 7 § 4.]

RCW 35.32A.030 Estimates of revenues and expenditures--Preparation of proposed budget--Submission to city council--Copies--Publication.

The heads of all departments, divisions or agencies of the city government, including the library department, and departments headed by commissions or elected officials shall submit to the mayor estimates of revenues and necessary expenditures for the ensuing fiscal year in such detail, in such form and at such time as the mayor shall prescribe.

The budget director shall assemble all estimates of revenues; necessary departmental expenditures; interest and redemption requirements for any city debt; and other pertinent budgetary information as may be required by uniform regulations of the state auditor; and, under the direction of the mayor, prepare a proposed budget for presentation to the city council.

The revenue estimates shall be based primarily on the collection experience of the first six months of the current fiscal year and the last six months of the preceding fiscal year and shall not include revenue from any source in excess of the amount so collected unless it shall be reasonably anticipated that such excess amounts will in fact be realized. The estimated revenues shall include sources previously established by law and unencumbered fund balances estimated to be available at the close of the current fiscal year. The estimated expenditures in the proposed budget shall, in no event, exceed such estimated revenues: PROVIDED, That the mayor may recommend expenditures exceeding the estimated revenues when accompanied by proposed legislation to raise at least an equivalent amount of additional revenue.

The mayor shall submit the proposed budget to the city council not later than ninety days prior to the beginning of the ensuing fiscal year.

The budget director shall cause sufficient copies of the proposed budget to be prepared and made available to all interested persons and shall cause a summary of the proposed budget to be published at least once in the city official newspaper.

[1985 c 175 § 62; 1967 c 7 § 5.]

RCW 35.32A.040 Consideration by city council--Hearings--Revision by council.

The city council shall forthwith consider the proposed budget submitted by the mayor and shall cause such public hearings to be scheduled on two or more days to allow all interested persons to be heard. Such hearings shall be announced by public notice published in the city official newspaper as well as provided to general news media.

The city council may insert new expenditure allowances, increase or decrease expenditure allowances recommended by the mayor, or revise estimates of revenues subject to the same restrictions as are herein imposed on the mayor; but may not adopt a budget in which the total expenditure allowances exceed the total estimated revenues as defined in RCW 35.32A.030 for the ensuing fiscal year.

[1985 c 175 § 63; 1967 c 7 § 6.]

RCW 35.32A.050 Adoption of budget--Expenditure allowances constitute appropriations--Reappropriations--Transfers of allowances.

Not later than thirty days prior to the beginning of the ensuing fiscal year the city council shall, by ordinance adopt the budget submitted by the mayor as modified by the city council.

The expenditure allowances as set forth in the enacted budget shall constitute the budget appropriations for the ensuing fiscal year. The city council by ordinance may, during the fiscal year covered by the enacted budget, abrogate or decrease any unexpended allowance contained within the budget and reappropriate such unexpended allowances for other functions or programs. Transfers between allowances in the budget of any department, division or agency may be made upon approval by the budget director pursuant to such regulations as may be prescribed by ordinance.

[1967 c 7 § 7.]

RCW 35.32A.060 Emergency fund.

Every city having a population of over three hundred thousand may maintain an emergency fund, which fund balance shall not exceed thirty-seven and one-half cents per thousand dollars of assessed value. Such fund shall be maintained by an annual budget allowance. When the necessity therefor arises transfers may be made to the emergency fund from any tax-supported fund except bond interest and redemption funds.

The city council by an ordinance approved by two-thirds of all of its members may authorize the expenditure of sufficient money from the emergency fund, or other designated funds, to meet the expenses or obligations:

(1) Caused by fire, flood, explosion, storm, earthquake, epidemic, riot, insurrection, act of God, act of the public enemy or any other such happening that could not have been anticipated; or

(2) For the immediate preservation of order or public health or for the restoration to a condition of usefulness of public property the usefulness of which has been destroyed by accident; or

(3) In settlement of approved claims for personal injuries or property damages, exclusive of claims arising from the operation of a public utility owned by the city; or

(4) To meet mandatory expenditures required by laws enacted since the last budget was adopted.

The city council by an ordinance approved by three-fourths of all its members may appropriate from the emergency fund, or other designated funds, an amount sufficient to meet the actual necessary expenditures of the city for which insufficient or no appropriations have been made due to causes which could not reasonably have been foreseen at the time of the making of the budget.

An ordinance authorizing an emergency expenditure shall become effective immediately

upon being approved by the mayor or upon being passed over his veto as provided by the city charter.

[1985 c 175 § 64; 1973 1st ex.s. c 195 § 20; 1967 c 7 § 8.]

Notes:

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 35.32A.070 Utilities--Exemption from budgetary control.

Notwithstanding the provisions of this chapter, the public utilities owned by a city having a population of over three hundred thousand supported wholly by revenues derived from sources other than taxation, may make expenditures for utility purposes not contemplated in the annual budget, as the legislative authority by ordinance shall allow.

[1967 c 7 § 9.]

RCW 35.32A.080 Unexpended appropriations--Annual--Operating and maintenance--Capital and betterment outlays.

The whole or any part of any appropriation provided in the budget for operating and maintenance expenses of any department or activity remaining unexpended or unencumbered at the close of the fiscal year shall automatically lapse, except any such appropriation as the city council shall continue by ordinance. The whole or any part of any appropriation provided in the budget for capital or betterment outlays of any department or activity remaining unexpended or unencumbered at the close of the fiscal year shall remain in full force and effect and shall be held available for the following year, except any such appropriation as the city council by ordinance may have abandoned.

[1967 c 7 § 10.]

RCW 35.32A.090 Budget mandatory--Other expenditures void--Liability of public officials--Penalty.

There shall be no orders, authorizations, allowances, contracts or payments made or attempted to be made in excess of the expenditure allowances authorized in the final budget as adopted or modified as provided in this chapter, and any such attempted excess expenditure shall be void and shall never be the foundation of a claim against the city.

Any public official authorizing, auditing, allowing, or paying any claims or demands against the city in violation of the provisions of this chapter shall be jointly and severally liable to the city in person and upon their official bonds to the extent of any payments upon such claims or demands.

Any person violating any of the provisions of this chapter, in addition to any other liability or penalty provided therefor, shall be guilty of a misdemeanor.

[1967 c 7 § 11.]

RCW 35.32A.900 Short title.

This chapter shall be known and may be cited as the budget act for cities over three hundred thousand population.

[1967 c 7 § 2.]

RCW 35.32A.910 Severability--1967 c 7.

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

[1967 c 7 § 12.]

Chapter 35.33 RCW
BUDGETS IN SECOND AND THIRD CLASS CITIES, TOWNS, AND FIRST CLASS CITIES UNDER 300,000

Sections

35.33.011 Definitions.
35.33.020 Applicability of chapter.
35.33.031 Budget estimates.
35.33.041 Budget estimates--Classification and segregation.
35.33.051 Budget--Preliminary.
35.33.055 Budget--Preliminary--Filing--Copies.
35.33.057 Budget message--Hearings.
35.33.061 Budget--Notice of hearing on final.
35.33.071 Budget--Final--Hearing.
35.33.075 Budget--Final--Adoption--Appropriations.
35.33.081 Emergency expenditures--Nondebatable emergencies.
35.33.091 Emergency expenditures--Other emergencies--Hearing.
35.33.101 Emergency warrants.
35.33.106 Registered warrants--Payment.
35.33.107 Adjustment of wages, hours and conditions of employment.
35.33.111 Forms--Accounting--Supervision by state.
35.33.121 Funds--Limitations on expenditures--Transfers.
35.33.123 Administration, oversight, or supervision of utility--Reimbursement from utility budget authorized.
35.33.125 Liabilities incurred in excess of budget.
35.33.131 Funds received from sale of bonds and warrants--Expenditure program.
35.33.135 Revenue estimates--Amount to be raised by ad valorem taxes.
35.33.141 Report of expenditures and liabilities against budget appropriations.
35.33.145 Contingency fund--Creation--Purpose--Support--Lapse.
35.33.147 Contingency fund--Withdrawals.
35.33.151 Unexpended appropriations.

35.33.170 Violations and penalties.

NOTES:
Budgets
expenditures for streets: RCW 35.76.060.
leases with or without option to purchase, budget to provide for payment of rentals: RCW 35.42.220.
Limitations upon indebtedness: State Constitution Art. 8 § 6 (Amendment 27), Art. 7 § 2 (Amendments 55, 59), chapter 39.36 RCW, RCW 84.52.050.

RCW 35.33.011 Definitions.

Unless the context clearly indicates otherwise, the following words as used in this chapter shall have the meaning herein prescribed:

(1) "Clerk" as used in this chapter includes the officer performing the functions of a finance or budget director, comptroller, auditor, or by whatever title he may be known in any city or town.

(2) "Department" as used in this chapter includes each office, division, service, system or institution of the city or town for which no other statutory or charter provision is made for budgeting and accounting procedures or controls.

(3) "Legislative body" as used in this chapter includes council, commission or any other group of officials serving as the legislative body of a city or town.

(4) "Chief administrative officer" as used in this chapter includes the mayor of cities or towns having a mayor-council form of government, the commissioners in cities or towns having a commission form of government, the city manager, or any other city or town official designated by the charter or ordinances of such city or town under the plan of government governing the same, or the budget or finance officer designated by the mayor, manager or commissioners, to perform the functions, or portions thereof, contemplated by this chapter.

(5) "Fiscal year" as used in this chapter means that fiscal period set by the city or town pursuant to authority given under RCW 1.16.030.

(6) "Fund", as used in this chapter and "funds" where clearly used to indicate the plural of "fund", shall mean the budgeting or accounting entity authorized to provide a sum of money for specified activities or purposes.

(7) "Funds" as used in this chapter where not used to indicate the plural of "fund" shall mean money in hand or available for expenditure or payment of a debt or obligation.

(8) Except as otherwise defined herein, municipal accounting terms used in this chapter shall have the meaning prescribed by the state auditor pursuant to RCW 43.09.200.

[1981 c 40 § 1; 1969 ex.s. c 95 § 1.]

RCW 35.33.020 Applicability of chapter.

The provisions of this chapter apply to all cities of the first class that have a population of less than three hundred thousand, to all cities of the second class, and to all towns, except those cities and towns that have adopted an ordinance under RCW 35.34.040 providing for a biennial budget.

[1997 c 361 § 14; 1985 c 175 § 4; 1969 ex.s. c 95 § 2; 1965 c 7 § 35.33.020. Prior: 1923 c 158 § 8; RRS § 9000-8.]

RCW 35.33.031 Budget estimates.

On or before the second Monday of the fourth month prior to the beginning of the city's or town's next fiscal year, or at such other time as the city or town may provide by ordinance or charter, the clerk shall notify in writing the head of each department of a city or town to file with the clerk within fourteen days of the receipt of such notification, detailed estimates of the probable revenue from sources other than ad valorem taxation and of all expenditures required by his or her department for the ensuing fiscal year. The notice shall be accompanied by the proper forms provided by the clerk, prepared in accordance with the requirements and classification established by the state auditor. The clerk shall prepare the estimates for interest and debt redemption requirements and all other estimates, the preparation of which falls properly within the duties of his or her office. The chief administrative officers of the city or town shall submit to the clerk detailed estimates of all expenditures proposed to be financed from the proceeds of bonds or warrants not yet authorized, together with a statement of the proposed method of financing them. In the absence or disability of the official or person regularly in charge of a department, the duties herein required shall devolve upon the person next in charge of such department.

[1995 c 301 § 39; 1969 ex.s. c 95 § 3.]

RCW 35.33.041 Budget estimates--Classification and segregation.

All estimates of receipts and expenditures for the ensuing year shall be fully detailed in the annual budget and shall be classified and segregated according to a standard classification of accounts to be adopted and prescribed by the state auditor after consultation with the Washington finance officers association, the association of Washington cities and the association of Washington city managers.

[1995 c 301 § 40; 1969 ex.s. c 95 § 4.]

RCW 35.33.051 Budget--Preliminary.

On or before the first business day in the third month prior to the beginning of the fiscal year of a city or town or at such other time as the city or town may provide by ordinance or charter, the clerk or other person designated by the charter, by ordinances, or by the chief administrative officer of the city or town shall submit to the chief administrative officer a proposed preliminary budget which shall set forth the complete financial program of the city or town for the ensuing fiscal year, showing the expenditure program requested by each department and the sources of revenue by which each such program is proposed to be financed.

The revenue section shall set forth in comparative and tabular form for each fund the actual receipts for the last completed fiscal year, the estimated receipts for the current fiscal year

and the estimated receipts for the ensuing fiscal year, which shall include the amount to be raised from ad valorem taxes and unencumbered fund balances estimated to be available at the close of the current fiscal year.

The expenditure section shall set forth in comparative and tabular form for each fund and every department operating within each fund the actual expenditures for the last completed fiscal year, the appropriations for the current fiscal year and the estimated expenditures for the ensuing fiscal year. The salary or salary range for each office, position or job classification shall be set forth separately together with the title or position designation thereof: PROVIDED, That salaries may be set out in total amounts under each department if a detailed schedule of such salaries and positions be attached to and made a part of the budget document.

[1969 ex.s. c 95 § 5.]

RCW 35.33.055 Budget--Preliminary--Filing--Copies.

The chief administrative officer shall prepare the preliminary budget in detail, making any revisions or additions to the reports of the department heads deemed advisable by such chief administrative officer and at least sixty days before the beginning of the city's or town's next fiscal year he shall file it with the clerk as the recommendation of the chief administrative officer for the final budget. The clerk shall provide a sufficient number of copies of such preliminary budget and budget message to meet the reasonable demands of taxpayers therefor and have them available for distribution not later than six weeks before the beginning of the city's or town's next fiscal year.

[1969 ex.s. c 95 § 6.]

RCW 35.33.057 Budget message--Hearings.

In every city or town a budget message prepared by or under the direction of the city's or town's chief administrative officer shall be submitted as a part of the preliminary budget to the city's or town's legislative body at least sixty days before the beginning of the city's or town's next fiscal year and shall contain the following:

(1) An explanation of the budget document;

(2) An outline of the recommended financial policies and programs of the city for the ensuing fiscal year;

(3) A statement of the relation of the recommended appropriation to such policies and programs;

(4) A statement of the reason for salient changes from the previous year in appropriation and revenue items;

(5) An explanation for any recommended major changes in financial policy.

Prior to the final hearing on the budget, the legislative body or a committee thereof, shall schedule hearings on the budget or parts thereof, and may require the presence of department heads to give information regarding estimates and programs.

[1969 ex.s. c 95 § 7.]

RCW 35.33.061 Budget--Notice of hearing on final.

Immediately following the filing of the preliminary budget with the clerk, the clerk shall publish a notice once each week for two consecutive weeks stating that the preliminary budget for the ensuing fiscal year has been filed with the clerk; that a copy thereof will be furnished to any taxpayer who will call at the clerk's office therefor and that the legislative body of the city or town will meet on or before the first Monday of the month next preceding the beginning of the ensuing fiscal year for the purpose of fixing the final budget, designating the date, time and place of the legislative budget meeting and that any taxpayer may appear thereat and be heard for or against any part of the budget. The publication of the notice shall be made in the official newspaper of the city or town.

[1985 c 469 § 27; 1973 c 67 § 2; 1969 ex.s. c 95 § 8.]

RCW 35.33.071 Budget--Final--Hearing.

The council shall meet on the day fixed by RCW 35.33.061 for the purpose of fixing the final budget of the city or town at the time and place designated in the notice thereof. Any taxpayer may appear and be heard for or against any part of the budget. The hearing may be continued from day to day but not later than the twenty-fifth day prior to commencement of the city's or town's fiscal year.

[1969 ex.s. c 95 § 9.]

RCW 35.33.075 Budget--Final--Adoption--Appropriations.

Following conclusion of the hearing, and prior to the beginning of the fiscal year, the legislative body shall make such adjustments and changes as it deems necessary or proper and after determining the allowance in each item, department, classification and fund, and shall by ordinance, adopt the budget in its final form and content. Appropriations shall be limited to the total estimated revenues contained therein including the amount to be raised by ad valorem taxes and the unencumbered fund balances estimated to be available at the close of the current fiscal year. Such ordinances may adopt the final budget by reference: PROVIDED, That the ordinance adopting such budget shall set forth in summary form the totals of estimated revenues and appropriations for each separate fund and the aggregate totals for all such funds combined.

A complete copy of the final budget as adopted shall be transmitted to the association of Washington cities.

[1995 c 301 § 41; 1969 ex.s. c 95 § 10.]

RCW 35.33.081 Emergency expenditures--Nondebatable emergencies.

Upon the happening of any emergency caused by violence of nature, casualty, riot, insurrection, war, or other unanticipated occurrence requiring the immediate preservation of order or public health, or for the restoration to a condition of usefulness of any public property which has been damaged or destroyed by accident, or for public relief from calamity, or in settlement of approved claims for personal injuries or property damages, or to meet mandatory expenditures required by laws enacted since the last annual budget was adopted, or to cover expenses incident to preparing for or establishing a new form of government authorized or assumed after adoption of the current budget, including any expenses incident to selection of additional or new officials required thereby, or incident to employee recruitment at any time, the city or town legislative body, upon the adoption of an ordinance, by the vote of one more than the majority of all members of the legislative body, stating the facts constituting the emergency and the estimated amount required to meet it, may make the expenditures therefor without notice or hearing.

[1969 ex.s. c 95 § 11.]

RCW 35.33.091 Emergency expenditures--Other emergencies--Hearing.

If a public emergency which could not reasonably have been foreseen at the time of filing the preliminary budget requires the expenditure of money not provided for in the annual budget, and if it is not one of the emergencies specifically enumerated in RCW 35.33.081, the city or town legislative body before allowing any expenditure therefor shall adopt an ordinance stating the facts constituting the emergency and the estimated amount required to meet it and declaring that an emergency exists.

Such ordinance shall not be voted on until five days have elapsed after its introduction, and for passage shall require the vote of one more than the majority of all members of the legislative body of the city or town.

Any taxpayer may appear at the meeting at which the emergency ordinance is to be voted on and be heard for or against the adoption thereof.

[1969 ex.s. c 95 § 12.]

RCW 35.33.101 Emergency warrants.

All expenditures for emergency purposes as provided in this chapter shall be paid by warrants from any available money in the fund properly chargeable with such expenditures. If, at any time, there is insufficient money on hand in a fund with which to pay such warrants as presented, the warrants shall be registered, bear interest and be called in the same manner as other registered warrants as prescribed in RCW 35.33.111.

[1969 ex.s. c 95 § 13.]

Notes:
Warrants--Interest rate--Payment: RCW 35.21.320.

RCW 35.33.106 Registered warrants--Payment.

In adopting the final budget for any fiscal year, the legislative body shall appropriate from estimated revenue sources available, a sufficient amount to pay the principal and interest on all outstanding registered warrants issued since the adoption of the last preceding budget except those issued and identified as revenue warrants and except those for which an appropriation previously has been made: PROVIDED, That no portion of the revenues which are restricted in use by law may be appropriated for the redemption of warrants issued against a utility or other special purpose fund of a self-supporting nature: PROVIDED FURTHER, That all or any portion of the city's or town's outstanding registered warrants may be funded into bonds in any manner authorized by law.

[1969 ex.s. c 95 § 14.]

RCW 35.33.107 Adjustment of wages, hours and conditions of employment.

Notwithstanding the appropriations for any salary, or salary range of any employee or employees adopted in a final budget, the legislative body of any city or town may, by ordinance, change the wages, hours, and conditions of employment of any or all of its appointive employees if sufficient funds are available for appropriation to such purposes.

[1969 ex.s. c 95 § 15.]

RCW 35.33.111 Forms--Accounting--Supervision by state.

The state auditor is empowered to make and install the forms and classifications required by this chapter to define what expenditures are chargeable to each budget class and to establish the accounting and cost systems necessary to secure accurate budget information.

[1995 c 301 § 42; 1969 ex.s. c 95 § 16.]

RCW 35.33.121 Funds--Limitations on expenditures--Transfers.

The expenditures as classified and itemized in the final budget shall constitute the city's or town's appropriations for the ensuing fiscal year. Unless otherwise ordered by a court of competent jurisdiction, and subject to further limitations imposed by ordinance of the city or town, the expenditure of city or town funds or the incurring of current liabilities on behalf of the city or town shall be limited to the following:

(1) The total amount appropriated for each fund in the budget for the current fiscal year, without regard to the individual items contained therein, except that this limitation shall not apply to wage adjustments authorized by RCW 35.33.107; and

(2) The unexpended appropriation balances of a preceding budget which may be carried forward from prior fiscal years pursuant to RCW 35.33.151; and

(3) Funds received from the sale of bonds or warrants which have been duly authorized according to law; and

(4) Funds received in excess of estimated revenues during the current fiscal year, when authorized by an ordinance amending the original budget; and

(5) Expenditures required for emergencies, as authorized in RCW 35.33.081 and 35.33.091.

Transfers between individual appropriations within any one fund may be made during the current fiscal year by order of the city's or town's chief administrative officer subject to such regulations, if any, as may be imposed by the city or town legislative body. Notwithstanding the provisions of RCW 43.09.210 or of any statute to the contrary, transfers, as herein authorized, may be made within the same fund regardless of the various offices, departments or divisions of the city or town which may be affected.

The city or town legislative body, upon a finding that it is to the best interests of the city or town to decrease, revoke or recall all or any portion of the total appropriations provided for any one fund, may, by ordinance, approved by the vote of one more than the majority of all members thereof, stating the facts and findings for doing so, decrease, revoke or recall all or any portion of an unexpended fund balance, and by said ordinance, or a subsequent ordinance adopted by a like majority, the moneys thus released may be reappropriated for another purpose or purposes, without limitation to department, division or fund, unless the use of such moneys is otherwise restricted by law, charter, or ordinance.

[1969 ex.s. c 95 § 17.]

RCW 35.33.123 Administration, oversight, or supervision of utility--Reimbursement from utility budget authorized.

Whenever any city or town apportions a percentage of the city manager's, administrator's, or supervisor's time, or the time of other management or general government staff, for administration, oversight, or supervision of a utility operated by the city or town, or to provide services to the utility, the utility budget may identify such services and budget for reimbursement of the city's or town's current expense fund for the value of such services.

[1991 c 152 § 1.]

RCW 35.33.125 Liabilities incurred in excess of budget.

Liabilities incurred by any officer or employee of the city or town in excess of any budget appropriations shall not be a liability of the city or town. The clerk shall issue no warrant and the city or town legislative body or other authorized person shall approve no claim for an expenditure in excess of the total amount appropriated for any individual fund, except upon an order of a court of competent jurisdiction or for emergencies as provided in this chapter.

[1969 ex.s. c 95 § 18.]

RCW 35.33.131 Funds received from sale of bonds and warrants--Expenditure

program.

Moneys received from the sale of bonds or warrants shall be used for no other purpose than that for which they were issued and no expenditure shall be made for that purpose until the bonds have been duly authorized. If any unexpended fund balance remains from the proceeds realized from the bonds or warrants after the accomplishment of the purpose for which they were issued it shall be used for the redemption of such bond or warrant indebtedness. Where a budget contains an expenditure program to be financed from a bond issue to be authorized thereafter, no such expenditure shall be made or incurred until after the bonds have been duly authorized.

[1969 ex.s. c 95 § 19.]

RCW 35.33.135 Revenue estimates--Amount to be raised by ad valorem taxes.

At a time fixed by the city's or town's ordinance or city charter, not later than the first Monday in October of each year, the chief administrative officer shall provide the city's or town's legislative body with current information on estimates of revenues from all sources as adopted in the budget for the current year, together with estimates submitted by the clerk under RCW 35.33.051. The city's or town's legislative body and the city's or town's administrative officer or his designated representative shall consider the city's or town's total anticipated financial requirements for the ensuing fiscal year, and the legislative body shall determine and fix by ordinance the amount to be raised by ad valorem taxes. Upon adoption of the ordinance fixing the amount of ad valorem taxes to be levied, the clerk shall certify the same to the board of county commissioners as required by RCW 84.52.020.

[1969 ex.s. c 95 § 20.]

RCW 35.33.141 Report of expenditures and liabilities against budget appropriations.

At such intervals as may be required by city charter or city or town ordinance, however, being not less than quarterly, the clerk shall submit to the city's or town's legislative body and chief administrative officer a report showing the expenditures and liabilities against each separate budget appropriation incurred during the preceding reporting period and like information for the whole of the current fiscal year to the first day of the current reporting period together with the unexpended balance of each appropriation. The report shall also show the receipts from all sources.

[1969 ex.s. c 95 § 21.]

RCW 35.33.145 Contingency fund--Creation--Purpose--Support--Lapse.

Every city or town may create and maintain a contingency fund to provide moneys with which to meet any municipal expense, the necessity or extent of which could not have been foreseen or reasonably evaluated at the time of adopting the annual budget, or from which to provide moneys for those emergencies described in RCW 35.33.081 and 35.33.091. Such fund

may be supported by a budget appropriation from any tax or other revenue source not restricted in use by law, or also may be supported by a transfer from other unexpended or decreased funds made available by ordinance as set forth in RCW 35.33.121: PROVIDED, That the total amount accumulated in such fund at any time shall not exceed the equivalent of thirty-seven and one-half cents per thousand dollars of assessed valuation of property within the city or town at such time. Any moneys in the contingency fund at the end of the fiscal year shall not lapse except upon reappropriation by the council to another fund in the adoption of a subsequent budget.

[1973 1st ex.s. c 195 § 21; 1969 ex.s. c 95 § 22.]

Notes:

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 35.33.147 Contingency fund--Withdrawals.

No money shall be withdrawn from the contingency fund except by transfer to the appropriate operating fund authorized by a resolution or ordinance of the legislative body of the city or town, adopted by a majority vote of the entire legislative body, clearly stating the facts constituting the reason for the withdrawal or the emergency as the case may be, specifying the fund to which the withdrawn money shall be transferred.

[1969 ex.s. c 95 § 23.]

RCW 35.33.151 Unexpended appropriations.

All appropriations in any current operating fund shall lapse at the end of each fiscal year: PROVIDED, That this shall not prevent payments in the following year upon uncompleted programs or improvements in progress or on orders subsequently filled or claims subsequently billed for the purchase of material, equipment and supplies or for personal or contractual services not completed or furnished by the end of the fiscal year, all of which have been properly budgeted and contracted for prior to the close of such fiscal year but furnished or completed in due course thereafter.

All appropriations in a special fund authorized by ordinance or by state law to be used only for the purpose or purposes therein specified, including any cumulative reserve funds lawfully established in specific or general terms for any municipal purpose or purposes, or a contingency fund as authorized by RCW 35.33.145, shall not lapse, but shall be carried forward from year to year until fully expended or the purpose has been accomplished or abandoned, without necessity of reappropriation.

The accounts for budgetary control for each fiscal year shall be kept open for twenty days after the close of such fiscal year for the purpose of paying and recording claims for indebtedness incurred during such fiscal year; any claim presented after the twentieth day following the close of the fiscal year shall be paid from appropriations lawfully provided for the ensuing period, including those made available by provisions of this section, and shall be recorded in the accounts for the ensuing fiscal year.

[1969 ex.s. c 95 § 24.]

RCW 35.33.170 Violations and penalties.

Upon the conviction of any city or town official, department head or other city or town employee of knowingly failing, or refusing, without just cause, to perform any duty imposed upon such officer or employee by this chapter, or city charter or city or town ordinance, in connection with the giving of notice, the preparing and filing of estimates of revenues or expenditures or other information required for preparing a budget report in the time and manner required, or of knowingly making expenditures in excess of budget appropriations, he shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars for each separate violation.

[1969 ex.s. c 95 § 25.]

Chapter 35.34 RCW
BIENNIAL BUDGETS

Sections

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RCW 35.34.010 Legislative intent.

The legislature hereby recognizes that the development and adoption of a budget by a city or town is a lengthy and intense process designed to provide adequate opportunities for public input and sufficient time for deliberation and enactment by the legislative authority. The legislature also recognizes that there are limited amounts of time available and that time committed for budgetary action reduces opportunities for deliberating other issues. It is, therefore, the intent of the legislature to authorize cities and towns to establish by ordinance a biennial budget and to provide the means for modification of such budget. This chapter and chapter 35A.34 RCW shall be known as the municipal biennial budget act.

[1985 c 175 § 1.]

RCW 35.34.020 Application of chapter.

This chapter applies to all cities of the first and second classes and to all towns, that have by ordinance adopted this chapter authorizing the adoption of a fiscal biennium budget.

[1997 c 361 § 15; 1985 c 175 § 5.]

RCW 35.34.030 Definitions.

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

(1) "Clerk" includes the officer performing the functions of a finance or budget director, comptroller, auditor, or by whatever title the officer may be known in any city or town. However, for cities over three hundred thousand, "clerk" means the budget director as authorized under RCW 35.32A.020.

(2) "Department" includes each office, division, service, system, or institution of the city or town for which no other statutory or charter provision is made for budgeting and accounting procedures or controls.

(3) "Legislative body" includes the council, commission, or any other group of officials serving as the legislative body of a city or town.

(4) "Chief administrative officer" includes the mayor of cities or towns having a mayor-council form of government, the commissioners in cities or towns having a commission form of government, the manager, or any other city or town official designated by the charter or ordinances of such city or town under the plan of government governing the same, or the budget or finance officer designated by the mayor, manager, or commissioners, to perform the functions, or portions thereof, contemplated by this chapter.

(5) "Fiscal biennium" means the period from January 1 of each odd-numbered year through December 31 of the next succeeding even-numbered year.

(6) "Fund" and "funds" where clearly used to indicate the plural of "fund" means the budgeting or accounting entity authorized to provide a sum of money for specified activities or purposes.

(7) "Funds" where not used to indicate the plural of "fund" means money in hand or available for expenditure or payment of a debt or obligation.

(8) Except as otherwise defined in this chapter, municipal accounting terms used in this chapter have the meaning prescribed by the state auditor pursuant to RCW 43.09.200.

[1985 c 175 § 6.]

Notes:
"Fiscal biennium" defined: RCW 1.16.020.

RCW 35.34.040 Biennial budget authorized--Limitations.

All first and second class cities and towns are authorized to establish by ordinance a two-year fiscal biennium budget. The ordinance shall be enacted at least six months prior to commencement of the fiscal biennium and this chapter applies to all cities and towns which utilize a fiscal biennium budget. Cities and towns which establish a fiscal biennium budget are authorized to repeal such ordinance and provide for reversion to a fiscal year budget. The ordinance may only be repealed effective as of the conclusion of a fiscal biennium. However, the city or town shall comply with chapter 35.32A or 35.33 RCW, whichever the case may be, in developing and adopting the budget for the first fiscal year following repeal of the ordinance.

[1994 c 81 § 56; 1985 c 175 § 7.]

RCW 35.34.050 Budget estimates--Submittal.

On or before the second Monday of the fourth month prior to the beginning of the city's or town's next fiscal biennium, or at such other time as the city or town may provide by ordinance or charter, the clerk shall notify in writing the head of each department of a city or town to file with the clerk within fourteen days of the receipt of such notification, detailed estimates of the probable revenue from sources other than ad valorem taxation and of all expenditures required by the department for the ensuing fiscal biennium. The notice shall be accompanied by the proper forms provided by the clerk, prepared in accordance with the requirements and classification established by the state auditor. The clerk shall prepare the estimates for interest and debt redemption requirements and all other estimates, the preparation of which falls properly within the duties of the clerk's office. The chief administrative officers of the city or town shall submit to the clerk detailed estimates of all expenditures proposed to be financed from the proceeds of bonds or warrants not yet authorized, together with a statement of the proposed method of financing them. In the absence or disability of the official or person regularly in charge of a department, the duties required by this section shall devolve upon the

person next in charge of such department.

[1995 c 301 § 43; 1985 c 175 § 8.]

RCW 35.34.060 Budget estimates--Classification and segregation.

All estimates of receipts and expenditures for the ensuing fiscal biennium shall be fully detailed in the biennial budget and shall be classified and segregated according to a standard classification of accounts to be adopted and prescribed by the state auditor after consultation with the Washington finance officers association, the association of Washington cities, and the association of Washington city managers.

[1995 c 301 § 44; 1985 c 175 § 9.]

RCW 35.34.070 Proposed preliminary budget.

On or before the first business day in the third month prior to the beginning of the biennium of a city or town or at such other time as the city or town may provide by ordinance or charter, the clerk or other person designated by the charter, by ordinances, or by the chief administrative officer of the city or town shall submit to the chief administrative officer a proposed preliminary budget which shall set forth the complete financial program of the city or town for the ensuing fiscal biennium, showing the expenditure program requested by each department and the sources of revenue by which each such program is proposed to be financed.

The revenue section shall set forth in comparative and tabular form for each fund the actual receipts for the last completed fiscal biennium, the estimated receipts for the current fiscal biennium, and the estimated receipts for the ensuing fiscal biennium, which shall include the amount to be raised from ad valorem taxes and unencumbered fund balances estimated to be available at the close of the current fiscal biennium. However, if the city or town was not utilizing a fiscal biennium budget for the previous three years, it shall set forth its fiscal years' revenues to reflect actual and estimated receipts as if it had previously utilized a biennial budgetary process.

The expenditure section shall set forth in comparative and tabular form for each fund and every department operating within each fund the actual expenditures for the last completed fiscal biennium, the appropriations for the current fiscal biennium, and the estimated expenditures for the ensuing fiscal biennium. However, if the city or town was not utilizing a fiscal biennium budget for the previous three years, it shall set forth its fiscal years' expenditures to reflect actual and estimated levels as if it had previously utilized a biennial budgetary process. The expenditure section shall further set forth separately the salary or salary range for each office, position, or job classification together with the title or position designation thereof. However, salaries may be set out in total amounts under each department if a detailed schedule of such salaries and positions be attached and made a part of the budget document.

[1985 c 175 § 10.]

RCW 35.34.080 Preliminary budget.

The chief administrative officer shall prepare the preliminary budget in detail, making any revisions or additions to the reports of the department heads deemed advisable by such chief administrative officer. At least sixty days before the beginning of the city's or town's next fiscal biennium the chief administrative officer shall file it with the clerk as the recommendation of the chief administrative officer for the final budget. The clerk shall provide a sufficient number of copies of such preliminary budget and budget message to meet the reasonable demands of taxpayers therefor and have them available for distribution not later than six weeks before the beginning of the city's or town's next fiscal biennium.

[1985 c 175 § 11.]

RCW 35.34.090 Budget message--Hearings.

(1) In every city or town, a budget message prepared by or under the direction of the city's or town's chief administrative officer shall be submitted as a part of the preliminary budget to the city's or town's legislative body at least sixty days before the beginning of the city's or town's next fiscal biennium and shall contain the following:

(a) An explanation of the budget document;

(b) An outline of the recommended financial policies and programs of the city or town for the ensuing fiscal biennium;

(c) A statement of the relation of the recommended appropriation to such policies and programs;

(d) A statement of the reason for salient changes from the previous biennium in appropriation and revenue items; and

(e) An explanation for any recommended major changes in financial policy.

(2) Prior to the final hearing on the budget, the legislative body or a committee thereof shall schedule hearings on the budget or parts thereof, and may require the presence of department heads to give information regarding estimates and programs.

[1985 c 175 § 12.]

RCW 35.34.100 Budget--Notice of hearing.

Immediately following the filing of the preliminary budget with the clerk, the clerk shall publish a notice once a week for two consecutive weeks stating that the preliminary budget for the ensuing fiscal biennium has been filed with the clerk, that a copy thereof will be made available to any taxpayer who will call at the clerk's office therefor, that the legislative body of the city or town will meet on or before the first Monday of the month next preceding the beginning of the ensuing fiscal biennium for the purpose of fixing the final budget, designating the date, time, and place of the legislative budget meeting, and that any taxpayer may appear thereat and be heard for or against any part of the budget. The publication of the notice shall be made in the official newspaper of the city or town if there is one, otherwise in a newspaper of

general circulation in the city or town. If there is no newspaper of general circulation in the city or town, then notice may be made by posting in three public places fixed by ordinance as the official places for posting the city's or town's official notices.

[1985 c 175 § 13.]

RCW 35.34.110 Budget--Hearing.

The legislative body shall meet on the day fixed by RCW 35.34.100 for the purpose of fixing the final budget of the city or town at the time and place designated in the notice thereof. Any taxpayer may appear and be heard for or against any part of the budget. The hearing may be continued from day to day but not later than the twenty-fifth day prior to commencement of the city's or town's fiscal biennium.

[1985 c 175 § 14.]

RCW 35.34.120 Budget--Adoption.

Following conclusion of the hearing, and prior to the beginning of the fiscal biennium, the legislative body shall make such adjustments and changes as it deems necessary or proper and, after determining the allowance in each item, department, classification, and fund, shall by ordinance adopt the budget in its final form and content. Appropriations shall be limited to the total estimated revenues contained therein including the amount to be raised by ad valorem taxes and the unencumbered fund balances estimated to be available at the close of the current fiscal biennium. Such ordinances may adopt the final budget by reference. However, the ordinance adopting the budget shall set forth in summary form the totals of estimated revenues and appropriations for each separate fund and the aggregate totals for all such funds combined.

A complete copy of the final budget as adopted shall be transmitted to the state auditor and to the association of Washington cities.

[1995 c 301 § 45; 1985 c 175 § 15.]

RCW 35.34.130 Budget--Mid-biennial review and modification.

The legislative authority of a city or town having adopted the provisions of this chapter shall provide by ordinance for a mid-biennial review and modification of the biennial budget. The ordinance shall provide that such review and modification shall occur no sooner than eight months after the start nor later than conclusion of the first year of the fiscal biennium. The chief administrative officer shall prepare the proposed budget modification and shall provide for publication of notice of hearings consistent with publication of notices for adoption of other city or town ordinances. City or town ordinances providing for a mid-biennium review and modification shall establish procedures for distribution of the proposed modification to members of the city or town legislative authority, procedures for making copies available to the public, and shall provide for public hearings on the proposed budget modification. The budget

modification shall be by ordinance approved in the same manner as are other ordinances of the city or town.

A complete copy of the budget modification as adopted shall be transmitted to the state auditor and to the association of Washington cities.

[1995 c 301 § 46; 1985 c 175 § 16.]

RCW 35.34.140 Emergency expenditures--Nondebatable emergencies.

Upon the happening of any emergency caused by violence of nature, casualty, riot, insurrection, war, or other unanticipated occurrence requiring the immediate preservation of order or public health, or for the property which has been damaged or destroyed by accident, or for public relief from calamity, or in settlement of approved claims for personal injuries or property damages, or to meet mandatory expenditures required by law enacted since the last budget was adopted, or to cover expenses incident to preparing for or establishing a new form of government authorized or assumed after adoption of the current budget, including any expenses incident to selection of additional or new officials required thereby, or incident to employee recruitment at any time, the city or town legislative body, upon the adoption of an ordinance, by the vote of one more than the majority of all members of the legislative body, stating the facts constituting the emergency and the estimated amount required to meet it, may make the expenditures therefor without notice or hearing.

[1985 c 175 § 17.]

RCW 35.34.150 Emergency expenditures--Other emergencies--Hearing.

If a public emergency which could not reasonably have been foreseen at the time of filing the preliminary budget requires the expenditure of money not provided for in the budget, and if it is not one of the emergencies specifically enumerated in RCW 35.34.140, the city or town legislative body before allowing any expenditure therefor shall adopt an ordinance stating the facts constituting the emergency and the estimated amount required to meet it and declaring that an emergency exists.

The ordinance shall not be voted on until five days have elapsed after its introduction, and for passage shall require the vote of one more than the majority of all members of the legislative body of the city or town.

Any taxpayer may appear at the meeting at which the emergency ordinance is to be voted on and be heard for or against the adoption thereof.

[1985 c 175 § 18.]

RCW 35.34.160 Emergency expenditures--Warrants--Payment.

All expenditures for emergency purposes as provided in this chapter shall be paid by warrants from any available money in the fund properly chargeable with such expenditures. If, at

any time, there is insufficient money on hand in a fund with which to pay such warrants as presented, the warrants shall be registered, bear interest, and be called in the same manner as other registered warrants as prescribed in RCW 35.21.320.

[1985 c 175 § 19.]

RCW 35.34.170 Registered warrants--Payment.

In adopting the final budget for any fiscal biennium, the legislative body shall appropriate from estimated revenue sources available, a sufficient amount to pay the principal and interest on all outstanding registered warrants issued since the adoption of the last preceding budget except those issued and identified as revenue warrants and except those for which an appropriation previously has been made. However, no portion of the revenues which are restricted in use by law may be appropriated for the redemption of warrants issued against a utility or other special purpose fund of a self-supporting nature. In addition, all or any portion of the city's or town's outstanding registered warrants may be funded into bonds in any manner authorized by law.

[1985 c 175 § 20.]

RCW 35.34.180 Adjustment of wages, hours, and conditions of employment.

Notwithstanding the appropriations for any salary or salary range of any employee or employees adopted in a final budget, the legislative body of any city or town may, by ordinance, change the wages, hours, and conditions of employment of any or all of its appointive employees if sufficient funds are available for appropriation to such purposes.

[1985 c 175 § 21.]

RCW 35.34.190 Forms--Accounting--Supervision by state.

The state auditor is empowered to make and install the forms and classifications required by this chapter to define what expenditures are chargeable to each budget class and to establish the accounting and cost systems necessary to secure accurate budget information.

[1995 c 301 § 47; 1985 c 175 § 22.]

RCW 35.34.200 Funds--Limitations on expenditures--Transfers and adjustments.

(1) The expenditures as classified and itemized in the final budget shall constitute the city's or town's appropriations for the ensuing fiscal biennium. Unless otherwise ordered by a court of competent jurisdiction, and subject to further limitations imposed by ordinance of the city or town, the expenditure of city or town funds or the incurring of current liabilities on behalf of the city or town shall be limited to the following:

(a) The total amount appropriated for each fund in the budget for the current fiscal biennium, without regard to the individual items contained therein, except that this limitation

does not apply to wage adjustments authorized by RCW 35.34.180;

(b) The unexpended appropriation balances of a preceding budget which may be carried forward from prior fiscal periods pursuant to RCW 35.34.270;

(c) Funds received from the sale of bonds or warrants which have been duly authorized according to law;

(d) Funds received in excess of estimated revenues during the current fiscal biennium, when authorized by an ordinance amending the original budget; and

(e) Expenditures authorized by budget modification as provided by RCW 35.34.130 and those required for emergencies, as authorized by RCW 35.34.140 and 35.34.150.

(2) Transfers between individual appropriations within any one fund may be made during the current fiscal biennium by order of the city's or town's chief administrative officer subject to such regulations, if any, as may be imposed by the city or town legislative body. Notwithstanding the provisions of RCW 43.09.210 or of any statute to the contrary, transfers, as authorized in this section, may be made within the same fund regardless of the various offices, departments, or divisions of the city or town which may be affected.

(3) The city or town legislative body, upon a finding that it is to the best interests of the city or town to decrease, revoke, or recall all or any portion of the total appropriations provided for any one fund, may, by ordinance, approved by the vote of one more than the majority of all members thereof, stating the facts and findings for doing so, decrease, revoke, or recall all or any portion of an unexpended fund balance, and by said ordinance, or a subsequent ordinance adopted by a like majority, the moneys thus released may be reappropriated for another purpose or purposes, without limitation to department, division, or fund, unless the use of such moneys is otherwise restricted by law, charter, or ordinance.

[1985 c 175 § 23.]

RCW 35.34.205 Administration, oversight, or supervision of utility--Reimbursement from utility budget authorized.

Whenever any city or town apportions a percentage of the city manager's, administrator's, or supervisor's time, or the time of other management or general government staff, for administration, oversight, or supervision of a utility operated by the city or town, or to provide services to the utility, the utility budget may identify such services and budget for reimbursement of the city's or town's current expense fund for the value of such services.

[1991 c 152 § 2.]

RCW 35.34.210 Liabilities incurred in excess of budget.

Liabilities incurred by any officer or employee of the city or town in excess of any budget appropriations shall not be a liability of the city or town. The clerk shall issue no warrant and the city or town legislative body or other authorized person shall approve no claim for an expenditure in excess of the total amount appropriated for any individual fund, except upon an order of a court of competent jurisdiction or for emergencies as provided in this chapter.

[1985 c 175 § 24.]

RCW 35.34.220 Funds received from sales of bonds and warrants--Expenditures.

Moneys received from the sale of bonds or warrants shall be used for no other purpose than that for which they were issued and no expenditure shall be made for that purpose until the bonds have been duly authorized. If any unexpended fund balance remains from the proceeds realized from the bonds or warrants after the accomplishment of the purpose for which they were issued, it shall be used for the redemption of such bond or warrant indebtedness. Where a budget contains an expenditure program to be financed from a bond issue to be authorized thereafter, no such expenditure shall be made or incurred until after the bonds have been duly authorized.

[1985 c 175 § 25.]

RCW 35.34.230 Revenue estimates--Amount to be raised by ad valorem taxes.

At a time fixed by the city's or town's ordinance or city charter, not later than the first Monday in October of the second year of each fiscal biennium, the chief administrative officer shall provide the city's or town's legislative body with current information on estimates of revenues from all sources as adopted in the budget for the current biennium, together with estimates submitted by the clerk under RCW 35.34.070. The city's or town's legislative body and the city's or town's administrative officer or the officer's designated representative shall consider the city's or town's total anticipated financial requirements for the ensuing fiscal biennium, and the legislative body shall determine and fix by ordinance the amount to be raised the first year of the biennium by ad valorem taxes. The legislative body shall review such information as is provided by the chief administrative officer and shall adopt an ordinance establishing the amount to be raised by ad valorem taxes during the second year of the biennium. Upon adoption of the ordinance fixing the amount of ad valorem taxes to be levied, the clerk shall certify the same to the county legislative authority as required by RCW 84.52.020.

[1985 c 175 § 26.]

RCW 35.34.240 Funds--Quarterly report of status.

At such intervals as may be required by city charter or city or town ordinance, however, being not less than quarterly, the clerk shall submit to the city's or town's legislative body and chief administrative officer a report showing the expenditures and liabilities against each separate budget appropriation incurred during the preceding reporting period and like information for the whole of the current fiscal biennium to the first day of the current reporting period together with the unexpended balance of each appropriation. The report shall also show the receipts from all sources.

[1985 c 175 § 27.]

RCW 35.34.250 Contingency fund--Creation.

Every city or town may create and maintain a contingency fund to provide moneys with which to meet any municipal expense, the necessity or extent of which could not have been foreseen or reasonably evaluated at the time of adopting the annual budget, or from which to provide moneys for those emergencies described in RCW 35.34.140 and 35.34.150. Such fund may be supported by a budget appropriation from any tax or other revenue source not restricted in use by law, or also may be supported by a transfer from other unexpended or decreased funds made available by ordinance as set forth in RCW 35.34.200. However, the total amount accumulated in such fund at any time shall not exceed the equivalent of thirty-seven and one-half cents per thousand dollars of assessed valuation of property within the city or town at such time. Any moneys in the emergency fund at the end of the fiscal biennium shall not lapse except upon reappropriation by the council to another fund in the adoption of a subsequent budget.

[1985 c 175 § 28.]

RCW 35.34.260 Contingency fund--Withdrawals.

No money shall be withdrawn from the contingency fund except by transfer to the appropriate operating fund authorized by a resolution or ordinance of the legislative body of the city or town, adopted by a majority vote of the entire legislative body, clearly stating the facts constituting the reason for the withdrawal or the emergency as the case may be, specifying the fund to which the withdrawn money shall be transferred.

[1985 c 175 § 29.]

RCW 35.34.270 Unexpended appropriations.

All appropriations in any current operating fund shall lapse at the end of each fiscal biennium. However, this shall not prevent payments in the following biennium upon uncompleted programs or improvements in progress or on orders subsequently filled or claims subsequently billed for the purchase of material, equipment, and supplies or for personal or contractual services not completed or furnished by the end of the fiscal biennium, all of which have been properly budgeted and contracted for prior to the close of such fiscal biennium, but furnished or completed in due course thereafter.

All appropriations in a special fund authorized by ordinance or by state law to be used only for the purpose or purposes therein specified, including any cumulative reserve funds lawfully established in specific or general terms for any municipal purpose or purposes, or a contingency fund as authorized by RCW 35.34.250, shall not lapse, but shall be carried forward from biennium to biennium until fully expended or the purpose has been accomplished or abandoned, without necessity of reappropriation.

The accounts for budgetary control for each fiscal biennium shall be kept open for twenty days after the close of such fiscal biennium for the purpose of paying and recording claims for indebtedness incurred during such fiscal biennium; any claim presented after the twentieth day

following the close of the fiscal biennium shall be paid from appropriations lawfully provided for the ensuing period, including those made available by provisions of this section, and shall be recorded in the accounts for the ensuing fiscal biennium.

[1985 c 175 § 30.]

RCW 35.34.280 Violations and penalties.

Upon the conviction of any city or town official, department head, or other city or town employee of knowingly failing, or refusing, without just cause, to perform any duty imposed upon such officer or employee by this chapter, or city charter or city or town ordinance, in connection with the giving of notice, the preparing and filing of estimates of revenues or expenditures or other information required for preparing a budget report in the time and manner required, or of knowingly making expenditures in excess of budget appropriations, the official or employee shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars for each separate violation.

[1985 c 175 § 31.]

Chapter 35.36 RCW
EXECUTION OF BONDS BY PROXY--FIRST CLASS CITIES

Sections

35.36.010 Appointment of proxies.
35.36.020 Coupons--Printing facsimile signatures.
35.36.030 Deputies--Exemptions.
35.36.040 Designation of bonds to be signed.
35.36.050 Liability of officer.
35.36.060 Notice to council.
35.36.070 Revocation of proxy.

RCW 35.36.010 Appointment of proxies.

The mayor, city comptroller and city clerk of every city of the first class may each severally designate one or more bonded persons to affix his signature to any bond or bonds requiring his signature.

If the signature of one of these officers is affixed to a bond during his continuance in office by a proxy designated by him whose authority has not been revoked, the bond shall be as binding upon the city and all concerned as though the officer had signed the bond in person.

This chapter shall apply to all bonds, whether they constitute obligations of the city as a whole or of any local improvement or other district or subdivision thereof, whether they call for payment from the general funds of the city or from a local, special or other fund, and whether negotiable or otherwise.

[1965 c 7 § 35.36.010. Prior: 1929 c 212 § 1; RRS § 9005-5.]

RCW 35.36.020 Coupons--Printing facsimile signatures.

A facsimile reproduction of the signature of the mayor, city comptroller, or city clerk in every city of the first class may be printed, engraved, or lithographed upon bond coupons with the same effect as though the particular officer had signed the coupon in person.

[1965 c 7 § 35.36.020. Prior: 1929 c 212 § 4; RRS § 9005-8.]

RCW 35.36.030 Deputies--Exemptions.

Nothing in this chapter shall be construed as requiring the appointment of deputy comptrollers or deputy city clerks in first class cities to be made in accordance herewith so far as concerns signatures or other doings which may be lawfully made or done by such deputy under the provisions of any other law.

[1965 c 7 § 35.36.030. Prior: 1929 c 212 § 5; RRS § 9005-9.]

RCW 35.36.040 Designation of bonds to be signed.

The officer whose duty it is to cause any bonds to be printed, engraved, or lithographed, shall specify in a written order or requisition to the printer, engraver, or lithographer the number of bonds to be printed, engraved, or lithographed and the manner of numbering them.

Every printer, engraver, or lithographer who prints, engraves, or lithographs a greater number of bonds than that specified or who prints, engraves, or lithographs more than one bond bearing the same number shall be guilty of a felony.

[1965 c 7 § 35.36.040. Prior: 1929 c 212 § 6; RRS § 9005-10.]

RCW 35.36.050 Liability of officer.

A mayor, comptroller, or clerk authorizing the affixing of his signature to a bond by a proxy shall be subject to the same liability personally and on his bond for any signature so affixed and to the same extent as if he had affixed his signature in person.

[1965 c 7 § 35.36.050. Prior: 1929 c 212 § 3; RRS § 9005-7.]

RCW 35.36.060 Notice to council.

In order to designate a proxy to affix his signature to bonds, a mayor, comptroller, or clerk shall address a written notice to the governing body of the city giving the name of the person whom he has selected therefor and stating generally or specifically what bonds are to be so signed.

Attached to or included in the notice shall be a written signature of the officer making the

designation executed by the proposed proxy followed by the word "by" and his own signature; or, if the notice so states, the specimen signatures may consist of a facsimile reproduction of the officer's signature impressed by some mechanical process followed by the word "by" and the proxy's own signature.

If the authority is intended to include the signature upon bonds bearing an earlier date than the effective date of the notice, the prior dated bonds must be specifically described by reasonable reference thereto.

The notice designating a proxy shall be filed with the city comptroller or city clerk, together with the specimen signatures attached thereto and a record of the filing shall be made in the journal of the governing body. This record shall note the date and hour of filing and may be made by the official who keeps the journal at any time after filing of the notice, even during a period of recess or adjournment of the governing body. The notice shall be effective from the time of its recording.

[1965 c 7 § 35.36.060. Prior: 1929 c 212 § 2, part; RRS § 9005-6, part.]

RCW 35.36.070 Revocation of proxy.

Any designation of a proxy may be revoked by written notice addressed to the governing body of the city signed by the officer who made the designation and filed and recorded in the same manner as the notice of designation. It shall be effective from the time of its recording but shall not affect the validity of any signature theretofore made.

[1965 c 7 § 35.36.070. Prior: 1929 c 212 § 2, part; RRS § 9005-6, part.]

Chapter 35.37 RCW
FISCAL--CITIES UNDER 20,000 AND CITIES OTHER THAN FIRST CLASS--BONDS

Sections

35.37.010 Accounting--Funds.
35.37.020 Accounting--Surplus and deficit in utility accounts.
35.37.027 Validation of preexisting obligations by former city.
35.37.030 Applicability of chapter.
35.37.040 Authority to contract debts--Limits.
35.37.050 Excess indebtedness--Authority to contract.
35.37.090 General indebtedness bonds--Issuance and sale.
35.37.110 General indebtedness bonds--Taxation to pay.
35.37.120 General indebtedness bonds--Taxation--Failure to levy--Remedy.

Notes:

Limitations upon indebtedness: State Constitution Art. 7 § 2 (Amendments 55, 59), Art. 8 § 6 (Amendment 27), chapter 39.36 RCW, RCW 84.52.050.

RCW 35.37.010 Accounting--Funds.

Every city and town having less than twenty thousand inhabitants shall maintain a current expense fund out of which it must pay current expenses. It shall also maintain an "indebtedness fund," and if it has outstanding general indebtedness bonds, it must maintain a sinking fund therefor. If it maintains waterworks, lighting plant, cemetery, or other public works or institutions from which rent or other revenue is derived it must maintain a separate fund for each utility or institution. All moneys collected by such cities and towns from licenses shall be credited to the current expense fund.

[1965 c 7 § 35.37.010. Prior: (i) 1897 c 84 § 1; RRS § 5635. (ii) 1897 c 84 § 2; RRS § 5636. (iii) 1897 c 84 § 9; RRS § 5643. (iv) 1897 c 84 § 10, part; RRS § 5644, part.]

RCW 35.37.020 Accounting--Surplus and deficit in utility accounts.

Any deficit for operation and maintenance of utilities and institutions owned and controlled by cities and towns having less than twenty thousand inhabitants, over and above the revenue therefrom, shall be paid out of the current expense fund. Any surplus in the waterworks fund, lighting fund, cemetery fund, or other like funds at the end of the fiscal year shall be paid into the current expense fund except such part as the council by a finding entered into the record of the proceedings may conclude to be necessary for the purpose of:

(1) Extending or repairing the particular utility or institution; or

(2) Paying interest or principal of any indebtedness incurred in the construction or purchase of the particular utility or institution; or

(3) Creating or adding to a sinking fund for the payment of any indebtedness incurred in the construction or purchase of the particular utility or institution.

[1965 c 7 § 35.37.020. Prior: 1897 c 84 § 10, part; RRS § 5644, part.]

RCW 35.37.027 Validation of preexisting obligations by former city.

All elections for the validation of any debt created by any city or town which has since become consolidated with any other city or town shall be by ballot, and the vote shall be taken in the new consolidated city as constituted at the time of the election.

[1965 c 7 § 35.37.027. Prior: 1897 c 84 § 12; RRS § 5646.]

Notes:

Elections: Title 29 RCW.

RCW 35.37.030 Applicability of chapter.

The provisions of the remainder of this chapter shall not be applied to cities of the first class nor to borrowing money and issuing bonds by any city or town for the purpose of supplying it with water, artificial light, or sewers if the works for supplying the water, artificial light, or sewers are to be owned and controlled by the city or town.

[1965 c 7 § 35.37.030. Prior: (i) 1891 c 128 § 10; RRS § 9548. (ii) 1891 c 128 § 11; RRS § 9549.]

RCW 35.37.040 Authority to contract debts--Limits.

Every city and town, may, without a vote of the people, contract indebtedness or borrow money for strictly municipal purposes on the credit of the city or town and issue negotiable bonds therefor in an amount which when added to its existing nonvoter approved indebtedness will not exceed the amount of indebtedness authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred without the assent of the voters.

When bonds are issued under this section the ordinance providing therefor shall contain a statement showing the value of the taxable property in the city or town, as the term "value of the taxable property" is defined in RCW 39.36.015, together with the amount of the existing nonvoter approved and total indebtedness of the city or town, which indebtedness shall include the amount for which such bonds are issued.

[1984 c 186 § 15; 1970 ex.s. c 42 § 12; 1965 c 7 § 35.37.040. Prior: (i) 1891 c 128 § 1; RRS § 9538. (ii) 1891 c 128 § 6, part; RRS § 9544, part.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Severability--Effective date--1970 ex.s. c 42: See notes following RCW 39.36.015.

Limitations upon indebtedness: State Constitution Art. 7 § 2 (Amendments 55, 59), Art. 8 § 6 (Amendment 27), chapter 39.36 RCW, RCW 84.52.050.

RCW 35.37.050 Excess indebtedness--Authority to contract.

Every city and town may, when authorized by the voters of the city or town pursuant to Article VIII, section 6 of the state Constitution at an election held pursuant to RCW 39.36.050, contract indebtedness or borrow money for strictly municipal purposes on the credit of the city or town and issue negotiable bonds therefor in an amount which when added to its existing indebtedness will exceed the amount of indebtedness authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred without the assent of the voters but will not exceed the amounts of indebtedness authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred with the assent of the voters.

[1984 c 186 § 16; 1965 c 7 § 35.37.050. Prior: (i) 1891 c 128 § 2; RRS § 9539. (ii) 1891 c 128 § 4, part; RRS § 9542, part.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Validation--1969 ex.s. c 191: "Any city or town, which has prior to the effective date of this act [April 25, 1969], submitted to the voters thereof for their ratification or rejection the proposition of incurring indebtedness by the issuance of negotiable bonds in an amount when added to its existing indebtedness will exceed the amount of indebtedness authorized to be incurred without the assent of the voters, but will not exceed the amount of indebtedness authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred with the assent of the voters, may incur such indebtedness and issue such bonds even though the amount of money desired to be borrowed

and the amount of negotiable bonds to be issued therefor were stated in a resolution adopted by the city or town council submitting such proposition to the voters, instead of in an ordinance passed by such council, if all other requirements of law, including, but not limited to the other provisions of RCW 35.37.050 are complied with." [1969 ex.s. c 191 § 1.]

RCW 35.37.090 General indebtedness bonds--Issuance and sale.

All general indebtedness bonds shall be issued and sold in accordance with chapter 39.46 RCW.

[1984 c 186 § 17; 1983 c 167 § 36; 1965 c 7 § 35.37.090. Prior: (i) 1891 c 128 § 5, part; RRS § 9543, part. (ii) 1891 c 128 § 6, part; RRS § 9544, part.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 35.37.110 General indebtedness bonds--Taxation to pay.

So long as any general indebtedness bonds are outstanding an amount sufficient to pay the interest upon them as it accrues shall be included in each annual levy for municipal purposes and a sufficient amount shall be included in each annual levy for payment of principal so that all bonds may be paid serially as they mature.

[1965 c 7 § 35.37.110. Prior: 1891 c 128 § 8; RRS § 9546.]

RCW 35.37.120 General indebtedness bonds--Taxation--Failure to levy--Remedy.

If the council of any city or town which has issued general indebtedness bonds fails to make any levy necessary to make principal or interest payments due on the bonds, the owner of any bond or interest payment which has been presented to the treasurer and payment thereof refused because of the failure to make a levy may file the bond together with any unpaid coupons with the county auditor, taking his receipt therefor.

The county auditor shall register bonds so filed, and the county legislative authority at its next session at which it levies the annual county tax shall add to the city's or town's levy a sum sufficient to realize the amount of principal and interest past due and to become due prior to the next annual levy to be collected and held by the county treasurer and paid out only upon warrants drawn by the county auditor as the payments mature in favor of the owner of the bond as shown by the auditor's register. Similar levies shall be made in each succeeding year until the bonds and any coupons or interest payments are fully satisfied.

This remedy is alternative and in addition to any other remedy which the owner of such a bond or coupon may have.

[1983 c 167 § 38; 1965 c 7 § 35.37.120. Prior: 1891 c 128 § 9; RRS § 9547.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Chapter 35.38 RCW
FISCAL--DEPOSITARIES

Sections

35.38.010 Designation of depositaries.
35.38.040 Segregation of collateral.
35.38.050 Treasurer's official bond not affected.
35.38.055 City official as officer, employee or stockholder of depositary.
35.38.060 Definition--"Financial institution."

Notes:
Deposit of public funds: State Constitution Art. 11 § 15.
State fiscal agencies: Chapter 43.80 RCW.

RCW 35.38.010 Designation of depositaries.

The treasurer in all cities and towns shall annually at the end of each fiscal year, or at such other times as may be deemed necessary, designate one or more financial institutions which are qualified public depositaries as set forth by the public deposit protection commission as depositary or depositaries for the moneys required to be kept by the treasurer.

[1984 c 177 § 1; 1973 c 126 § 1; 1969 ex.s. c 193 § 22; 1965 c 7 § 35.38.010. Prior: 1905 c 103 § 1; RRS § 5568.]

Notes:

Construction--Severability--1969 ex.s. c 193: See notes following RCW 39.58.010.
Liability of treasurers, public deposits: RCW 39.58.140.
Public depositaries, deposit and investment of public funds: Chapter 39.58 RCW.

RCW 35.38.040 Segregation of collateral.

Before any such designation shall entitle the treasurer to make deposits in any financial institution, each financial institution so designated shall segregate eligible securities as collateral as provided by RCW 39.58.050 as now or hereafter amended.

[1984 c 177 § 2; 1973 c 126 § 3; 1969 ex.s. c 193 § 25; 1967 c 132 § 6; 1965 c 7 § 35.38.040. Prior: 1945 c 240 § 2; 1935 c 45 § 3; 1931 c 87 § 5; 1909 c 40 § 1; 1907 c 22 § 2; Rem. Supp. 1945 § 5572.]

Notes:

Construction--Severability--1969 ex.s. c 193: See notes following RCW 39.58.010.

RCW 35.38.050 Treasurer's official bond not affected.

The foregoing provisions of this chapter shall in no way affect the duty of a city or town treasurer to give bond to the city or town for the faithful performance of his duties in such amount as may be fixed by the city or town council or other governing body by ordinance.

[1965 c 7 § 35.38.050. Prior: (i) 1905 c 103 § 3; RRS § 5570. (ii) 1907 c 22 § 3; RRS § 5573.]

RCW 35.38.055 City official as officer, employee or stockholder of depositary.

Whenever a financial institution is designated by the treasurer in accordance with the provisions of this chapter, as a depositary for funds to be kept by the treasurer of such city or town and such financial institution has filed and had approved a contract with such city or town and complied with chapter 39.58 RCW, such contract shall not be invalid by reason of any official of the city being also an officer, employee, or stockholder of such financial institution.

[1984 c 177 § 3; 1965 c 7 § 35.38.055. Prior: 1955 c 81 § 1.]

RCW 35.38.060 Definition--"Financial institution."

"Financial institution," as used in the foregoing provisions of this chapter, means a branch of a bank engaged in banking in this state in accordance with RCW 30.04.300, and any state bank or trust company, national banking association, stock savings bank, mutual savings bank, or savings and loan association, which institution is located in this state and lawfully engaged in business.

[1984 c 177 § 4; 1965 c 7 § 35.38.060. Prior: 1907 c 22 § 4; RRS § 5574.]

Chapter 35.39 RCW
FISCAL--INVESTMENT OF FUNDS

Sections

35.39.030 Excess or inactive funds--Investment.
35.39.032 Approval of legislative authority--Delegation of authority--Reports.
35.39.034 Investment by individual fund or commingling of funds--Investment in United States securities--Validation.
35.39.050 Construction--1965 c 7.
35.39.060 Investment of pension funds.
35.39.070 City retirement system--Registration and custody of securities.
35.39.080 City retirement system--Investment advisory committee.
35.39.090 City retirement system--Investment advisory committee--Powers and duties.
35.39.100 City retirement system--Investment advisory committee--Employment of members.
35.39.110 City retirement system--Investment advisory committee--Liability of members.

Notes:

Investment of

municipal funds in savings and loan associations by county or other municipal corporation treasurer: RCW 36.29.020.

public and trust funds in federal agency bonds: Chapter 39.60 RCW.

Municipal revenue bond act: Chapter 35.41 RCW.

RCW 35.39.030 Excess or inactive funds--Investment.

Every city and town may invest any portion of the moneys in its inactive funds or in other funds in excess of current needs in:

(1) United States bonds;

(2) United States certificates of indebtedness;

(3) Bonds or warrants of this state;

(4) General obligation or utility revenue bonds or warrants of its own or of any other city or town in the state;

(5) Its own bonds or warrants of a local improvement district which are within the protection of the local improvement guaranty fund law; and

(6) In any other investments authorized by law for any other taxing districts.

[1975 1st ex.s. c 11 § 1; 1969 ex.s. c 33 § 1; 1965 ex.s. c 46 § 1; 1965 c 7 § 35.39.030. Prior: 1943 c 92 § 1; Rem. Supp. 1943 § 5646-13.]

Notes:

Effective date--1969 ex.s. c 33: "This 1969 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing political subdivisions; and shall take effect July 1, 1969." [1969 ex.s. c 33 § 4.] This applies to RCW 35.39.030 through 35.39.034.

Construction--1965 c 7: See RCW 35.39.050.

RCW 35.39.032 Approval of legislative authority--Delegation of authority--Reports.

No investment shall be made without the approval of the legislative authority of the city or town expressed by ordinance: PROVIDED, That except as otherwise provided by law, the legislative authority may by ordinance authorize a city official or a committee composed of several city officials to determine the amount of money available in each fund for investment purposes and make the investments authorized as indicated in RCW 35.39.030 as now or hereafter amended and the provisions of RCW 35.39.034, without the consent of the legislative authority for each investment. The responsible official or committee shall make a monthly report of all investment transactions to the city legislative authority. The legislative authority of a city or town or city official or committee authorized to invest city or town funds may at any time convert any of its investment securities, or any part thereof, into cash.

[1969 ex.s. c 33 § 2.]

RCW 35.39.034 Investment by individual fund or commingling of funds--Investment in United States securities--Validation.

Moneys thus determined available for this purpose may be invested on an individual fund basis or may, unless otherwise restricted by law be commingled within one common investment portfolio for investment. All income derived from such investment shall be apportioned and used

for the benefit of the various participating funds or for the benefit of the general or current expense fund as the governing body of the city of [or] town shall determine by ordinance or resolution: PROVIDED, That funds derived from the sale of general obligation bonds or revenue bonds or similar instruments of indebtedness shall be invested, or used in such manner as the initiating ordinances, resolutions, or bond covenants may lawfully prescribe.

Any excess or inactive funds on hand in the city treasury not otherwise invested, or required to be invested by this section, as now or hereafter amended, may be invested by the city treasurer in United States government bonds, notes, bills, certificates of indebtedness, or interim financing warrants of a local improvement district which is within the protection of the local improvement guaranty fund law for the benefit of the general or current expense fund.

All previous or outstanding investments of city or town funds for the benefit of the city's or town's general or current expense fund which have been or could be made in accordance with the provisions of this section, as now or hereafter amended, are declared valid.

[1981 c 218 § 1; 1975 1st ex.s. c 11 § 2; 1969 ex.s. c 33 § 3.]

RCW 35.39.050 Construction--1965 c 7.

RCW 35.39.030 shall be deemed cumulative and not exclusive and shall be additional to any other power or authority granted any city or town.

[1983 c 3 § 56; 1965 c 7 § 35.39.050. Prior: 1943 c 92 § 3; Rem. Supp. 1943 § 5646-15.]

RCW 35.39.060 Investment of pension funds.

Any city or town now or hereafter operating an employees' pension system with the approval of the board otherwise responsible for management of its respective funds may invest, reinvest, manage, contract, sell, or exchange investments acquired. Investments shall be made in accordance with investment policy duly established and published by the board. In discharging its duties under this section, the board shall act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; shall diversify the investments of the employees' pension system so as to minimize the risk of large losses; and shall act in accordance with the documents and instruments governing the employees' pension system, insofar as such documents and instruments are consistent with the provisions of this title.

[1982 c 166 § 1.]

Notes:

Effective date--1982 c 166: "This act shall take effect July 1, 1982." [1982 c 166 § 9.]

RCW 35.39.070 City retirement system--Registration and custody of securities.

The city treasurer may cause any securities in which the city retirement system deals to be registered in the name of a nominee without mention of any fiduciary relationship, except that

adequate records shall be maintained to identify the actual owner of the security so registered. The securities so registered shall be held in the physical custody of the city treasurer, the federal reserve system, the designee of the city treasurer, or at the election of the designee and upon approval of the city treasurer, the Pacific Securities Depository Trust Company Inc. or the Depository Trust Company of New York City or its designees.

With respect to the securities, the nominee shall act only on the direction of the retirement board. All rights to the dividends, interest, and sale proceeds from the securities and all voting rights of the securities shall be vested in the actual owners of the securities, and not in the nominee.

[1982 c 166 § 2.]

Notes:

Effective date--1982 c 166: See note following RCW 35.39.060.

RCW 35.39.080 City retirement system--Investment advisory committee.

The retirement board of any city which is responsible for the management of an employees' retirement system established to provide retirement benefits for nonpublic safety employees shall appoint an investment advisory committee consisting of at least three members who are considered experienced and qualified in the field of investments.

[1982 c 166 § 3.]

Notes:

Effective date--1982 c 166: See note following RCW 35.39.060.

RCW 35.39.090 City retirement system--Investment advisory committee--Powers and duties.

In addition to its other powers and duties, the investment advisory committee shall:

(1) Make recommendations as to general investment policies, practices, and procedures to the retirement board;

(2) Review the investment transactions of the retirement board annually;

(3) Prepare a written report of its activities during each fiscal year. Each report shall be submitted not more than thirty days after the end of each fiscal year to the retirement board and to any other person who has submitted a request therefor.

[1982 c 166 § 4.]

Notes:

Effective date--1982 c 166: See note following RCW 35.39.060.

RCW 35.39.100 City retirement system--Investment advisory committee--Employment of members.

No advisory committee member during the term of appointment may be employed by any investment brokerage or mortgage servicing firm doing business with the retirement board.

[1982 c 166 § 5.]

Notes:

Effective date--1982 c 166: See note following RCW 35.39.060.

RCW 35.39.110 City retirement system--Investment advisory committee--Liability of members.

No member of the investment advisory committee is liable for the negligence, default, or failure of any other person or other member of the committee to perform the duties of his or her office, and no member of the committee may be considered or held to be an insurer of the funds or assets of the retirement system nor shall any member be liable for actions performed with the exercise of reasonable diligence within the scope of his or her duly authorized activities as a member of the committee.

[1982 c 166 § 6.]

Notes:

Effective date--1982 c 166: See note following RCW 35.39.060.

Chapter 35.40 RCW
FISCAL--VALIDATION AND FUNDING OF DEBTS

Sections

35.40.030 Ratification and funding after consolidation or annexation.

Notes:

Funding indebtedness in counties, cities and towns: Chapter 39.52 RCW.

Metropolitan municipal corporations, funding and refunding bonds: RCW 35.58.470.

RCW 35.40.030 Ratification and funding after consolidation or annexation.

If, in any case where any city or town in this state has been or may hereafter be formed by the consolidation of two or more cities or towns, or has annexed or may hereafter annex any new territory, an election shall be held, in accordance with the Constitution and laws of this state, for the purpose of submitting to the voters residing within the former corporate limits of either such former city or town, or of such city or town prior to such annexation, for ratification or disapproval, the attempted incurring on the part of such former city or town or of such city or town prior to such annexation by the corporate authorities thereof, of any indebtedness thereof, such consolidated or existing city or town may submit to all of the voters therein, at the same or a separate election, any proposition to fund such indebtedness so sought to be ratified or any part thereof or any existing indebtedness of such consolidated or existing city or town, or both. The proposition to ratify any such indebtedness so previously attempted to be incurred on the part of either such former city or town, or on the part of such city or town prior to such annexation, and the proposition to fund the same may be submitted, respectively, to the voters residing within the corporate limits of such former city or town or in such city or town prior to such annexation, and

to all the voters in such consolidated city or town, respectively, in the same or in separate ordinances, as may be required or permitted by law; but the proposition to fund shall be the subject of a distinct vote in favor of or against the same, separate from the vote upon the proposition to ratify, and separate from the vote upon a proposition to fund any part of such indebtedness as to which a proposition to ratify is not submitted.

[1965 c 7 § 35.40.030. Prior: 1893 c 58 § 1; RRS § 9556.]

Notes:
Annexation of unincorporated areas: Chapter 35.13 RCW.
Consolidation including annexation of third class city or town to first class city: Chapter 35.10 RCW.

Chapter 35.41 RCW
FISCAL--MUNICIPAL REVENUE BOND ACT

Sections

35.41.010 Special funds--Authorized--Composition.
35.41.030 Revenue bonds authorized--Form, term, etc.
35.41.050 Revenue warrants.
35.41.060 Sale of revenue bonds and warrants--Contract provisions.
35.41.070 Suit to compel city to pay amount into special fund.
35.41.080 Rates and charges for services, use, or benefits--Waiver of connection charges for low-income persons.
35.41.090 Rates and charges for services, use or benefits--Costs, expenses, interest may be included.
35.41.095 Revenue bonds for water or sewerage system--Pledge of utility local improvement district assessments.
35.41.100 Chapter is alternative and additional method.
35.41.900 Short title.

Notes:
Industrial development revenue bonds: Chapter 39.84 RCW.
Municipal utilities: Chapter 35.92 RCW.

RCW 35.41.010 Special funds--Authorized--Composition.

For the purpose of providing funds for defraying all or a portion of the costs of planning, purchase, leasing, condemnation, or other acquisition, construction, reconstruction, development, improvement, extension, repair, maintenance, or operation of any municipally owned public land, building, facility, or utility, for which the municipality now has or hereafter is granted authority to acquire, condemn, develop, repair, maintain, or operate, the legislative body of any city or town may authorize, by ordinance, the creation of a special fund or funds into which the city or town shall be obligated to set aside and pay: Any or all municipal license fees specified in such ordinance creating such special fund, and/or any and all revenues derived from any utility or facility specified in said ordinance creating such special fund. The ordinance may

provide that the city or town shall be obligated to set aside and pay into a special fund or funds so created:

(1) A fixed proportion of any revenues or fees, or

(2) A fixed amount of, and not to exceed, a fixed proportion of any revenues or fees, or

(3) A fixed amount without regard to any fixed proportion of any revenues or fees, or

(4) An amount of such revenues sufficient, together with any other moneys lawfully pledged to be paid into such fund or funds, to meet principal and interest requirements and to accumulate any reserves and additional funds that may be required.

The legislative body may also authorize the creation of a special fund or funds to defray all or part of the costs of planning, purchase, condemnation, or other acquisition, construction, improvement, maintenance or operation of any public park in, upon or above property used or to be used as municipally owned off-street parking space and facilities, whether or not revenues are received or fees charged in the course of public use of such park. Part or all of the otherwise unpledged revenues, fees or charges arising from municipal ownership, operation, lease or license of any off-street parking space and facilities, or arising from municipal license of any off-street parking space, shall be set aside and paid into such special fund or funds in accordance with this section.

[1971 ex.s. c 223 § 1; 1967 ex.s. c 144 § 12; 1965 c 7 § 35.41.010. Prior: 1957 c 117 § 1.]

Notes:

Severability--1967 ex.s. c 144: See note following RCW 36.900.030.

Bids for operation of parking space or facilities in or beneath public parks: RCW 35.86.010.

"Facilities" defined: RCW 35.86.010.

General obligation bonds, use in financing off-street parking space and facilities: RCW 35.86.020.

RCW 35.41.030 Revenue bonds authorized--Form, term, etc.

If the legislative body of a city or town deems it advisable to purchase, lease, condemn, or otherwise acquire, construct, develop, improve, extend, or operate any land, building, facility, or utility, and adopts an ordinance authorizing such purchase, lease, condemnation, acquisition, construction, development, improvement and to provide funds for defraying all or a portion of the cost thereof from the proceeds of the sale of revenue bonds, and such ordinance has been ratified by the voters of the city or town in those instances where the original acquisition, construction, or development of such facility or utility is required to be ratified by the voters under the provisions of RCW 35.67.030 and 35.92.070, such city or town may issue revenue bonds against the special fund or funds created solely from revenues. The revenue bonds so issued shall:

(1) Be registered bonds, as provided in RCW 39.46.030, or bearer bonds;

(2) Be issued in such denominations as determined by the legislative body of the city or town;

(3) Be numbered from one upwards consecutively;

(4) Bear the date of their issue;

(5) Be serial or term bonds and the final maturity thereof shall not extend beyond the

reasonable life expectancy of the facility or utility;

(6) Bear interest at such rate or rates as authorized by the legislative body of the city or town, with interest coupons attached unless such bonds are registered as to interest, in which no case no interest coupons need be attached;

(7) Be payable as to principal and interest at such place or time as may be designated therein;

(8) State upon their face that they are payable from a special fund, naming it, and the ordinance creating it, and that they do not constitute a general indebtedness of the city or town;

(9) Be signed by the mayor and bear the seal of the city or town and be attested by the clerk: PROVIDED, That the facsimile signatures of the mayor and clerk may be used when the ordinance authorizing the issuance of such bonds provides for the signatures thereof by an authenticating officer; and

(10) Be printed upon good bond paper: PROVIDED, That notwithstanding the provisions of this section, such revenue bonds may be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 39; 1971 ex.s. c 223 § 2; 1970 ex.s. c 56 § 34; 1969 ex.s. c 232 § 15; 1965 c 7 § 35.41.030. Prior: 1957 c 117 § 3.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 35.41.050 Revenue warrants.

(1) Revenue warrants may be issued and such warrants and interest thereon may be payable out of the special fund or refunded through the proceeds of the sale of revenue bonds. Every revenue warrant and the interest thereon issued against the special fund shall be a valid claim of the owner thereof only as against that fund and the amount of revenue pledged to the fund, and shall not constitute an indebtedness of the city or town. Every revenue warrant shall state on its face that it is payable from a special fund, naming it and the ordinance creating it. Such warrants may be in any form, including bearer warrants or registered warrants as provided in RCW 39.46.030.

(2) Notwithstanding subsection (1) of this section, such warrants may be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 40; 1965 c 7 § 35.41.050. Prior: 1957 c 117 § 5.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 35.41.060 Sale of revenue bonds and warrants--Contract provisions.

Revenue bonds and warrants may be sold by negotiation or by public or private sale in any manner and for any price the legislative body of any city or town deems to be for the best interest of the city or town. Such legislative body may provide in any contract, for the

construction or acquisition of the proposed facility or utility or the maintenance and operation thereof, and that payment therefor shall be made only in revenue bonds and/or warrants at their par value.

[1965 c 7 § 35.41.060. Prior: 1957 c 117 § 6.]

RCW 35.41.070 Suit to compel city to pay amount into special fund.

If a city or town fails to set aside and pay into the special fund created for the payment of revenue bonds and warrants the amount which it has obligated itself in the ordinance creating the fund to set aside and pay therein, the holder of any bond or warrant issued against the bond may bring suit against the city or town to compel it to do so.

[1965 c 7 § 35.41.070. Prior: 1957 c 117 § 7.]

RCW 35.41.080 Rates and charges for services, use, or benefits--Waiver of connection charges for low-income persons.

(1) The legislative body of any city or town may provide by ordinance for revenues by fixing rates and charges for the furnishing of service, use, or benefits to those to whom service, use, or benefits from such facility or utility is available, which rates and charges shall be uniform for the same class of service. The legislative body may waive connection charges for properties purchased by low-income persons from organizations exempt from tax under section 501(c)(3) of the federal internal revenue code as amended prior to July 23, 1995. Waivers of connection charges for the same class of electric or gas utility service must be uniformly applied to all qualified property. Nothing in this subsection (1) authorizes the impairment of a contract.

(2) If revenue bonds or warrants are issued against the revenues collected under subsection (1) of this section, the legislative body of the city or town shall fix charges at rates which will be sufficient, together with any other moneys lawfully pledged therefor, to provide for the payment of bonds and warrants, principal and interest, sinking fund requirements and expenses incidental to the issuance of such revenue bonds or warrants; in fixing such charges the legislative body of the city or town may establish rates sufficient to pay, in addition, the costs of operating and maintaining such facility or utility.

[1995 c 140 § 2; 1971 ex.s. c 223 § 3; 1965 c 7 § 35.41.080. Prior: 1959 c 203 § 1; 1957 c 117 § 8.]

RCW 35.41.090 Rates and charges for services, use or benefits--Costs, expenses, interest may be included.

In setting the rates to be charged for the service, use, or benefits derived from such facility or utility, or in determining the cost of the planning, acquisition, construction, reconstruction, development, improvement, extension, repair, maintenance, or operation thereof the legislative body of the city or town may include all costs and estimated costs of the issuance of said bonds, all engineering, inspection, fiscal and legal expense and interest which it is

estimated will accrue during the construction period and for such period of time thereafter deemed by the legislative body to be necessary or desirable on money borrowed, or which it is estimated will be borrowed in connection therewith.

[1971 ex.s. c 223 § 4; 1965 c 7 § 35.41.090. Prior: 1957 c 117 § 9.]

RCW 35.41.095 Revenue bonds for water or sewerage system--Pledge of utility local improvement district assessments.

The legislative body of any city or town may provide as an additional method for securing the payment of any such bonds issued to pay the whole or a portion of the cost of providing the city or town with a system of water or sewerage as set forth in RCW 35.43.042, that utility local improvement district assessments authorized to be made for the purposes and subject to the limitations contained in RCW 35.43.042 may be pledged to secure the payment of such bonds.

[1967 c 52 § 26.]

Notes:

Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

RCW 35.41.100 Chapter is alternative and additional method.

The authority granted by this chapter shall be considered an alternative and additional method of issuing revenue bonds or warrants by cities and towns and no restriction, limitation, or regulation relative to the issuance of such bonds contained in any other law shall apply to the bonds issued hereunder.

[1965 c 7 § 35.41.100. Prior: 1957 c 117 § 10.]

RCW 35.41.900 Short title.

This chapter shall be known as "the municipal revenue bond act."

[1965 c 7 § 35.41.900. Prior: 1957 c 117 § 11.]

Chapter 35.42 RCW
LEASES

Sections

LEASING OF SPACE WITH OPTION
TO PURCHASE--1959 ACT

35.42.010 Purpose.
35.42.020 Building defined.
35.42.030 Authority to lease.

35.42.040 Renewals--Option to purchase.
35.42.050 Provisions to pay taxes, insurance, make repairs, improvements, etc.
35.42.060 Execution of lease prior to construction--Lessor's bond--City not obligated for construction costs.
35.42.070 Lease of city land for building purposes and lease back of building by city.
35.42.080 Lease of city land for building purposes and lease back of building by city--Bids.
35.42.090 Leases exempted from certain taxes.

LEASES OF REAL OR PERSONAL PROPERTY OR
PROPERTY RIGHTS WITH OR WITHOUT OPTION
TO PURCHASE--1963 ACT

35.42.200 Leases authorized--Ballot proposition.
35.42.210 Exercise of option to purchase.
35.42.220 Budgeting rental payments--Bids--Construction of agreement where rental equals purchase price.

LEASING OF SPACE WITH OPTION TO PURCHASE--1959 ACT

RCW 35.42.010 Purpose.

It is the purpose of RCW 35.42.010 through 35.42.090 to supplement existing law for the leasing of space by cities and towns to provide for the leasing of such space through leases with an option to purchase and the acquisition of buildings erected upon land owned by a city or town upon the expiration of a lease of such land.

[1965 c 7 § 35.42.010. Prior: 1959 c 80 § 1.]

RCW 35.42.020 Building defined.

The term "building" as used in RCW 35.42.010 through 35.42.090 shall be construed to mean any building or buildings used as a part of, or in connection with, the operation of a city or town, and shall include the site and appurtenances, including but not limited to, heating facilities, water supply, sewage disposal, landscaping, walks, and drives.

[1965 c 7 § 35.42.020. Prior: 1959 c 80 § 2.]

RCW 35.42.030 Authority to lease.

Any city or town may, as lessee, lease a building for its use for a term of not to exceed fifty years.

[1965 c 7 § 35.42.030. Prior: 1959 c 80 § 3.]

RCW 35.42.040 Renewals--Option to purchase.

A lease of a building executed pursuant to RCW 35.42.010 through 35.42.090 may grant the lessee city or town an option to renew for a further term on like conditions, or an option to

purchase the building covered by the lease at any time prior to the expiration of the term. A lease with an option to purchase shall provide that all sums paid as rent up to the time of exercising the option shall be credited toward the payment of the purchase price as of the date of payment. No lease shall provide, nor be construed to provide, that any city or town shall be under any obligation to purchase the leased building.

[1965 c 7 § 35.42.040. Prior: 1959 c 80 § 4.]

RCW 35.42.050 Provisions to pay taxes, insurance, make repairs, improvements, etc.

A lease of a building may provide that as a part of the rental, the lessee city or town may pay taxes and assessments on the leased building, maintain insurance thereon for the benefit of the lessor, and assume responsibilities for repair, replacement, alterations, and improvements during the term of the lease.

[1965 c 7 § 35.42.050. Prior: 1959 c 80 § 5.]

RCW 35.42.060 Execution of lease prior to construction--Lessor's bond--City not obligated for construction costs.

A city or town may, in anticipation of the acquisition of a site and the construction of a building, execute a lease, as lessee, prior to the actual acquisition of a site and the construction of a building, but the lease shall not require payment of rental by the lessee until the building is ready for occupancy. The lessor shall furnish a bond satisfactory to the lessee conditioned on the delivery of possession of the completed building to the lessee city or town at the time prescribed in the lease, unavoidable delay excepted. The lease shall provide that no part of the cost of construction of the building shall ever become an obligation of the lessee city or town.

[1965 c 7 § 35.42.060. Prior: 1959 c 80 § 6.]

RCW 35.42.070 Lease of city land for building purposes and lease back of building by city.

Any city or town desiring to have a building for its use erected on land owned, or to be acquired, by it, may, as lessor, lease the land for a reasonable rental for a term of not to exceed fifty years: PROVIDED, That the city or town shall lease back the building or a portion thereof for the same term. The leases shall contain terms as agreed upon between the parties, and shall include the following provisions:

(1) No part of the cost of construction of the building shall ever be or become an obligation of the city or town.

(2) The city or town shall have a prior right to occupy any or all of the building upon payment of rental as agreed upon by the parties, which rental shall not exceed prevailing rates for comparable space.

(3) During any time that all or any portion of the building is not required for occupancy

by the city or town, the lessee of the land may rent the unneeded portion to suitable tenants approved by the city or town.

(4) Upon the expiration of the lease, all buildings and improvements on the land shall become the property of the city or town.

[1965 c 7 § 35.42.070. Prior: 1959 c 80 § 7.]

RCW 35.42.080 Lease of city land for building purposes and lease back of building by city--Bids.

A lease and lease back agreement requiring a lessee to build on city or town property shall be made pursuant to a call for bids upon terms most advantageous to the city or town. The call for bids shall be given by posting notice thereof in a public place in the city or town and by publication in the official newspaper of the city or town once each week for two consecutive weeks before the date fixed for opening the bids. The city council or commission of the city or town may by resolution reject all bids and make further calls for bids in the same manner as the original call. If no bid is received on the first call, the city council or commission may readvertise and make a second call, or may execute a lease without any further call for bids.

[1985 c 469 § 28; 1965 c 7 § 35.42.080. Prior: 1959 c 80 § 8.]

RCW 35.42.090 Leases exempted from certain taxes.

All leases executed pursuant to RCW 35.42.010 through 35.42.090 shall be exempt from the tax imposed by chapter 19, Laws of 1951 second extraordinary session, as amended, and *chapter 82.45 RCW; section 5, chapter 389, Laws of 1955, and RCW 82.04.040; and section 9, chapter 178, Laws of 1941, and RCW 82.08.090, and by rules and regulations of the department of revenue issued pursuant thereto.

[1975 1st ex.s. c 278 § 22; 1965 c 7 § 35.42.090. Prior: 1959 c 80 § 9.]

Notes:

***Reviser's note:** This internal reference has been changed from chapter 28A.45 RCW to chapter 82.45 RCW in accordance with 1981 c 148 § 13 and 1981 c 93 § 2. See note following RCW 82.45.010.

Construction--Severability--1975 1st ex.s. c 278: See notes following RCW 11.08.160.

LEASES OF REAL OR PERSONAL PROPERTY OR PROPERTY RIGHTS WITH OR WITHOUT OPTION TO PURCHASE--1963 ACT

RCW 35.42.200 Leases authorized--Ballot proposition.

Any city or town may execute leases for a period of years with or without an option to purchase with the state or any of its political subdivisions, with the government of the United States, or with any private party for the lease of any real or personal property, or property rights: PROVIDED, That with respect only to leases that finance the acquisition of property by the

lessee, the aggregated portions of lease payments over the term of the lease which are allocable to principal shall constitute debt, which shall not result in a total indebtedness in excess of one and one-half percent of the taxable property of such city or town computed in accordance with RCW 39.36.030, unless a proposition in regard to whether or not such a lease may be executed is submitted to the voters for their approval or rejection in the same manner that bond issues for capital purposes are submitted, and the voters approve the same.

[1990 c 205 § 1; 1965 c 7 § 35.42.200. Prior: 1963 c 170 § 1.]

RCW 35.42.210 Exercise of option to purchase.

If at the time an option to purchase is exercised the remaining amount to be paid in order to purchase the real or personal property leased after crediting the rental payments toward the total purchase price therefor does not result in a total indebtedness in excess of one and one-half percent of the taxable property of such city or town computed in accordance with RCW 39.36.030, such a city or town may exercise its option to purchase such property. If such remaining amount to be paid to purchase such leased property will result in a total indebtedness in excess of one and one-half percent of the taxable property of such city or town, a proposition in regard to whether or not to purchase the property shall be submitted to the voters for approval or rejection in the same manner that bond issues for capital purposes are submitted to the voters.

[1965 c 7 § 35.42.210. Prior: 1963 c 170 § 2.]

RCW 35.42.220 Budgeting rental payments--Bids--Construction of agreement where rental equals purchase price.

The annual budget of a city shall provide for the payment of rental that falls due in the year for which the budget is applicable: PROVIDED, That if the cost of the real or personal property to be leased exceeds the amounts specified in RCW 35.23.352 prior to the execution of a lease with option to purchase therefor, the city or town shall call for bids in accordance with RCW 35.23.352: PROVIDED, That if at the expiration of a lease with option to purchase a city or town exercises such an option, the fact that the rental payments theretofore made equal the amount of the purchase price of the real or personal property involved in such lease shall not preclude the agreement from being a lease with option to purchase up to the date of the exercising of the option.

[1965 c 7 § 35.42.220. Prior: 1963 c 170 § 3.]

Chapter 35.43 RCW
LOCAL IMPROVEMENTS--AUTHORITY--INITIATION OF PROCEEDINGS

Sections

35.43.005 Municipal local improvement statutes applicable to public corporations.
35.43.010 Terms defined.

35.43.020 Construction.
35.43.030 Charters superseded--Application--Ordinances--Districts outside city authorized.
35.43.035 Creation of district outside city subject to review by boundary review board.
35.43.040 Authority generally.
35.43.042 Authority to establish utility local improvement districts--Procedure.
35.43.043 Conversion of local improvement district into utility local improvement district.
35.43.045 Open canals or ditches--Safeguards.
35.43.050 Authority--Noncontinuous improvements.
35.43.060 Consolidated cities--Procedure.
35.43.070 Ordinance--Action on petition or resolution.
35.43.075 Petition for district outside city may be denied.
35.43.080 Ordinance--Creation of district.
35.43.100 Ordinance--Finality--Limitation upon challenging jurisdiction or authority to proceed.
35.43.110 Petition--Mandatory, when.
35.43.120 Petition--Requirements.
35.43.125 Petition--Notice and public hearing required.
35.43.130 Preliminary estimates and assessment roll.
35.43.140 Resolutions--Contents, publication--Hearing, by whom held.
35.43.150 Resolutions--Hearing upon--Notice.
35.43.180 Restraint by protest.
35.43.182 Waivers of protest--Recording--Limits on enforceability.
35.43.184 Preformation expenditures.
35.43.186 Credits for other assessments.
35.43.188 Assessment reimbursement accounts.
35.43.190 Work--By contract or by city or public corporation.
35.43.200 Street railways at expense of property benefited.
35.43.210 Street railways at expense of property benefited--Petition--Assessment district.
35.43.220 Street railways at expense of property benefited--Assessment of cost.
35.43.230 Street railways at expense of property benefited--Procedure.
35.43.250 Deferral of collection of assessments for economically disadvantaged persons--Authorized.
35.43.260 Service fees for sewers not constructed within ten years after voter approval--Credit against future assessments, service charges.
35.43.270 Sanitary sewer or potable water facilities--Notice to certain property owners.
35.43.280 Settlement of Indian claims.

Notes:

Assessment rolls, eminent domain improvements, objections to: RCW 8.12.330.
Assessments
fire protection districts: RCW 52.20.010.
first class cities, special: RCW 35.22.280(10).
local improvements, may be made by: State Constitution Art. 7 § 9.
public utility districts: RCW 54.16.160, 54.16.165.
Authority of cities to levy special taxes for: State Constitution Art. 7 § 9.
Bonds, savings and loan associations may invest in: RCW 33.24.080.
Bridges, elevated, ordinance ordering improvement: RCW 35.85.020.
Curbs along streets, construction, reconstruction and repair: Chapter 35.68 RCW.
Eminent domain: Chapter 8.12 RCW.
First class cities, authority for special assessments: RCW 35.22.280 (10), (13).
Foreclosure of assessments
curbs and gutter construction and repair: RCW 35.68.070.

sidewalk construction, second class cities: RCW 35.70.090.
sidewalks and driveways across: RCW 35.68.070.
Local improvement districts
bridges, elevated: RCW 35.85.020.
metropolitan municipal corporations, effect on: RCW 35.58.500.
roadways, elevated: RCW 35.85.020.
subways: RCW 35.85.050.
tunnels: RCW 35.85.050.
viaducts: RCW 35.85.020.
water rights acquisition: RCW 35.92.220.
Metropolitan park districts, assessment against lands adjoining: RCW 35.61.220.
Parking, off-street facilities: RCW 35.86.020.
Pedestrian malls, financing: RCW 35.71.060.
Prepayment of taxes and assessments: RCW 35.21.650.
Roadways, elevated, ordinance ordering improvement: RCW 35.85.020.
Sanitary fills: Chapter 35.73 RCW.
Second class cities, providing for improvements: RCW 35.23.440(47).
Special assessments: State Constitution Art. 7 § 9.
Streets and alleys
agreements with county: RCW 35.77.020.
county furnishing construction and maintenance: RCW 35.77.020.
county use of road fund: RCW 35.77.030.
establishing grade, procedure: Chapter 35.73 RCW.
Subways, authority to construct: RCW 35.85.050.
Tunnels, authority to construct: RCW 35.85.050.
Unfit dwellings, assessments for: RCW 35.80.030(1)(h).
Viaducts, ordinance ordering improvement: RCW 35.85.020.
Water rights, acquisition of: RCW 35.92.220.

RCW 35.43.005 Municipal local improvement statutes applicable to public corporations.

The provisions of this and the following chapters relating to municipal local improvements apply to local improvements owned or operated by a public corporation or by a public corporation and a city, town, or another public corporation as if they were owned or operated by a city or town. Whenever a section in such chapters refers to improvements made by, ordered by, owned by, operated by, constructed by, acquired by, or otherwise provided for or undertaken by a city or town or other municipality, it shall be construed to refer also to improvements made by, ordered by, owned by, operated by, constructed by, acquired by, or otherwise provided for or undertaken by a public corporation.

[1987 c 242 § 6.]

Notes:

Policy--1987 c 242: "It is declared to be the public policy of the state that public improvements owned and operated by public corporations that confer special benefits on property, including without limitation museum, cultural, or arts facilities or structures, should be able to use the local improvement district financing of

municipalities." [1987 c 242 § 1.]

RCW 35.43.010 Terms defined.

Whenever the words "city council" or "town council" are used in this and the following chapters relating to municipal local improvements, they shall be construed to mean the council or other legislative body of such city or town. Whenever the word "mayor" is used therein, it shall be construed to mean the presiding officer of said city or town. Whenever the words "installment" or "installments" are used therein, they shall be construed to include installment or installments of interest. Whenever the words "local improvement," "local improvements," or "municipal local improvements" are used therein, they shall be construed to include improvements owned or operated by a public corporation or by a public corporation and a city, town, or another public corporation. Whenever the words "public corporation" are used therein, they shall mean a public corporation, commission, or authority created pursuant to RCW 35.21.730 through 35.21.755.

[1987 c 242 § 2; 1965 c 7 § 35.43.010. Prior: 1925 ex.s. c 117 § 2; 1911 c 98 § 68; RRS § 9421.]

Notes:

Policy--1987 c 242: See note following RCW 35.43.005.

RCW 35.43.020 Construction.

The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this and the following chapters relating to municipal local improvements but the same shall be liberally construed for the purpose of carrying out the objects for which intended.

[1965 c 7 § 35.43.020. Prior: 1911 c 98 § 69; RRS § 9422.]

RCW 35.43.030 Charters superseded--Application--Ordinances--Districts outside city authorized.

This and the following chapters relating to municipal local improvements shall supersede the provisions of the charter of any city of the first class.

They shall apply to all incorporated cities and towns, including unclassified cities and towns operating under special charters.

The council of each city and town shall pass such general ordinance or ordinances as may be necessary to carry out their provisions and thereafter all proceedings relating to local improvements shall be conducted in accordance with this and the following chapters relating to municipal local improvements and the ordinance or ordinances of such city or town.

Cities or towns may form local improvement districts or utility local improvement districts composed entirely or in part of unincorporated territory outside of such city or town's corporate limits in the manner provided in this chapter.

[1971 ex.s. c 116 § 4; 1967 c 52 § 2; 1965 c 7 § 35.43.030. Prior: 1963 c 56 § 1; prior: (i) 1911 c 98 § 60; 1899 c 146 § 1; RRS § 9413. (ii) 1911 c 98 § 67; RRS § 9420. (iii) 1911 c 98 § 71; RRS § 9424.]

Notes:

Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

RCW 35.43.035 Creation of district outside city subject to review by boundary review board.

The creation of a local improvement district outside of the boundaries of a city or town to provide water or sewer facilities may be subject to potential review by a boundary review board under chapter 36.93 RCW.

[1989 c 84 § 30.]

RCW 35.43.040 Authority generally.

Whenever the public interest or convenience may require, the legislative authority of any city or town may order the whole or any part of any local improvement including but not restricted to those, or any combination thereof, listed below to be constructed, reconstructed, repaired, or renewed and landscaping including but not restricted to the planting, setting out, cultivating, maintaining, and renewing of shade or ornamental trees and shrubbery thereon; may order any and all work to be done necessary for completion thereof; and may levy and collect special assessments on property specially benefited thereby to pay the whole or any part of the expense thereof, viz:

(1) Alleys, avenues, boulevards, lanes, park drives, parkways, parking facilities, public places, public squares, public streets, their grading, regrading, planking, replanking, paving, repaving, macadamizing, remacadamizing, graveling, regraveling, piling, repiling, capping, recapping, or other improvement; if the management and control of park drives, parkways, and boulevards is vested in a board of park commissioners, the plans and specifications for their improvement must be approved by the board of park commissioners before their adoption;

(2) Auxiliary water systems;

(3) Auditoriums, field houses, gymnasiums, swimming pools, or other recreational, playground, museum, cultural, or arts facilities or structures;

(4) Bridges, culverts, and trestles and approaches thereto;

(5) Bulkheads and retaining walls;

(6) Dikes and embankments;

(7) Drains, sewers, and sewer appurtenances which as to trunk sewers shall include as nearly as possible all the territory which can be drained through the trunk sewer and subsewers connected thereto;

(8) Escalators or moving sidewalks together with the expense of operation and maintenance;

(9) Parks and playgrounds;

(10) Sidewalks, curbing, and crosswalks;

(11) Street lighting systems together with the expense of furnishing electrical energy, maintenance, and operation;

(12) Underground utilities transmission lines;

(13) Water mains, hydrants, and appurtenances which as to trunk water mains shall include as nearly as possible all the territory in the zone or district to which water may be distributed from the trunk water mains through lateral service and distribution mains and services;

(14) Fences, culverts, syphons, or coverings or any other feasible safeguards along, in place of, or over open canals or ditches to protect the public from the hazards thereof;

(15) Roadbeds, trackage, signalization, storage facilities for rolling stock, overhead and underground wiring, and any other stationary equipment reasonably necessary for the operation of an electrified public streetcar line;

(16) Systems of surface, underground, or overhead railways, tramways, buses, or any other means of local transportation except taxis, and including passenger, terminal, station parking, and related facilities and properties, and such other facilities as may be necessary for passenger and vehicular access to and from such terminal, station, parking, and related facilities and properties, together with all lands, rights of way, property, equipment, and accessories necessary for such systems and facilities;

(17) Convention center facilities or structures in cities incorporated before January 1, 1982, with a population over sixty thousand located in a county with a population over one million, other than the city of Seattle. Assessments for purposes of convention center facilities or structures may be levied only to the extent necessary to cover a funding shortfall that occurs when funds received from special excise taxes imposed pursuant to chapter 67.28 RCW are insufficient to fund the annual debt service for such facilities or structures, and may not be levied on property exclusively maintained as single-family or multifamily permanent residences whether they are rented, leased, or owner occupied; and

(18) Programs of aquatic plant control, lake or river restoration, or water quality enhancement. Such programs shall identify all the area of any lake or river which will be improved and shall include the adjacent waterfront property specially benefited by such programs of improvements. Assessments may be levied only on waterfront property including any waterfront property owned by the department of natural resources or any other state agency. Notice of an assessment on a private leasehold in public property shall comply with provisions of chapter 79.44 RCW. Programs under this subsection shall extend for a term of not more than five years.

[1997 c 452 § 16; 1989 c 277 § 1; 1985 c 397 § 1; 1983 c 291 § 1; 1981 c 17 § 1; 1969 ex.s. c 258 § 1; 1965 c 7 § 35.43.040. Prior: 1959 c 75 § 1; 1957 c 144 § 2; prior: (i) 1911 c 98 § 1; RRS § 9352. (ii) 1945 c 190 § 1, part; 1915 c 168 § 6, part; 1913 c 131 § 1, part; 1911 c 98 § 6, part; Rem. Supp. 1945 § 9357, part. (iii) 1911 c 98 § 15; RRS § 9367. (iv) 1911 c 98 § 58, part; RRS § 9411, part.]

Notes:

Intent--Severability--1997 c 452: See notes following RCW 67.28.080.

Savings--1997 c 452: See note following RCW 67.28.181.

Authority supplemental--Severability--1985 c 397: See RCW 35.51.900 and 35.51.901.

RCW 35.43.042 Authority to establish utility local improvement districts--Procedure.

Whenever the legislative authority of any city or town has provided pursuant to law for the acquisition, construction, reconstruction, purchase, condemnation and purchase, addition to, repair, or renewal of the whole or any portion of a:

(1) System for providing the city or town and the inhabitants thereof with water, which system includes as a whole or as a part thereof water mains, hydrants or appurtenances which are authorized subjects for local improvements under RCW 35.43.040(13) or other law; or a

(2) System for providing the city or town with sewerage and storm or surface water disposal, which system includes as a whole or as a part thereof drains, sewers or sewer appurtenances which are authorized subjects for local improvements under RCW 35.43.040(7) or other law; or

(3) Off-street parking facilities; and

Has further provided in accordance with any applicable provisions of the Constitution or statutory authority for the issuance and sale of revenue bonds to pay the cost of all or a portion of any such system, such legislative authority shall have the authority to establish utility local improvement districts, and to levy special assessments on all property specially benefited by any such local improvement to pay in whole or in part the damages or costs of any local improvements so provided for.

The initiation and formation of such utility local improvement districts and the levying, collection and enforcement of assessments shall be in the manner and subject to the same procedures and limitations as are now or hereafter provided by law for the initiation and formation of local improvement districts in cities and towns and the levying, collection and enforcement of assessments pursuant thereto.

It must be specified in any petition or resolution initiating the formation of such a utility local improvement district in a city or town and in the ordinance ordered pursuant thereto, that the assessments shall be for the sole purpose of payment into such revenue bond fund as may be specified by the legislative authority for the payment of revenue bonds issued to defray the cost of such system or facilities or any portion thereof as provided for in this section.

Assessments in any such utility local improvement district may be made on the basis of special benefits up to but not in excess of the total cost of the local improvements portion of any system or facilities payable by issuance of revenue bonds. No warrants or bonds shall be issued in any such utility local improvement district, but the collection of interest and principal on all assessments in such utility local improvement district, when collected, shall be paid into any such revenue bond fund.

When in the petition or resolution for establishment of a local improvement district and in the ordinance ordered pursuant thereto, it is specified or provided that the assessments shall be for the sole purpose of payment into a revenue bond fund for the payment of revenue bonds, then the local improvement district shall be designated a "utility local improvement district".

The provisions of chapters 35.45, 35.47 and 35.48 RCW shall have no application to utility local improvement districts created under authority of this section.

[1969 ex.s. c 258 § 2; 1967 c 52 § 1.]

Notes:

Construction--1967 c 52: "The authority granted by this 1967 amendatory act shall be considered an alternative and additional method of securing payment of revenue bonds issued for the purposes specified in RCW 35.43.042 and shall not be construed as a restriction or limitation upon any other method for providing for the payment of any such revenue bonds." [1967 c 52 § 27.]

Severability--1967 c 52: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1967 c 52 § 29.]

RCW 35.43.043 Conversion of local improvement district into utility local improvement district.

The legislative authority of any city or town may by ordinance convert any then existing local improvement district into a utility local improvement district at any time prior to the adoption of an ordinance approving and confirming the final assessment roll of such local improvement district. The ordinance so converting the local improvement district shall provide for the payment of the special assessments levied in that district into the special fund established or to be established for the payment of revenue bonds issued to defray the cost of the local improvement in that district.

[1967 c 52 § 28.]

Notes:

Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

RCW 35.43.045 Open canals or ditches--Safeguards.

Every city or town shall have the right of entry upon all irrigation, drainage, or flood control canal or ditch rights of way within its limits for all purposes necessary to safeguard the public from the hazards of such open canals or ditches, and the right to cause to be constructed, installed, and maintained upon or adjacent to such rights of way safeguards as provided in RCW 35.43.040: PROVIDED, That such safeguards must not unreasonably interfere with maintenance of the canal or ditch or with the operation thereof. The city or town, at its option, notwithstanding any laws to the contrary, may require the irrigation, drainage, flood control, or other district, agency, person, corporation, or association maintaining the canal or ditch to supervise the installation and construction of such safeguards, or to maintain the same. If such option is exercised reimbursement must be made by the city or town for all actual costs thereof.

[1965 c 7 § 35.43.045. Prior: 1959 c 75 § 2.]

Notes:

Safeguarding open canals or ditches, assessments: RCW 35.43.040, 35.43.045, 36.88.015, 36.88.350, 36.88.380 through 36.88.400, 87.03.480, 87.03.526.

RCW 35.43.050 Authority--Noncontinuous improvements.

When the legislative body of any city or town finds that all of the property within a local improvement district or utility local improvement district will be benefited by the improvements

as a whole, a local improvement district or utility local improvement district may include adjoining, vicinal, or neighboring streets, avenues, and alleys or other improvements even though the improvements thus made are not connected or continuous. The assessment rates may be ascertained on the basis of the special benefit of the improvements as a whole to the properties within the entire local improvement district or utility local improvement district, or on the basis of the benefit of each unit of the improvements to the properties specially benefited by that unit, or the assessment rates may be ascertained by a combination of the two bases. Where no finding is made by the legislative body as to the benefit of the improvements as a whole to all of the property within a local improvement district or utility local improvement district, the cost and expense of each continuous unit of the improvements shall be ascertained separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and expense of each unit. In the event of the initiation of a local improvement district authorized by this section or a utility local improvement district authorized by this section, the legislative body may, in its discretion, eliminate from the district any unit of the improvement which is not connected or continuous and may proceed with the balance of the improvement within the local improvement district or utility local improvement district, as fully and completely as though the eliminated unit had not been included within the improvement district, without the giving of any notices to the property owners remaining within the district, other than such notices as are required by the provisions of this chapter to be given subsequent to such elimination.

[1985 c 397 § 2; 1967 c 52 § 3; 1965 c 7 § 35.43.050. Prior: 1957 c 144 § 14; prior: 1947 c 155 § 1, part; 1941 c 90 § 1, part; 1915 c 168 § 2, part; 1911 c 98 § 13, part; Rem. Supp. 1947 § 9365, part.]

Notes:

Authority supplemental--Severability--1985 c 397: See RCW 35.51.900 and 35.51.901.

Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

RCW 35.43.060 Consolidated cities--Procedure.

The city council of any city which is composed of two or more cities or towns which have been or may hereafter be consolidated may make and pass all resolutions, orders and ordinances necessary for any assessment where the improvement was made or was being made by a component city or town prior to consolidation.

[1965 c 7 § 35.43.060. Prior: 1911 c 98 § 64; RRS § 9417.]

RCW 35.43.070 Ordinance--Action on petition or resolution.

A local improvement may be ordered only by an ordinance of the city or town council, pursuant to either a resolution or petition therefor. The ordinance must receive the affirmative vote of at least a majority of the members of the council.

Charters of cities of the first class may prescribe further limitations. In cities and towns other than cities of the first class, the ordinance must receive the affirmative vote of at least two-thirds of the members of the council if, prior to its passage, written objections to its enactment are filed with the city clerk by or on behalf of the owners of a majority of the lineal

frontage of the improvement and of the area within the limits of the proposed improvement district.

[1965 c 7 § 35.43.070. Prior: (i) 1911 c 98 § 8; RRS § 9359. (ii) 1911 c 98 § 66; RRS § 9419.]

RCW 35.43.075 Petition for district outside city may be denied.

Whenever the formation of a local improvement district or utility local improvement district which lies entirely or in part outside of a city or town's corporate limits is initiated by petition the legislative authority of the city or town may by a majority vote deny the petition and refuse to form the local improvement district or utility local improvement district.

[1967 c 52 § 4; 1965 c 7 § 35.43.075. Prior: 1963 c 56 § 3.]

Notes:

Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

RCW 35.43.080 Ordinance--Creation of district.

Every ordinance ordering a local improvement to be paid in whole or in part by assessments against the property specially benefited shall describe the improvement and establish a local improvement district to be known as "local improvement district No. . . . .," or a utility local improvement district to be known as "utility local improvement district No. . . . ." which shall embrace as nearly as practicable all the property specially benefited by the improvement.

[1969 ex.s. c 258 § 3; 1967 c 52 § 5; 1965 c 7 § 35.43.080. Prior: 1957 c 144 § 15; prior: (i) 1947 c 155 § 1, part; 1941 c 90 § 1, part; 1915 c 168 § 2, part; 1911 c 98 § 13, part; Rem. Supp. 1947 § 9365, part. (ii) 1929 c 97 § 2; 1911 c 98 § 14; RRS § 9366.]

Notes:

Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

RCW 35.43.100 Ordinance--Finality--Limitation upon challenging jurisdiction or authority to proceed.

The council may continue the hearing upon any petition or resolution provided for in this chapter and shall retain jurisdiction thereof until it is finally disposed of. The action and decision of the council as to all matters passed upon by it in relation to any petition or resolution shall be final and conclusive. No lawsuit whatsoever may be maintained challenging the jurisdiction or authority of the council to proceed with the improvement and creating the local improvement district or in any way challenging the validity thereof or any proceedings relating thereto unless that lawsuit is served and filed no later than thirty days after the date of passage of the ordinance ordering the improvement and creating the district or, when applicable, no later than thirty days after the expiration of the thirty-day protest period provided in RCW 35.43.180.

[1969 ex.s. c 258 § 4; 1965 c 7 § 35.43.100. Prior: 1911 c 98 § 19; RRS § 9371.]

RCW 35.43.110 Petition--Mandatory, when.

Proceedings to establish local improvement districts must be initiated by petition in the following cases:

(1) Any local improvement payable in whole or in part by special assessments which includes a charge for the cost and expense of operation and maintenance of escalators or moving sidewalks shall be initiated only upon a petition signed by the owners of two-thirds of the lineal frontage upon the improvement to be made and two-thirds of the area within the limits of the proposed improvement district;

(2) If the management of park drives, parkways, and boulevards of a city has been vested in a board of park commissioners or similar authority: PROVIDED, That the proceedings may be initiated by a resolution, if the ordinance is passed at the request of the park board or similar authority therefor specifying the particular drives, parkways, or boulevards, or portions thereof to be improved and the nature of the improvement.

[1981 c 313 § 10; 1965 c 7 § 35.43.110. Prior: 1957 c 144 § 3; prior: (i) 1911 c 98 § 58, part; RRS § 9411, part. (ii) 1945 c 190 § 1, part; 1915 c 168 § 6, part; 1913 c 131 § 1, part; 1911 c 98 § 6, part; Rem. Supp. 1945 § 9357, part.]

Notes:

Severability--1981 c 313: See note following RCW 36.94.020.

RCW 35.43.120 Petition--Requirements.

Any local improvement may be initiated upon a petition signed by the owners of property aggregating a majority of the area within the proposed district. The petition must briefly describe: (1) The nature of the proposed improvement, (2) the territorial extent of the proposed improvement, (3) what proportion of the area within the proposed district is owned by the petitioners as shown by the records in the office of the county auditor, and (4) the fact that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement, or street lighting, adds to the property.

If any of the property within the area of the proposed district stands in the name of a deceased person, or of any person for whom a guardian has been appointed and not discharged, the signature of the executor, administrator, or guardian, as the case may be, shall be equivalent to the signature of the owner of the property on the petition. The petition must be filed with the clerk or with such other officer as the city or town by charter or ordinance may require.

[1989 c 243 § 1; 1981 c 323 § 1; 1969 ex.s. c 258 § 5; 1965 c 7 § 35.43.120. Prior: 1957 c 144 § 6; prior: 1911 c 98 § 9, part; RRS § 9360, part.]

RCW 35.43.125 Petition--Notice and public hearing required.

A public hearing shall be held on the creation of a proposed local improvement district or utility local improvement district that is initiated by petition. Notice requirements for this public

hearing shall be the same as for the public hearing on the creation of a proposed local improvement district or utility local improvement district that is initiated by resolution.

[1987 c 315 § 2.]

RCW 35.43.130 Preliminary estimates and assessment roll.

Upon the filing of a petition or upon the adoption of a resolution, as the case may be, initiating a proceeding for the formation of a local improvement district or utility local improvement district, the proper board, officer, or authority designated by charter or ordinance to make the preliminary estimates and assessment roll shall cause an estimate to be made of the cost and expense of the proposed improvement and certify it to the legislative authority of the city or town together with all papers and information in its possession touching the proposed improvement, a description of the boundaries of the district, and a statement of what portion of the cost and expense of the improvement should be borne by the property within the proposed district.

If the proceedings were initiated by petition the designated board, officer or authority shall also determine the sufficiency of the petition and whether the facts set forth therein are true. If the petition is found to be sufficient and in all proceedings initiated by resolution of the legislative authority of the city or town, the estimates must be accompanied by a diagram showing thereon the lots, tracts, and parcels of land and other property which will be specially benefited by the proposed improvement and the estimated amount of the cost and expense thereof to be borne by each lot, tract, or parcel of land or other property: PROVIDED, That no such diagram shall be required where such estimates are on file in the office of the city engineer, or other designated city office, together with a detailed copy of the preliminary assessment roll and the plans and assessment maps of the proposed improvement.

For the purpose of estimating and levying local improvement assessments, the value of property of the United States, of the state, or of any county, city, town, school district, or other public corporation whose property is not assessed for general taxes shall be computed according to the standards afforded by similarly situated property which is assessed for general taxes.

[1983 c 303 § 1; 1967 c 52 § 6; 1965 c 7 § 35.43.130. Prior: 1957 c 144 § 7; prior: 1953 c 26 § 1. (i) 1911 c 98 § 9, part; RRS § 9360, part. (ii) 1929 c 97 § 1, part; 1911 c 98 § 10, part; RRS § 9361, part. (iii) 1949 c 28 § 1, part; 1931 c 85 § 1, part; 1927 c 109 § 1, part; 1923 c 135 § 1, part; 1921 c 128 § 1, part; 1915 c 168 § 1, part; 1911 c 98 § 12, part; Rem. Supp. 1949 § 9363, part. (iv) 1927 c 209 § 4, part; 1923 c 141 § 4, part; RRS § 9351-4, part.]

Notes:

Severability--1983 c 303: See RCW 36.60.905.

Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

RCW 35.43.140 Resolutions--Contents, publication--Hearing, by whom held.

Any local improvement to be paid for in whole or in part by the levy and collection of assessments upon the property within the proposed improvement district may be initiated by a resolution of the city or town council or other legislative authority of the city or town, declaring

its intention to order the improvement, setting forth the nature and territorial extent of the improvement, containing a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement, or street lighting, adds to the property, and notifying all persons who may desire to object thereto to appear and present their objections at a time to be fixed therein.

In the case of trunk sewers and trunk water mains the resolution must describe the routes along which the trunk sewer, subsewer and branches of trunk water main and laterals are to be constructed.

In case of dikes or other structures to protect the city or town or any part thereof from overflow or to open, deepen, straighten, or enlarge watercourses, waterways and other channels the resolution must set forth the place of commencement and ending thereof and the route to be used.

In the case of auxiliary water systems, or extensions thereof or additions thereto for protection of the city or town or any part thereof from fire, the resolution must set forth the routes along which the auxiliary water system or extensions thereof or additions thereto are to be constructed and specifications of the structures or works necessary thereto or forming a part thereof.

The resolution shall be published in at least two consecutive issues of the official newspaper of the city or town, the first publication to be at least fifteen days before the day fixed for the hearing.

The hearing herein required may be held before the city or town council, or other legislative authority, or before a committee thereof. The legislative authority of a city or town may designate an officer to conduct the hearings. The committee or hearing officer shall report recommendations on the resolution to the legislative authority for final action.

[1994 c 71 § 2; 1989 c 243 § 2; 1985 c 469 § 29; 1984 c 203 § 1; 1965 c 7 § 35.43.140. Prior: 1957 c 144 § 8; prior: 1953 c 177 § 1. (i) 1929 c 97 § 1, part; 1911 c 98 § 10, part; RRS § 9361, part. (ii) 1911 c 98 § 16, part; RRS § 9368, part. (iii) 1911 c 98 § 17, part; RRS § 9369, part. (iv) 1911 c 98 § 18, part; RRS § 9370, part.]

Notes:

Severability--1984 c 203: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 203 § 10.]

RCW 35.43.150 Resolutions--Hearing upon--Notice.

Notice of the hearing upon a resolution declaring the intention of the legislative authority of a city or town to order an improvement shall be given by mail at least fifteen days before the day fixed for hearing to the owners or reputed owners of all lots, tracts, and parcels of land or other property to be specially benefited by the proposed improvement, as shown on the rolls of the county assessor, directed to the address thereon shown.

The notice shall set forth the nature of the proposed improvement, the estimated cost, a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement, or street lighting,

adds to the property, and the estimated benefits of the particular lot, tract, or parcel.

[1989 c 243 § 3; 1983 c 303 § 2; 1965 c 7 § 35.43.150. Prior: 1957 c 144 § 9; prior: 1929 c 97 § 1, part; 1911 c 98 § 10, part; RRS § 9361, part.]

Notes:

Severability--1983 c 303: See RCW 36.60.905.

RCW 35.43.180 Restraint by protest.

The jurisdiction of the legislative authority of a city or town to proceed with any local improvement initiated by resolution shall be divested by a protest filed with the city or town council within thirty days from the date of passage of the ordinance ordering the improvement, signed by the owners of the property within the proposed local improvement district or utility local improvement district subject to sixty percent or more of the total cost of the improvement including federally-owned or other nonassessable property as shown and determined by the preliminary estimates and assessment roll of the proposed improvement district or, if all or part of the local improvement district or utility local improvement district lies outside of the city or town, such jurisdiction shall be divested by a protest filed in the same manner and signed by the owners of property which is within the proposed local improvement district or utility local improvement district but outside the boundaries of the city or town, and which is subject to sixty percent or more of that part of the total cost of the improvement allocable to property within the proposed local improvement district or utility local improvement district but outside the boundaries of the city or town, including federally-owned or other nonassessable property: PROVIDED, That such restraint by protest shall not apply to any of the following local improvements, if the legislative body finds and recites in the ordinance or resolution authorizing the improvement that such improvement is necessary for the protection of the public health and safety and such ordinance or resolution is passed by unanimous vote of all members present: (1) Sanitary sewers or watermains where the health officer of the city or town, or department of ecology, files with the legislative authority a report showing the necessity for such improvement; and (2) fire hydrants where the chief of the fire department files a report showing the necessity for such improvement.

[1983 c 303 § 3; 1967 c 52 § 8; 1965 c 58 § 2; 1965 c 7 § 35.43.180. Prior: 1963 c 56 § 2; 1957 c 144 § 12; prior: 1949 c 28 § 1, part; 1931 c 85 § 1, part; 1927 c 109 § 1, part; 1923 c 135 § 1, part; 1921 c 128 § 1, part; 1915 c 168 § 1, part; 1911 c 98 § 12, part; Rem. Supp. 1949 § 9363, part.]

Notes:

Severability--1983 c 303: See RCW 36.60.905.

Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

RCW 35.43.182 Waivers of protest--Recording--Limits on enforceability.

If an owner of property enters into an agreement with a city or town waiving the property owner's right under RCW 35.43.180 to protest formation of a local improvement district, the agreement must specify the improvements to be financed by the district and shall set forth the

effective term of the agreement, which shall not exceed ten years. The agreement must be recorded with the auditor of the county in which the property is located. It is against public policy and void for an owner, by agreement, as a condition imposed in connection with proposed property development, or otherwise, to waive rights to object to the property owner's individual assessment (including the determination of special benefits allocable to the property), or to appeal to the superior court the decision of the city or town council affirming the final assessment roll.

[1988 c 179 § 8.]

Notes:

Severability--Prospective application--Section captions--1988 c 179: See RCW 39.92.900 and 39.92.901.

RCW 35.43.184 Preformation expenditures.

The city or town engineer or other designated official may contract with owners of real property to provide for payment by the owners of the cost of the preparation of engineering plans, surveys, studies, appraisals, legal services, and other expenses associated with improvements to be financed in whole or in part by a local improvement district (not including the cost of actual construction of such improvements), that the owners elect to undertake. The contract may provide for reimbursement to the owner of such costs from the proceeds of bonds issued by the district after formation of a district under this chapter, from assessments paid to the district as appropriate, or by a credit in the amount of such costs against future assessments assessed against such property under the district. Such reimbursement shall be made to the owner of the property at the time of reimbursement. The contract shall also provide that such costs shall not be reimbursed to the owner if a district to construct the specified improvements (as the project may be amended) is not formed within six years of the date of the contract. The contract shall provide that any preformation work shall be conducted only under the direction of the city or town engineer or other appropriate city or town authority.

[1988 c 179 § 9.]

Notes:

Severability--Prospective application--Section captions--1988 c 179: See RCW 39.92.900 and 39.92.901.

RCW 35.43.186 Credits for other assessments.

A city or town ordering a local improvement upon which special assessments on property specifically benefited by the improvement are levied and collected, may provide as part of the ordinance creating the local improvement district that moneys paid or the cost of facilities constructed by a property owner in the district in satisfaction of obligations under chapter 39.92 RCW, shall be credited against assessments due from the owner of such property at the time the credit is made, if those moneys paid or facilities constructed directly defray the cost of the

specified improvements under the district and if credit for such amounts is reflected in the final assessment roll confirmed for the district.

[1988 c 179 § 10.]

Notes:

Severability--Prospective application--Section captions--1988 c 179: See RCW 39.92.900 and 39.92.901.

RCW 35.43.188 Assessment reimbursement accounts.

A city or town ordering a local improvement upon which special assessments on property specifically benefitted by the improvement are levied and collected, may provide as part of the ordinance creating the local improvement district that the payment of an assessment levied for the district on underdeveloped properties may be made by owners of other properties within the district, if they so elect, subject to terms of reimbursement set forth in the ordinance. The terms for reimbursement shall require the owners of underdeveloped properties on whose behalf payments of assessments have been made to reimburse all such assessment payments to the party who made them when those properties are developed or redeveloped, together with interest at a rate specified in the ordinance. The ordinance may provide that reimbursement shall be made on a one-time, lump sum basis, or may provide that reimbursement shall be made over a period not to exceed five years. The ordinance may provide that reimbursement shall be made no later than the time of dissolution of the district, or may provide that no reimbursement is due if the underdeveloped properties are not developed or redeveloped before the dissolution of the district. Reimbursement amounts due from underdeveloped properties under this section are liens upon the underdeveloped properties in the same manner and with like effect as assessments made under this chapter. For the purposes of this section, "underdeveloped properties" may include those properties that, in the discretion of the legislative body of the city or town, (1) are undeveloped or are not developed to their highest and best use, and (2) are likely to be developed or redeveloped before the dissolution of the district.

[1988 c 179 § 11.]

Notes:

Severability--Prospective application--Section captions--1988 c 179: See RCW 39.92.900 and 39.92.901.

RCW 35.43.190 Work--By contract or by city or public corporation.

All local improvements, the funds for the making of which are derived in whole or in part from assessments upon property specially benefited shall be made by contract on competitive bids whenever the estimated cost of such improvement including the cost of materials, supplies, labor, and equipment will exceed the sum of five thousand dollars. The city, town, or public corporation may reject any and all bids. The city, town, or public corporation itself may make the local improvements if all the bids received exceed by ten percent preliminary cost estimates

prepared by an independent consulting engineer or registered professional engineer retained for that purpose by the city, town, or public corporation.

[1987 c 242 § 3; 1971 ex.s. c 116 § 6; 1965 c 7 § 35.43.190. Prior: 1911 c 98 § 59; RRS § 9412.]

Notes:

Policy--1987 c 242: See note following RCW 35.43.005.

RCW 35.43.200 Street railways at expense of property benefited.

Any city or town in this state owning and operating a municipal street railway over one hundred miles of track shall have power to provide for purchasing, or otherwise acquiring, or constructing and equipping surface, subway and elevated street railways and extensions thereof, and to levy and collect special assessments on property specially benefited thereby, for paying the cost and expense of the same or any portion thereof, as hereinafter provided.

[1965 c 7 § 35.43.200. Prior: 1923 c 176 § 1; RRS § 9425-1.]

RCW 35.43.210 Street railways at expense of property benefited--Petition--Assessment district.

Any improvement district created under RCW 35.43.200-35.43.230 shall be created only by ordinance defining its boundaries as specified and described in the petition therefor and specifying the plan or system therein provided for; and shall be initiated only upon a petition therefor, specifying and describing the boundaries of such district and specifying the plan or system of proposed improvement, signed by the owners of at least sixty percent of the lineal frontage upon the proposed improvement and of at least fifty percent of the area within the limits of the proposed improvement district: PROVIDED, That the city council may in its discretion reject any such petition.

[1965 c 7 § 35.43.210. Prior: 1923 c 176 § 2; RRS § 9425-2.]

RCW 35.43.220 Street railways at expense of property benefited--Assessment of cost.

The cost and expense of any such improvement shall be distributed and assessed against all the property included in such local improvement district, in accordance with the special benefits conferred thereon.

[1965 c 7 § 35.43.220. Prior: 1923 c 176 § 3; RRS § 9425-3.]

RCW 35.43.230 Street railways at expense of property benefited--Procedure.

Except as herein otherwise provided all matters and proceedings relating to such local improvement district, the levying and collecting of assessments, the issuance and redemption of local improvement warrants and bonds, and the enforcement of local assessment liens hereunder shall be governed by the laws relating to local improvements; and all matters and proceedings relating to the purchase, acquisition, or construction and equipment of the improvement and the

operation of the same hereunder and the issuance and redemption of utility bonds and warrants, if any, and the use of general or utility funds, if any, in connection with the purchase, acquisition, construction, equipping, or operation of the improvement shall be governed by the laws relating to municipal public utilities.

[1965 c 7 § 35.43.230. Prior: 1923 c 176 § 4; RRS § 9425-4.]

RCW 35.43.250 Deferral of collection of assessments for economically disadvantaged persons--Authorized.

Any city of the first class in this state ordering any local improvement upon which shall be levied and collected special assessments on property specifically benefited thereby may provide as part of the ordinance creating any local improvement district that the collection of any assessment levied therefor may be deferred until a time previous to the dissolution of the district for those economically disadvantaged property owners or other persons who, under the terms of a recorded contract of purchase, recorded mortgage, recorded deed of trust transaction or recorded lease are responsible under penalty of forfeiture, foreclosure or default as between vendor/vendee, mortgagor/mortgagee, grantor and trustor/trustee and grantee, and beneficiary and lendor, or lessor and lessee for the payment of local improvement district assessments, and in the manner specified in the ordinance qualify for such deferment, upon assurance of property security for the payment thereof.

[1972 ex.s. c 137 § 2.]

Notes:

Severability--1972 ex.s. c 137: See note following RCW 35.49.010.

RCW 35.43.260 Service fees for sewers not constructed within ten years after voter approval--Credit against future assessments, service charges.

Any municipal corporation, quasi municipal corporation, or political subdivision which has the authority to install sewers by establishing local improvement districts, which has charged and collected monthly service fees for sewers, that have been authorized and approved by the voters and have not been constructed for a period of ten or more years since the voter approval, is hereby authorized and directed to grant a credit against the future assessment to be assessed at the time of actual completion of construction of the sewers for each parcel of real property in an amount equal in dollars to the total amount of service fees charged and collected since voter approval for each such parcel, plus interest at six percent compounded annually: PROVIDED, That if such service fees and interest exceed the future assessment for construction of the sewers, such excess funds shall be used to defray future sewer service charge fees.

It is the intent of the legislature that the provisions of this section are procedural and remedial and shall have retroactive effect.

[1977 c 72 § 3.]

RCW 35.43.270 Sanitary sewer or potable water facilities--Notice to certain property owners.

Whenever it is proposed that a local improvement district or utility local improvement district finance sanitary sewers or potable water facilities, additional notice of the public hearing on the proposed improvement district shall be mailed to the owners of any property located outside of the proposed improvement district that would be required as a condition of federal housing administration loan qualification, at the time of notice, to be connected to the specific sewer or water facilities installed by the local improvement district. The notice shall include information about this restriction.

[1987 c 315 § 1.]

RCW 35.43.280 Settlement of Indian claims.

(1) The settlement of Indian land and other claims against public and private property owners is declared to be in the interest of public health and safety, orderly government, environmental protection, economic development, and the social well-being of the citizens of this state, and to specifically benefit the properties released from those claims.

It is the purpose of chapter 4, Laws of 1989 1st ex. sess. to encourage the settlement of such Indian land and other claims lawsuits by permitting the establishment and use of local improvement districts to finance all or a portion of the settlement costs of such lawsuits.

(2) A local improvement district may be established by a local government legislative authority to finance all or part of the settlement costs in an Indian land and other claims settlement related to public and private property located within the local government. The settlement of an Indian land claim lawsuit shall be deemed to be an improvement that may be financed in whole or in part through use of a local improvement district.

Except as expressly provided in this section, all matters relating to the establishment and operation of such a local improvement district, the levying and collection of special assessments, the issuance of local improvement district bonds and other obligations, and all related matters, shall be subject to the provisions of chapters 35.43 through 35.54 RCW. The resolution or petition initiating the creation of a local improvement district used to finance all or a portion of an Indian land and other claims settlement shall describe the general nature of the Indian land and other claims and the proposed settlement. The value of a contribution by any person, municipal corporation, political subdivision, or the state of money, real property, or personal property to the settlement of Indian land and other claims shall be credited to any assessment for a local improvement district under this section.

[1989 1st ex.s. c 4 § 2.]

Notes:

Severability--1989 1st ex.s. c 4: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 1st ex.s. c 4 § 4.]

Chapter 35.44 RCW
LOCAL IMPROVEMENTS--ASSESSMENTS AND REASSESSMENTS

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Notes:
Alternative method of assessment--Classification of property: RCW 35.51.030.
Assessments and charges against state lands: Chapter 79.44 RCW.
Deferral of special assessments: Chapter 84.38 RCW.

RCW 35.44.010 Assessment district--All property to be assessed--Basis.

All property included within the limits of a local improvement district or utility local improvement district shall be considered to be the property specially benefited by the local improvement and shall be the property to be assessed to pay the cost and expense thereof or such part thereof as may be chargeable against the property specially benefited. The cost and expense shall be assessed upon all the property in accordance with the special benefits conferred thereon.

[1985 c 397 § 3; 1967 c 52 § 9; 1965 c 7 § 35.44.010. Prior: 1957 c 144 § 16; prior: 1947 c 155 § 1, part; 1941 c 90 § 1, part; 1915 c 168 § 2, part; 1911 c 98 § 13, part; Rem. Supp. 1947 § 9365, part.]

Notes:

Authority supplemental--Severability--1985 c 397: See RCW 35.51.900 and 35.51.901.
Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

RCW 35.44.015 Special benefit assessments for farm and agricultural land--Exemption from assessments, etc.

See RCW 84.34.300 through 84.34.380 and 84.34.922.

RCW 35.44.020 Assessment district--Cost items to be included.

There shall be included in the cost and expense of every local improvement for assessment against the property in the district created to pay the same, or any part thereof:

(1) The cost of all of the construction or improvement authorized for the district including, but not limited to, that portion of the improvement within the street intersections;

(2) The estimated cost and expense of all engineering and surveying necessary for the improvement done under the supervision of the city or town engineer;

(3) The estimated cost and expense of ascertaining the ownership of the lots or parcels of land included in the assessment district;

(4) The estimated cost and expense of advertising, mailing, and publishing all necessary notices;

(5) The estimated cost and expense of accounting, clerical labor, and of books and blanks extended or used on the part of the city or town clerk and city or town treasurer in connection with the improvement;

(6) All cost of the acquisition of rights of way, property, easements, or other facilities or

rights, including without limitation rights to use property, facilities, or other improvements appurtenant, related to, and/or useful in connection with the local improvement, whether by eminent domain, purchase, gift, payment of connection charges, capacity charges, or other similar charges or in any other manner;

(7) The cost for legal, financial, and appraisal services and any other expenses incurred by the city, town, or public corporation for the district or in the formation thereof, or by the city, town, or public corporation in connection with such construction or improvement and in the financing thereof, including the issuance of any bonds and the cost of providing for increases in the local improvement guaranty fund, or providing for a separate reserve fund or other security for the payment of principal of and interest on such bonds.

Any of the costs set forth in this section may be excluded from the cost and expense to be assessed against the property in such local improvement district and may be paid from any other moneys available therefor if the legislative body of the city or town so designates by ordinance at any time.

[1995 c 382 § 1; 1987 c 242 § 4; 1985 c 397 § 4; 1971 ex.s. c 116 § 8; 1969 ex.s. c 258 § 6; 1965 c 7 § 35.44.020. Prior: 1955 c 364 § 1; 1911 c 98 § 55; RRS § 9408.]

Notes:

Policy--1987 c 242: See note following RCW 35.43.005.

Authority supplemental--Severability--1985 c 397: See RCW 35.51.900 and 35.51.901.

RCW 35.44.030 Assessment district--Zones.

For the purpose of ascertaining the amount to be assessed against each separate lot, tract, parcel of land or other property therein, the local improvement district or utility local improvement district shall be divided into subdivisions or zones paralleling the margin of the street, avenue, lane, alley, boulevard, park drive, parkway, public place or public square to be improved, numbered respectively first, second, third, fourth, and fifth.

The first subdivision shall include all lands within the district lying between the street margins and lines drawn parallel therewith and thirty feet therefrom.

The second subdivision shall include all lands within the district lying between lines drawn parallel with and thirty and sixty feet respectively from the street margins.

The third subdivision shall include all lands within the district lying between lines drawn parallel with and sixty and ninety feet respectively from the street margins.

The fourth subdivision shall include all lands, if any, within the district lying between lines drawn parallel with and ninety and one hundred twenty feet respectively from the street margins.

The fifth subdivision shall include all lands, if any, within the district lying between a line drawn parallel with and one hundred twenty feet from the street margin and the outer limit of the improvement district.

[1967 c 52 § 10; 1965 c 7 § 35.44.030. Prior: 1957 c 144 § 17; prior: 1947 c 155 § 1, part; 1941 c 90 § 1, part; 1915 c 168 § 2, part; 1911 c 98 § 13, part; Rem. Supp. 1947 § 9365, part.]

Notes:

Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

RCW 35.44.040 Assessment rate per square foot.

The rate of assessment per square foot in each subdivision of an improvement district shall be fixed on the basis that the special benefits conferred on a square foot of land in subdivisions first, second, third, fourth and fifth, respectively, are related to each other as are the numbers, forty-five, twenty-five, twenty, ten, and five, respectively, and shall be ascertained in the following manner:

(1) The products of the number of square feet in subdivisions first, second, third, fourth, and fifth, respectively, and the numbers forty-five, twenty-five, twenty, ten, and five, respectively, shall be ascertained;

(2) The aggregate sum thereof shall be divided into the total cost and expense of the improvement;

(3) The resultant quotient multiplied by forty-five, twenty-five, twenty, ten, and five, respectively, shall be the respective rate of assessment per square foot for subdivisions first, second, third, fourth and fifth: PROVIDED, That in lieu of the above formula the rate of assessment per square foot in each subdivision of an improvement district may be fixed on the basis that the special benefits conferred on a square foot of land in subdivisions first, second, third, fourth and fifth, respectively, are related to each other as are the numbers 0.015000, 0.008333, 0.006666, 0.003333, and 0.001666, respectively; and the method of determining the assessment on each lot, tract, or parcel of land in the improvement district may be ascertained in the following manner:

(1) The products of the number of square feet in subdivisions first, second, third, fourth and fifth, respectively, for each lot, tract or parcel of land in the improvement district and the numbers 0.015000, 0.008333, 0.006666, 0.003333 and 0.001666, respectively, shall be ascertained. The sum of all such products for each such lot, tract or parcel of land shall be the number of "assessable units of frontage" therein;

(2) The rate for each assessable unit of frontage shall be determined by dividing that portion of the total cost of the improvement representing special benefits by the aggregate sum of all assessable units of frontage;

(3) The assessment for each lot, tract or parcel of land in the improvement district shall be the product of the assessable units of frontage therefor, multiplied by the rate per assessable unit of frontage.

[1965 c 7 § 35.44.040. Prior: 1957 c 144 § 18; prior: 1947 c 155 § 1, part; 1941 c 90 § 1, part; 1915 c 168 § 2, part; 1911 c 98 § 13, part; Rem. Supp. 1947 § 9365, part.]

RCW 35.44.045 Open canals or ditches--Safeguards--Ascertaining assessments.

As an alternative to other methods of ascertaining assessments for local improvements, in a local improvement district established for safeguarding open canals or ditches, the district may be sectioned into subdivisions or zones paralleling the canal or ditch, numbered respectively,

first, second, third and fourth. Each subdivision shall be equal to one-quarter of the width of the district as measured back from the margin of the canal right of way. The rate of assessment per square foot in each subdivision so formed shall be fixed on the basis that the special benefits conferred on a square foot of land in subdivisions first, second, third, and fourth, respectively, are related to each other as are the numbers, forty, thirty, twenty, and ten, respectively, and shall be ascertained in the following manner:

(1) The products of the number of square feet in subdivisions first, second, third, and fourth, respectively, and the numbers forty, thirty, twenty, and ten, respectively, shall be ascertained;

(2) The aggregate sum thereof shall be divided into the total cost and expense of the local improvement;

(3) The resultant quotient multiplied by forty, thirty, twenty, and ten, respectively, shall be the respective rate of assessment per square foot for each subdivision.

[1965 c 7 § 35.44.045. Prior: 1959 c 75 § 3.]

Notes:

Safeguarding open canals or ditches, assessments: RCW 35.43.040, 35.43.045, 36.88.015, 36.88.350, 36.88.380 through 36.88.400, 87.03.480, 87.03.526.

RCW 35.44.047 Other methods of computing assessments may be used.

Notwithstanding the methods of assessment provided in RCW 35.44.030, 35.44.040 and 35.44.045, the city or town may use any other method or combination of methods to compute assessments which may be deemed to more fairly reflect the special benefits to the properties being assessed. The failure of the council to specifically recite in its ordinance ordering the improvement and creating the local improvement district that it will not use the zone and termini method of assessment shall not invalidate the use of any other method or methods of assessment.

[1969 ex.s. c 258 § 7.]

RCW 35.44.050 Assessment roll--Entry of assessments against property.

The total assessment thus ascertained against each separate lot, tract, parcel of land, or other property in the district shall be entered upon the assessment roll as the amount to be levied and assessed against each separate lot, tract, parcel of land, or other property.

[1965 c 7 § 35.44.050. Prior: 1957 c 144 § 19; prior: 1947 c 155 § 1, part; 1941 c 90 § 1, part; 1915 c 168 § 2, part; 1911 c 98 § 13, part; Rem. Supp. 1947 § 9365, part.]

RCW 35.44.060 Assessment roll--Diagram on preliminary survey not conclusive.

The diagram or print directed to be submitted to the council shall be in the nature of a preliminary determination by the designated administrative board, officer, or authority upon the method and relative estimated amounts of assessments to be levied upon the property specially

benefited by the improvement and shall not be binding or conclusive in any way upon the board, officer, or authority in the preparation of the assessment roll for the improvement or upon the council in any hearing affecting the assessment roll.

[1965 c 7 § 35.44.060. Prior: 1911 c 98 § 11; RRS § 9362.]

RCW 35.44.070 Assessment roll--Filing--Hearing, date, by whom held.

The assessment roll for local improvements when prepared as provided by law shall be filed with the city or town clerk. The council or other legislative authority shall thereupon fix a date for a hearing thereon before such legislative authority or may direct that the hearing shall be held before a committee thereof or the legislative authority of any city or town may designate an officer to conduct such hearings. The committee or officer designated shall hold a hearing on the assessment roll and consider all objections filed following which the committee or officer shall make recommendations to such legislative authority which shall either adopt or reject the recommendations of the committee or officer. If a hearing is held before such a committee or officer it shall not be necessary to hold a hearing on the assessment roll before such legislative authority. A local ordinance shall provide for an appeal by any person protesting his or her assessment to the legislative authority of a decision made by such officer. The same procedure may if so directed by such legislative authority be followed with respect to any assessment upon the roll which is raised or changed to include omitted property. Such legislative authority shall direct the clerk to give notice of the hearing and of the time and place thereof.

[1994 c 71 § 1; 1979 ex.s. c 100 § 1; 1965 c 7 § 35.44.070. Prior: 1953 c 177 § 2; 1929 c 97 § 3, part; 1911 c 98 § 21, part; RRS § 9373, part.]

RCW 35.44.080 Assessment roll--Notice of hearing.

The notice of hearing upon the assessment roll shall specify the time and place of hearing and shall notify all persons who may desire to object thereto:

(1) To make their objections in writing and to file them with the city or town clerk at or prior to the date fixed for the hearing;

(2) That at the time and place fixed and at times to which the hearing may be adjourned, the council will sit as a board of equalization for the purpose of considering the roll; and

(3) That at the hearing the council or committee or officer will consider the objections made and will correct, revise, raise, lower, change, or modify the roll or any part thereof or set aside the roll and order the assessment to be made de novo.

Following the hearing the council shall confirm the roll by ordinance.

[1979 ex.s. c 100 § 2; 1965 c 7 § 35.44.080. Prior: 1929 c 97 § 3, part; 1911 c 98 § 21, part; RRS § 9373, part.]

RCW 35.44.090 Assessment roll--Notice--Mailing--Publication.

At least fifteen days before the date fixed for hearing, notice thereof shall be mailed to the owner or reputed owner of the property whose name appears on the assessment roll, at the

address shown on the tax rolls of the county treasurer for each item of property described on the list. In addition thereto the notice shall be published at least once a week for two consecutive weeks in the official newspaper of the city or town, the last publication to be at least fifteen days before the date fixed for hearing.

[1986 c 278 § 48; 1985 c 469 § 30; 1965 c 7 § 35.44.090. Prior: 1929 c 97 § 3, part; 1911 c 98 § 21, part; RRS § 9373, part.]

Notes:

Severability--1986 c 278: See note following RCW 36.01.010.

RCW 35.44.100 Assessment roll--Hearing--Objections--Authority of council.

At the time fixed for hearing objections to the confirmation of the assessment roll, and at the times to which the hearing may be adjourned, the council may correct, revise, raise, lower, change, or modify the roll or any part thereof, or set aside the roll and order the assessment to be made de novo and at the conclusion thereof confirm the roll by ordinance.

[1965 c 7 § 35.44.100. Prior: 1929 c 97 § 3, part; 1911 c 98 § 21, part; RRS § 9373, part.]

RCW 35.44.110 Assessment roll--Objections--Timeliness.

All objections to the confirmation of the assessment roll shall state clearly the grounds of objections. Objections not made within the time and in the manner prescribed in this chapter shall be conclusively presumed to have been waived.

[1965 c 7 § 35.44.110. Prior: 1929 c 97 § 3, part; 1911 c 98 § 21, part; RRS § 9373, part.]

RCW 35.44.120 Assessment roll--Amendment--Procedure.

If an assessment roll is amended so as to raise any assessment appearing thereon or to include omitted property, a new time and place for hearing shall be fixed and a new notice of hearing on the roll given as in the case of an original hearing: PROVIDED, That as to any property originally entered upon the roll the assessment upon which has not been raised, no objections to confirmation of the assessment roll shall be considered by the council or by any court on appeal unless the objections were made in writing at or prior to the date fixed for the original hearing upon the assessment roll.

[1965 c 7 § 35.44.120. Prior: 1929 c 97 § 3, part; 1911 c 98 § 21, part; RRS § 9373, part.]

RCW 35.44.130 City property--Assessment.

Every city and town shall include in its annual tax levy an amount sufficient to pay all unpaid assessments with all interest, penalties, and charges thereon levied against all lands belonging to the city or town. The proceeds of such a portion of the tax levy shall be placed in a separate fund to be known as the "city (or town) property assessments redemption fund" and by

the city or town treasurer inviolably applied in payment of any unpaid assessment liens on any lands belonging to the city or town.

[1965 c 7 § 35.44.130. Prior: (i) 1929 c 183 § 1; 1909 c 130 § 1; RRS § 9344. (ii) 1929 c 183 § 2, part; 1909 c 130 § 2, part; RRS § 9345, part.]

RCW 35.44.140 County property assessment.

All lands held or owned by any county in fee simple, in trust, or otherwise within the limits of a local improvement district or utility local improvement district of a city or town shall be assessed and charged for their proportion of the cost of the local improvement in the same manner as other property in the district and the county commissioners are authorized to cause the assessments to be paid at the times and in the manner provided by law and the ordinances of the city or town. This section shall apply to all cities and towns, any charter or ordinance provision to the contrary notwithstanding.

[1971 ex.s. c 116 § 9; 1967 c 52 § 11; 1965 c 7 § 35.44.140. Prior: (i) 1905 c 29 § 1; RRS § 9340. (ii) 1907 c 61 § 1; 1905 c 29 § 2; RRS § 9341. (iii) 1929 c 139 § 2; 1905 c 29 § 4; RRS § 9343.]

Notes:

Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

RCW 35.44.150 Harbor area leaseholds--Assessment.

All leasehold rights and interests of private individuals, firms or corporations in or to harbor areas located within the limits of a city or town are declared to be real property for the purpose of assessment for the payment of the cost of local improvements. They may be assessed and reassessed in accordance with the special benefits received, which shall be limited to benefits accruing during the term of the lease, to the property subject to lease immediately abutting upon the improvement and extending one-half block therefrom not exceeding, however, three hundred fifty feet.

[1965 c 7 § 35.44.150. Prior: 1915 c 134 § 1; RRS § 9364.]

RCW 35.44.160 Leases on tidelands--Assessment.

All leases of tidelands owned in fee by the state are declared to be real property for the purpose of assessment for the payment of the cost of local improvements.

[1965 c 7 § 35.44.160. Prior: 1911 c 98 § 56; RRS § 9409.]

RCW 35.44.170 Metropolitan park district property--Assessment.

All lands held by a metropolitan park district in fee simple, in trust, or otherwise within the limits of a local improvement district in a city or town shall be assessed and charged for their proportion of the cost of all local improvements in the same manner as other property in the

district.

[1965 c 7 § 35.44.170. Prior: (i) 1929 c 204 § 1; RRS § 9343-1. (ii) 1929 c 204 § 2; RRS § 9343-2.]

RCW 35.44.180 Notices--Mailing--Proof.

The mailing of any notice required in connection with municipal local improvements shall be conclusively proved by the written certificate of the officer, board, or authority directed by the provisions of the charter or ordinance of a city or town to give the notice.

[1965 c 7 § 35.44.180. Prior: 1929 c 97 § 4; RRS § 9373-1.]

RCW 35.44.190 Proceedings conclusive--Exceptions--Adjustments to assessments if other funds become available.

Whenever any assessment roll for local improvements has been confirmed by the council, the regularity, validity, and correctness of the proceedings relating to the improvement and to the assessment therefor, including the action of the council upon the assessment roll and the confirmation thereof shall be conclusive in all things upon all parties. They cannot in any manner be contested or questioned in any proceeding by any person unless he filed written objections to the assessment roll in the manner and within the time required by the provisions of this chapter and unless he prosecutes his appeal in the manner and within the time required by the provisions of this chapter.

No proceeding of any kind shall be commenced or prosecuted for the purpose of defeating or contesting any assessment or the sale of any property to pay an assessment or any certificate of delinquency issued therefor, or the foreclosure of any lien therefor, except that injunction proceedings may be brought to prevent the sale of any real estate upon the ground (1) that the property about to be sold does not appear upon the assessment roll or, (2) that the assessment has been paid.

If federal, local, or state funds become available for a local improvement after the assessment roll has been confirmed by the city legislative authority, the funds may be used to lower the assessments on a uniform basis. Any adjustments to the assessments because of the availability of federal or state funds may be made on the next annual payment.

[1985 c 397 § 9; 1965 c 7 § 35.44.190. Prior: 1911 c 98 § 23; RRS § 9375.]

Notes:

Severability--1985 c 397: See RCW 35.51.901.

RCW 35.44.200 Procedure on appeal--Perfecting appeal.

The decision of the council or other legislative body, upon any objections made in the manner and within the time herein prescribed, shall be final and conclusive, subject however to review by the superior court upon appeal. The appeal shall be made by filing written notice of appeal with the city or town clerk and with the clerk of the superior court of the county in which

the city or town is situated.

[1965 c 7 § 35.44.200. Prior: 1957 c 143 § 2; prior: 1911 c 98 § 22, part; RRS § 9374, part.]

RCW 35.44.210 Procedure on appeal--Notice of appeal.

The notice of appeal must be filed within ten days after the ordinance confirming the assessment roll becomes effective and shall describe the property and set forth the objections of the appellant to the assessment.

[1965 c 7 § 35.44.210. Prior: 1957 c 143 § 3; prior: 1911 c 98 § 22, part; RRS § 9374, part.]

RCW 35.44.220 Procedure on appeal--Bond.

At the time of filing the notice of appeal with the clerk of the superior court, the appellant shall execute and file with him a sufficient bond in the penal sum of two hundred dollars, with at least two sureties to be approved by the judge of the court, conditioned to prosecute the appeal without delay and, if unsuccessful, to pay all reasonable costs and expenses which the city or town incurs by reason of the appeal. Upon application therefor, the court may order the appellant to execute and file such additional bonds as the necessity of the case may require.

[1971 ex.s. c 116 § 3; 1969 ex.s. c 258 § 8; 1965 c 7 § 35.44.220. Prior: 1957 c 143 § 4; prior: 1911 c 98 § 22, part; RRS § 9374, part.]

RCW 35.44.230 Procedure on appeal--Transcript.

Within ten days from the filing of the notice of appeal, the appellant shall file with the clerk of the superior court a transcript consisting of the assessment roll and his objections thereto, together with the ordinance confirming the assessment roll and the record of the council with reference to the assessment. This transcript, upon payment of the necessary fees therefor, shall be furnished by the city or town clerk and shall be certified by him to contain full, true and correct copies of all matters and proceedings required to be included in the transcript. The fees payable therefor shall be the same as those payable to the clerk of the superior court for the preparation and certification of transcripts on appeal to the supreme court or the court of appeals in civil actions.

[1971 c 81 § 90; 1965 c 7 § 35.44.230. Prior: 1957 c 143 § 5; prior: 1911 c 98 § 22, part; RRS § 9374, part.]

RCW 35.44.240 Procedure on appeal--Notice of hearing.

Within three days after the filing of the transcript with the clerk of the superior court, the appellant shall give notice to the head of the legal department of the city or town and to its clerk that the transcript has been filed. The notice shall also state a time (not less than three days from the date of service thereof) when the appellant will call up the cause for hearing.

[1965 c 7 § 35.44.240. Prior: 1957 c 143 § 6; prior: 1911 c 98 § 22, part; RRS § 9374, part.]

RCW 35.44.250 Procedure on appeal--Hearing by superior court.

At the time fixed for hearing in the notice thereof or at such further time as may be fixed by the court, the superior court shall hear and determine the appeal without a jury and the cause shall have preference over all other civil causes except proceedings relating to eminent domain in cities and towns and actions of forcible entry and detainer. The judgment of the court shall confirm, unless the court shall find from the evidence that such assessment is founded upon a fundamentally wrong basis and/or the decision of the council or other legislative body thereon was arbitrary or capricious; in which event the judgment of the court shall correct, change, modify, or annul the assessment insofar as it affects the property of the appellant.

[1969 ex.s. c 258 § 9; 1965 c 7 § 35.44.250. Prior: 1957 c 143 § 7; prior: 1911 c 98 § 22, part; RRS § 9374, part.]

RCW 35.44.260 Procedure on appeal--Appellate review.

Appellate review of the judgment of the superior court may be obtained as in other cases if sought within fifteen days after the date of the entry of the judgment in the superior court.

[1988 c 202 § 36; 1971 c 81 § 91; 1965 c 7 § 35.44.260. Prior: 1957 c 143 § 8; prior: 1911 c 98 § 22, part; RRS § 9374, part.]

Notes:

Rules of court: *Appeal procedures superseded by RAP 2.1, 2.2, 18.22.*

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 35.44.270 Procedure on appeal--Certified copy of decision or order.

A certified copy of the decision of the superior court pertaining to assessments for local improvements shall be filed with the officer having custody of the assessment roll and he shall modify and correct the assessment roll in accordance with the decision. In the event appellate review of the decision is sought, a certified copy of the court's order shall be filed with the officer having custody of the assessment roll and the officer shall thereupon modify and correct the assessment roll in accordance with the order.

[1988 c 202 § 37; 1971 c 81 § 92; 1965 c 7 § 35.44.270. Prior: 1957 c 143 § 9; prior: 1911 c 98 § 22, part; RRS § 9374, part.]

Notes:

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 35.44.280 Reassessments--When authorized.

In all cases of special assessments for local improvements wherein the assessments are not valid in whole or in part for want of form, or insufficiency, informality, irregularity, or nonconformance with the provisions of law, charter, or ordinance, the city or town council may reassess the assessments and enforce their collection in accordance with the provisions of law

and ordinance existing at the time the reassessment is made. This shall apply not only to an original assessment but also to any reassessment, to any assessment upon omitted property and to any supplemental assessment which is declared void and its enforcement refused by any court or which for any cause has been set aside, annulled or declared void by any court either directly or by virtue of any decision thereof.

[1965 c 7 § 35.44.280. Prior: 1911 c 98 § 42, part; 1893 c 96 § 3; RRS § 9395, part.]

RCW 35.44.290 Reassessments--Basis--Property included.

Every reassessment shall be made upon the property which has been or will be specially benefited by the local improvement and may be made upon property whether or not it abuts upon, is adjacent to, or proximate to the improvement or was included in the original assessment district.

Property not included in the original improvement district when so assessed shall become a part of the improvement district and all payments of assessments shall be paid into and become part of the local improvement fund to pay for the improvement.

Property in the original local improvement district which is excluded in reassessment need not be entered upon the assessment roll.

Every reassessment must be based upon the actual cost of the improvement at the time of its completion.

[1965 c 7 § 35.44.290. Prior: (i) 1911 c 98 § 42, part; 1893 c 96 § 3, part; RRS § 9395, part. (ii) 1911 c 98 § 43, part; 1909 c 71 § 1, part; 1893 c 95 § 2, part; RRS § 9396, part.]

RCW 35.44.300 Reassessments--Irregularities not fatal.

The fact that the contract has been let or that the improvement has been made and completed in whole or in part shall not prevent the reassessment from being made, nor shall the omission or neglect of any office or officers to comply with the law, the charter, or ordinances governing the city or town as to petition, notice, resolution to improve, estimate, survey, diagram, manner of letting contract, or execution of work or any other matter connected with the improvement and the first assessment thereof operate to invalidate or in any way affect the making of a reassessment.

[1965 c 7 § 35.44.300. Prior: 1911 c 98 § 43, part; 1909 c 71 § 1, part; 1893 c 95 § 2, part; RRS § 9396, part.]

RCW 35.44.310 Reassessments--Amount thereof.

The reassessment shall be for an amount which shall not exceed the actual cost and expense of the improvement, together with the accrued interest thereon, it being the true intent and meaning of the statutes relating to local improvements to make the cost and expense of local improvements payable by the property specially benefited thereby, notwithstanding the proceedings of the council, board of public works or other board, officer, or authority may be found to be irregular or defective, whether jurisdictional or otherwise.

[1965 c 7 § 35.44.310. Prior: 1911 c 98 § 43, part; 1909 c 71 § 1, part; 1893 c 95 § 2, part; RRS § 9396, part.]

RCW 35.44.320 Reassessments--Credit for prior payments.

In case of reassessment, all sums paid on the former attempted assessments shall be credited to the property on account of which they were paid.

[1965 c 7 § 35.44.320. Prior: 1911 c 98 § 43, part; 1909 c 71 § 1, part; 1893 c 95 § 2, part; RRS § 9396, part.]

RCW 35.44.330 Reassessments--Payment.

In case of reassessment after the certification of the assessment roll to the city or town treasurer for collection, the same length of time for payment of the assessment thereon without the imposition of any penalties or interest and the notice that the assessments are in the hands of the treasurer for collection shall be given as in case of an original assessment. After delinquency, penalties and interest may be charged as in cases of original assessment and if the original assessment was payable in installments, the new assessment may be divided into equal installments and made payable at such times as the city or town council may prescribe in the ordinance ordering the new assessment.

[1965 c 7 § 35.44.330. Prior: 1911 c 98 § 43, part; 1909 c 71 § 1, part; 1893 c 95 § 2, part; RRS § 9396, part.]

RCW 35.44.340 Reassessments--Limitation of time for.

No city or town shall have jurisdiction to proceed with any reassessment unless the ordinance ordering it is passed by the city or town council within ten years from and after the time the original assessment for the same improvement was finally held to be invalid, insufficient or for any cause set aside, in whole or in part or its enforcement denied directly or indirectly by the courts.

[1965 c 7 § 35.44.340. Prior: 1911 c 98 § 45, part; RRS § 9398, part.]

RCW 35.44.350 Reassessments, assessments on omitted property, supplemental assessments--Provisions governing.

All of the provisions of law relating to the filing of assessment rolls, time and place for hearing thereon, notice of hearing, the hearing upon the roll, the confirmation of the assessment roll, the time when the assessments become a lien upon the property assessed, the proceedings on appeal from any such assessment, the method of collecting the assessment and all proceedings for enforcing the lien thereof shall be had and conducted the same in the case of reassessments, assessments on omitted property, or supplemental assessments as in the case of an original assessment.

[1965 c 7 § 35.44.350. Prior: 1911 c 98 § 44; 1893 c 95 § 1; RRS § 9397.]

RCW 35.44.360 Assessments on omitted property--Authority.

If by reason of mistake, inadvertence, or for any cause, property in a local improvement district or utility local improvement district which except for its omission would have been subject to assessment has been omitted from the assessment roll, the city or town council, upon its own motion, or upon the application of the owner of any property in the district which has been assessed for the improvement, may proceed to assess the property so omitted in accordance with the benefits accruing to it by reason of the improvement in proportion to the assessments levied upon other property in the district.

[1967 c 52 § 12; 1965 c 7 § 35.44.360. Prior: 1911 c 98 § 37, part; RRS § 9390, part.]

Notes:

Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

RCW 35.44.370 Assessments on omitted property--Resolution--Notice.

In case of assessments on omitted property the city or town council shall pass a resolution:

(1) Setting forth that the property therein described was omitted from the assessment;

(2) Notifying all persons who may desire to object thereto to appear at a meeting of the city or town council at a time specified in the resolution and present their objections thereto, and

(3) Directing the proper board, officer, or authority to report to the council at or prior to the date fixed for the hearing the amount which should be borne by each lot, tract, or parcel of land or other property so omitted. The resolution shall be published in all respects as provided for publishing the resolutions for an original assessment.

[1965 c 7 § 35.44.370. Prior: 1911 c 98 § 37, part; RRS § 9390, part.]

RCW 35.44.380 Assessments on omitted property--Confirmation ordinance--Collection.

At the conclusion of the hearing or any adjournment thereof upon proposed assessments on omitted property the council shall consider the matter as though the property were included in the original roll and may confirm the roll or any portion thereof by ordinance. Thereupon the roll of omitted property shall be certified to the treasurer for collection as other assessments.

[1965 c 7 § 35.44.380. Prior: 1911 c 98 § 37, part; RRS § 9390, part.]

RCW 35.44.390 Supplemental assessments--When authorized.

If by reason of any mistake, inadvertence, or other cause, the amount assessed was not equal to the cost and expense of a local improvement or that portion thereof to be paid by assessment of the property benefited the city or town council shall make supplemental assessments on all the property in the district. The property found to be specially benefited shall not be limited to the property included in the original assessment district.

These assessments shall be made in accordance with the provisions of law, charter, and ordinances existing at the time of the levy.

[1965 c 7 § 35.44.390. Prior: 1911 c 98 § 42, part; 1893 c 96 § 3, part; RRS § 9395, part.]

RCW 35.44.400 Supplemental assessments--Limitation of time for.

No city or town shall have jurisdiction to proceed with any supplemental assessment unless the ordinance ordering it is passed by the city or town council within ten years from and after the time that it was finally determined that the total amount of valid assessments levied and assessed on account of a local improvement was insufficient to pay the whole or that portion of the cost and expense thereof to be paid by special assessment.

[1965 c 7 § 35.44.400. Prior: 1911 c 98 § 45, part; RRS § 9398, part.]

RCW 35.44.410 Segregation of assessments.

Whenever any land against which there has been levied any special assessment by any city or town shall have been sold in part or subdivided, the legislative authority of that city or town shall have the power to order a segregation of the assessment.

Any person desiring to have such a special assessment against a tract of land segregated to apply to smaller parts thereof shall apply to the city or town which levied the assessment. If the legislative authority thereof determines that a segregation should be made, it shall by resolution order the city or town treasurer to make segregation on the original assessment roll as directed in the resolution. The segregation shall be made as nearly as possible on the same basis as the original assessment was levied, and the total of the segregated parts of the assessment shall equal the assessment before segregation. The resolution shall describe the original tract, the amount and date of the original assessment, and shall define the boundaries of the divided parts and the amount of the assessment chargeable to each part. A certified copy of the resolution shall be delivered to the city or town treasurer who shall proceed to make the segregation ordered upon being tendered a fee of ten dollars for each tract of land for which a segregation is to be made. In addition to such charge the legislative authority of the city or town may require as a condition to the order of segregation that the person seeking it pay the city or town the reasonable engineering and clerical costs incident to making the segregation. No segregation need be made if the legislative authority of the city or town shall find that by such segregation the security of the lien for such assessment will be so jeopardized as to reduce the security for any outstanding local improvement district obligations payable from such assessment.

[1969 ex.s. c 258 § 10.]

RCW 35.44.420 Property donations--Credit against assessments.

A city legislative authority may give credit for all or any portion of any property donation against an assessment, charge, or other required financial contribution for transportation

improvements within a local improvement district. The credit granted is available against any assessment, charge, or other required financial contribution for any transportation purpose that uses the donated property.

[1987 c 267 § 9.]

Notes:

Severability--1987 c 267: See RCW 47.14.910.

Right of way donations: Chapter 47.14 RCW.

Chapter 35.45 RCW
LOCAL IMPROVEMENTS--BONDS AND WARRANTS

Sections

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RCW 35.45.010 Authority to issue bonds.

The city or town council may provide by ordinance for the payment of the whole or any portion of the cost and expense of any local improvement by bonds of the improvement district, but no bonds shall be issued in excess of the cost and expense of the improvement, nor shall they be issued prior to twenty days after the thirty days allowed for the payment of assessments without penalty or interest.

[1965 c 7 § 35.45.010. Prior: (i) 1911 c 98 § 46, part; 1899 c 124 § 1; RRS § 9399, part. (ii) 1917 c 139 § 1, part; 1915 c 168 § 4, part; 1911 c 98 § 47, part; 1899 c 124 § 2, part; RRS § 9400, part. (iii) 1911 c 98 § 50, part; RRS § 9403, part.]

RCW 35.45.020 Bond issue--Due date--Interest.

Local improvement bonds shall be issued pursuant to ordinance and shall be made payable on or before a date not to exceed thirty years from and after the date of issue, which latter date may be fixed by ordinance or resolution of the council, and bear interest at such rate or rates as authorized by the council. The council may, in addition to issuing bonds callable under the provisions of RCW 35.45.050 whenever sufficient moneys are available, issue bonds with a fixed maturity schedule or with a fixed maximum annual retirement schedule.

[1971 ex.s. c 116 § 10; 1970 ex.s. c 56 § 35; 1969 ex.s. c 258 § 11; 1969 c 81 § 1; 1965 c 7 § 35.45.020. Prior: 1917 c 139 § 1, part; 1915 c 168 § 4, part; 1911 c 98 § 47, part; 1899 c 124 § 2, part; RRS § 9400, part.]

Notes:

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Rights not impaired--1969 c 81: "No phrase, clause, subdivision or section of this 1969 amendatory act shall be construed to impair the rights of bondholders as to any bonds issued prior to the effective date of this 1969 amendatory act." [1969 c 81 § 2.]

RCW 35.45.030 Bonds--Form--Content.

(1) Local improvement bonds shall be in such denominations as may be provided in the ordinance authorizing their issue and shall be numbered from one upwards consecutively. Each bond shall (a) be signed by the mayor and attested by the clerk, (b) have the seal of the city or town affixed thereto, (c) refer to the improvement to pay for which it is issued and the ordinance ordering it, (d) provide that the principal sum therein named and the interest thereon shall be payable out of the local improvement fund created for the cost and expense of the improvement, or out of the local improvement guaranty fund, or, with respect to interest only, out of the general revenues of the city or town, and not otherwise, (e) provide that the bond owners' remedy in case of nonpayment shall be confined to the enforcement of the special assessments made for the improvement and to the guaranty fund, and (f) be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

Any interest coupons may be signed by the mayor and attested by the clerk, or in lieu thereof, may have printed thereon a facsimile of their signatures.

(2) Notwithstanding subsection (1) of this section, but subject to RCW 35.45.010, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 41; 1967 ex.s. c 44 § 1; 1965 c 7 § 35.45.030. Prior: (i) 1917 c 139 § 1, part; 1915 c 168 § 4, part; 1911 c 98 § 47, part; 1899 c 124 § 2; RRS § 9400, part. (ii) 1927 c 209 § 5, part; 1925 ex.s. c 183 § 5, part; 1923 c 141 § 5, part; RRS § 9351-5, part. (iii) 1911 c 98 § 52, part; RRS § 9405, part.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 35.45.040 Bonds--Sale of.

(1) Local improvement bonds may be issued to the contractor or sold by the officers authorized by the ordinance directing their issue to do so, in the manner prescribed therein at the price established by the legislative authority of the city or town. Any portion of the bonds of any issue remaining unsold may be issued to the contractor constructing the improvement in payment thereof.

The proceeds of all sales of bonds shall be applied in payment of the cost and expense of the improvement.

(2) Notwithstanding subsection (1) of this section, such bonds may be sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 42; 1981 c 323 § 2; 1965 c 7 § 35.45.040. Prior: (i) 1911 c 98 § 46, part; 1899 c 124 § 1; RRS § 9399, part. (ii) 1911 c 98 § 48; 1899 c 124 § 3; RRS § 9401.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 35.45.050 Call of bonds.

Except when bonds have been issued with a fixed maturity schedule or with a fixed maximum annual retirement schedule as authorized in RCW 35.45.020, the city or town treasurer shall call in and pay the principal of one or more bonds of any issue in their numerical order whenever there is sufficient money in any local improvement fund, against which the bonds have been issued, over and above that which is sufficient for the payment of interest on all unpaid bonds of that issue. The call shall be made for publication in the city or town official newspaper in its first publication following the date of delinquency of any installment of the assessment or as soon thereafter as practicable. The call shall state that bonds No. . . . . (giving the serial number or numbers of the bonds called) will be paid on the day the next interest payments are due and that interest on those bonds will cease upon that date.

[1983 c 167 § 43; 1971 ex.s. c 116 § 11; 1965 c 7 § 35.45.050. Prior: 1911 c 98 § 54, part; RRS § 9407, part.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 35.45.060 Interest on bonds--How payable.

The city or town treasurer shall pay interest on the bonds issued against local improvement funds out of the local improvement fund from which the bonds are payable.

[1965 c 7 § 35.45.060. Prior: 1911 c 98 § 54, part; RRS § 9407, part.]

RCW 35.45.065 Interest on bonds--Payment from general revenues--Authority--Procedure.

The city or town council may provide by ordinance that all or part of the interest upon said bonds shall be paid from the general revenues of the city or town and may create a local improvement district bond interest fund for this purpose. If the city or town council determine that the city or town shall pay all interest on such bonds from its general revenues, the interest coupons attached to the bond shall recite that the interest thereby evidenced is payable from general revenues. If the city or town council determines that the city or town council shall pay a part of the interest on such bonds from its general revenues, the interest coupons representing interest payable from the general revenues of the city or town shall be denominated as "B" coupons and shall recite that the interest payable thereunder is payable from the general revenues

of the city or town.

[1967 ex.s. c 44 § 2.]

RCW 35.45.070 Nonliability of city or town.

Neither the holder nor owner of any bond, interest coupon, or warrant issued against a local improvement fund shall have any claim therefor against the city or town by which it is issued, except for payment from the special assessments made for the improvement for which the bond or warrant was issued and except also for payment from the local improvement guaranty fund of the city or town as to bonds issued after the creation of a local improvement guaranty fund of that city or town. The city or town shall not be liable to the holder or owner of any bond, interest coupon, or warrant for any loss to the local improvement guaranty fund occurring in the lawful operation thereof. A copy of the foregoing part of this section shall be plainly written, printed or engraved on each bond.

[1965 c 7 § 35.45.070. Prior: (i) 1911 c 98 § 52, part; RRS § 9405, part. (ii) 1927 c 209 § 5; 1925 ex.s. c 183 § 5; 1923 c 141 § 5, part; RRS § 9351-5, part.]

RCW 35.45.080 Remedy of bondholders.

If a city or town fails to pay any bonds or to promptly collect any local improvement assessments when due, the owner of the bonds may proceed in his own name to collect the assessment and foreclose the lien thereof in any court of competent jurisdiction and shall recover in addition to the amount of the bond and interest thereon, five percent, together with the cost of suit. Any number of holders of bonds for any single improvement may join as plaintiffs and any number of owners of property upon which the assessments are liens may be joined as defendants in the same suit.

The owners of local improvement bonds issued by a city or town after the creation of a local improvement guaranty fund therein, shall also have recourse against the local improvement guaranty fund of such city or town.

[1965 c 7 § 35.45.080. Prior: (i) 1927 c 209 § 5, part; 1925 ex.s. c 183 § 5, part; 1923 c 141 § 5, part; RRS § 9351-5, part. (ii) 1911 c 98 § 51; 1899 c 124 § 6; RRS § 9404.]

RCW 35.45.090 Excess to be refunded--Demand--Right of action.

Any funds in the treasury of any municipal corporation belonging to the fund of any local improvement district after the payment of the whole cost and expense of such improvement, in excess of the total sum required to defray all the expenditures by such municipal corporation on account thereof, shall be refunded, on demand, to the payers into such fund. Each such payer shall be entitled to such proportion of such excess as his original assessment bears to the entire original assessment levied for such improvement. Such municipal corporation may, after one year from the date on which the last installment becomes due, transfer any balance remaining on hand to the general fund of such municipal corporation, but shall, notwithstanding such transfer

remain liable for the refund herein provided for until such refund shall have been made, unless the actual cost involved in making such refund shall exceed the excess in such fund.

Such demand shall be made in writing to the treasurer of such municipal corporation. No action shall be commenced in any court to obtain any such refund, except upon such demand, and until ninety days after making such demand. No excess shall be recovered in any action where the excess in the fund does not average the sum of one dollar in favor of all payers into such fund.

This section shall not be deemed to require the refunding of any balance left in any local improvement fund after the payment of all outstanding obligations issued against such fund, where such balance accrues from any saving in interest or from penalties collected upon delinquent assessments, but any such balance, whether accruing heretofore or hereafter, may be turned into the general fund or otherwise disposed of, as the legislative authority of the city may direct.

The provisions of this chapter relating to the refund of excess local improvement district funds shall not apply to any district whose obligations are guaranteed by the local improvement guaranty fund.

[1965 c 7 § 35.45.090. Prior: 1917 c 140 § 1; 1909 c 108 § 1; RRS § 9351.]

RCW 35.45.130 Warrants against local improvement fund authorized.

Every city and town may provide by ordinance for the issuance of warrants in payment of the cost and expense of any local improvement, payable out of the local improvement district fund. The warrants shall bear interest at a rate or rates established by the issuing officer under the direction of the legislative authority of the city or town and shall be redeemed either in cash or by local improvement bonds for the same improvement authorized by ordinance.

All warrants against any local improvement fund sold by the city or town or issued to a contractor and by him sold or hypothecated for a valuable consideration shall be claims and liens against the improvement fund against which they are drawn prior and superior to any right, lien, or claim of any surety upon the bond or bonds given to the city or town by or for the contractor to secure the performance of his contract or to secure the payment of persons who have performed work thereon, furnished materials therefor, or provisions and supplies for the carrying on of the work.

[1981 c 323 § 3; 1970 ex.s. c 56 § 36; 1965 c 7 § 35.45.130. Prior: 1953 c 117 § 1; prior: 1915 c 168 § 3; 1911 c 98 § 72; 1899 c 146 § 7; RRS 9425.]

Notes:

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

RCW 35.45.140 Warrants acceptable in payment of assessments.

Cities and towns may accept warrants drawn against any local improvement fund upon such conditions as they may by ordinance or resolution prescribe, in satisfaction of:

(1) Assessments levied to supply such fund, in due order of priority of right;

(2) Judgments rendered against property owners who have become delinquent in the payment of assessments levied to supply such fund; and

(3) In payment of certificates of purchase in cases where property of delinquents has been sold under execution or at tax sale for failure to pay assessments levied to supply such fund.

[1965 c 7 § 35.45.140. Prior: (i) 1899 c 97 § 1; RRS § 9346. (ii) 1899 c 97 § 2; RRS § 9347. (iii) 1899 c 97 § 3; RRS § 9348. (iv) 1899 c 97 § 4; RRS § 9349. (v) 1899 c 97 § 5; RRS § 9350.]

RCW 35.45.150 Installment notes--Interest certificates.

In addition to the issuance of bonds and warrants in payment of the cost and expense of any local improvement, any city or town may also issue and sell installment notes payable out of the local improvement district fund. Such installment notes may be issued any time after the thirty day period allowed by law for the payment of assessments of any district without penalty or interest, and may bear any denomination or denominations, the aggregate of which shall represent the balance of the cost and expense of the local improvement district which is to be borne by the property owners therein.

Application of local improvement district funds for the reduction of the principal and interest amounts due on any notes herein provided to finance said improvement shall be made not less than once each year beginning with the issue date thereof. Appropriate notification of such application of funds shall be made by the city or town treasurer to the registered payees of said notes, except those notes owned by funds of the issuing municipality. Such notes may be registered as provided in RCW 39.46.030. If more than one local improvement installment note is issued for a single district, said notes shall be numbered consecutively. All notes issued shall bear on the face thereof: (1) The name of the payee; (2) the number of the local improvement district from whose funds the notes are payable; (3) the date of issue of each note; (4) the date on which the note, or the final installment thereon shall become due; (5) the rate or rates of interest, as provided by the city or town legislative authority, to be paid on the unpaid balance thereof, and; (6) such manual or facsimile signatures and attestations as are required by state statute or city charter to appear on the warrants of each issuing municipality.

The reverse side of each installment note issued pursuant to this section shall bear a tabular payment record which shall indicate at prescribed installment dates, the receipt of any local improvement district funds for the purpose of servicing the debt evidenced by said notes. Such receipts shall first be applied toward the interest due on the unpaid balance of the note, and any additional moneys shall thereafter apply as a reduction of the principal amount thereof. The tabular payment record shall, in addition to the above, show the unpaid principal balance due on each installment note, together with sufficient space opposite each transaction affecting said note for the manual signature of the city's or town's clerk, treasurer or other properly designated receiving officer of the municipality, or of any other registered payee presenting said note for such installment payments.

Whenever there are insufficient funds in a local improvement district to meet any payment of installment interest due on any note herein authorized, a noninterest-bearing

defaulted installment interest certificate shall be issued by the city or town treasurer which shall consist of a written statement certifying the amount of such defaulted interest installment; the name of the payee of the note to whom the interest is due and the number of the local improvement district from whose funds the note and interest thereon is payable. Such certificates may be registered as provided in RCW 39.46.030. The certificate herein provided shall bear the manual signature of the city or town treasurer or his authorized agent. The defaulted installment interest certificate so issued shall be redeemed for the face amount thereof with any available funds in the local improvement guaranty fund.

Whenever at the date of maturity of any installment note issued pursuant to this section, there are insufficient funds in a local improvement district, due to delinquencies in the collection of assessments, to pay the final installment of the principal due thereon, the note shall be redeemed with any available funds in the local improvement guaranty fund for the amount of said final installment.

All certificates and notes issued pursuant to this section are to become subject to the same redemption privileges as apply to any local improvement district bonds and warrants now accorded the protection of the local improvement guaranty fund as provided in chapter 35.54 RCW, and whenever the certificates or notes issued as herein provided are redeemed by said local improvement guaranty fund, they shall be held therein as investments thereof in the same manner as prescribed for other defaulted local improvement district obligations.

Notwithstanding any other statutory provisions, local improvement installment notes authorized by this section which are within the protection of the local improvement guaranty fund law shall be considered legal investments for any available surplus funds of the issuing municipality which now or hereafter may be authorized to be invested in the city's or town's local improvement districts' bonds or warrants and shall be considered legal investments for all national and state banks, savings and loan institutions, and any and all other commercial banking or financial institutions to the same extent that the local improvement district bonds and any coupons issued pursuant to the provisions of this chapter have been and are legal investments for such institutions. Any such local improvement installment notes may be transferred or sold by said city or town upon such terms or conditions and in such manner as the local governing body of said city or town may determine, or may be issued to another fund of the city or town: PROVIDED, HOWEVER, That the same shall not be sold at less than par plus accrued interest.

Notwithstanding the provisions of this section, such notes and certificates may be issued, and such notes may be sold, in accordance with chapter 39.46 RCW.

[1983 c 167 § 44. Prior: 1981 c 323 § 4; 1981 c 156 § 2; prior: 1970 ex.s. c 93 § 2; 1970 ex.s. c 56 § 37; 1965 c 7 § 35.45.150; prior: 1961 c 165 § 1.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Severability--1970 ex.s. c 93: See note following RCW 39.60.050.

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Investment of public funds in notes, debentures: RCW 39.60.050.

RCW 35.45.155 Installment notes--Refunding.

Any city or town having issued one or more installment notes pursuant to RCW 35.45.150 may refund all of such notes or the principal thereof then outstanding payable from any one local improvement district fund by the issuance of local improvement district bonds pursuant to chapter 35.45 RCW and by the payment into the city or town fund or funds holding such notes the then outstanding principal amount of such notes plus the interest thereon accrued to the date of such refunding. The bonds shall be payable from the same local improvement district fund from which such notes were payable; shall be payable no later than the final payment date of the notes being refunded; shall be in the same total principal amount as the outstanding principal amount of the notes being refunded less any sums in the local improvement district fund the city or town applies to the redemption of such notes; and shall be sold at not less than par plus accrued interest to date of delivery. Any interest payable on the bonds in excess of the interest payable on assessment installments payable into the local improvement district fund shall be paid from the general fund of the city or town in accordance with RCW 35.45.065. The principal proceeds and interest accrued to date of delivery of the bonds shall be paid into the local improvement district fund and the notes shall be redeemed on that date. The city or town shall pay all costs and expenses of such refunding from moneys available therefor.

[1969 ex.s. c 258 § 12.]

RCW 35.45.160 Consolidated local improvement districts--Authorized--Purpose.

For the purpose of issuing bonds only, the governing body of any municipality may authorize the establishment of consolidated local improvement districts. The local improvements within such consolidated districts need not be adjoining, vicinal or neighboring. If the governing body orders the creation of such consolidated local improvement districts, the moneys received from the installment payment of the principal of and interest on assessments levied within original local assessment districts shall be deposited in a consolidated local improvement district bond redemption fund to be used to redeem outstanding consolidated local improvement district bonds.

[1967 ex.s. c 44 § 3.]

RCW 35.45.170 Refunding bonds--Limitations.

The legislative authority of any city or town may issue and sell bonds to refund outstanding local improvement district or consolidated local improvement district bonds issued after June 7, 1984, on the earliest date such outstanding bonds may be redeemed following the date of issuance of such refunding bonds. Such refunding shall be subject to the following:

(1) The refunding shall result in a net interest cost savings after paying the costs and expenses of the refunding, and the principal amount of the refunding bonds may not exceed the principal balance of the assessment roll or rolls pledged to pay the bonds being refunded at the time of the refunding.

(2) The refunding bonds shall be paid from the same local improvement fund or bond redemption fund as the bonds being refunded.

(3) The costs and expenses of the refunding shall be paid from the proceeds of the refunding bonds, or the same local improvement district fund or bond redemption fund for the bonds being refunded, except the city or town may advance such costs and expenses to such fund pending the receipt of assessment payments available to reimburse such advances.

(4) The last maturity of the refunding bonds shall be no later than one year after the last maturity of bonds being refunded.

(5) The refunding bonds may be exchanged for the bonds being refunded or may be sold in the same manner permitted at the time of sale for local improvement district bonds.

(6) All other provisions of law applicable to the refunded bonds shall apply to the refunding bonds.

[1984 c 186 § 66.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Chapter 35.47 RCW
LOCAL IMPROVEMENTS--PROCEDURE FOR CANCELLATION OF NONGUARANTEED BONDS

Sections

35.47.010 Distribution of moneys in local improvement funds to holders of bonds and warrants--Notice--Time limitation--Abandonment and transfer to general fund.
35.47.020 Declaration of obsolescence and cancellation upon distribution of moneys, untimely presentment, or lack of money in local improvement fund.
35.47.030 Cancellation procedure where no money in local improvement fund.
35.47.040 Action under RCW 35.47.010 through 35.47.030 unaffected by chapter 35.48 RCW or other law.
35.47.900 Severability--1965 ex.s. c 6.

RCW 35.47.010 Distribution of moneys in local improvement funds to holders of bonds and warrants--Notice--Time limitation--Abandonment and transfer to general fund.

Any city or town having any outstanding and unpaid local improvement bonds or warrants issued in connection with a local improvement therein to which the local guaranty fund law is not applicable and that have been delinquent for more than fifteen years, by ordinance, may direct that the money, if any, remaining in a given local improvement fund for which no real property is held in trust shall be distributed by the city or town on a pro rata basis, without any reference to numerical order, to the holders of outstanding bonds or warrants for each such fund, excluding the accrued interest thereon. If the outstanding bonds or warrants are not presented for payment within one year after the last date of publication of notice provided for herein, the

money being held in the local improvement fund of a city or town shall be deemed abandoned, and shall be transferred to the city or town general fund: PROVIDED, That the city or town shall publish a notice once each week for two successive weeks in the official newspaper of the city or town in which it is indicated that L.I.D. bonds for . . . . . L.I.D. improvement Nos. . . . . to . . . . inclusive must be presented to the city or town for payment not later than one year from this date or the money being held in the local improvement fund of the city or town shall be transferred to the city or town general fund.

[1985 c 469 § 31; 1965 ex.s. c 6 § 1.]

RCW 35.47.020 Declaration of obsolescence and cancellation upon distribution of moneys, untimely presentment, or lack of money in local improvement fund.

After the city or town having said bonds or warrants referred to in RCW 35.47.010 has distributed the money in a local improvement district fund in accordance with RCW 35.47.010, or such bonds or warrants are not presented for payment within one year after the last date of publication of notice provided for in RCW 35.47.010, such city or town may, by ordinance, declare such bonds and warrants, without any reference to numerical order, to be obsolete, cancel the same, and terminate all accounting thereon, and clear such bonds and warrants off their records including any unguaranteed bonds or warrants outstanding against districts in which there remains no money in the given local improvement fund.

[1965 ex.s. c 6 § 2.]

RCW 35.47.030 Cancellation procedure where no money in local improvement fund.

If the bonds or warrants outstanding against a district are unguaranteed and if there remains no money in the appropriate local improvement fund to pay them, and if no real property is held in trust for the fund, the city or town shall give notice in the same manner as provided in RCW 35.47.010, stating that L.I.D. . . . . (bonds or warrants) for . . . . . L.I.D. improvement Nos. . . . . to . . . . inclusive will be canceled as provided in RCW 35.47.020, unless such bonds or warrants are presented to the city or town within one year from the date of last publication of the notice, together with good cause shown as to why such cancellation should not take place. If such bonds or warrants are not presented, with good cause shown, within one year after the last date of publication of such notice, they may be canceled as provided in RCW 35.47.020.

[1965 ex.s. c 6 § 3.]

RCW 35.47.040 Action under RCW 35.47.010 through 35.47.030 unaffected by chapter 35.48 RCW or other law.

Nothing in chapter 35.48 RCW or other existing law to the contrary shall preclude the action authorized herein.

[1965 ex.s. c 6 § 4.]

RCW 35.47.900 Severability--1965 ex.s. c 6.

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

[1965 ex.s. c 6 § 6.]

Chapter 35.48 RCW
LOCAL IMPROVEMENTS--NONGUARANTEED BONDS

Sections

35.48.010 Special revolving fund for delinquent nonguaranteed bonds and warrants--Composition.
35.48.020 Use of revolving fund--Maximum bond price.
35.48.030 Subrogation--Refund of surplus.
35.48.040 Refund to revolving fund.
35.48.050 Purchase of warrants on previous funds--Transfer of assets to revolving fund--Disposition.
35.48.060 Procedure governed by ordinance.

RCW 35.48.010 Special revolving fund for delinquent nonguaranteed bonds and warrants--Composition.

If any city or town has issued bonds or warrants payable from a local improvement or condemnation award fund, to which the local improvement guaranty fund law is not applicable, and if the assessment, or last installment thereof, against which the bonds or warrants were issued has been delinquent not more than thirty-two years, the city or town may create a special revolving fund and may provide moneys therefor by general tax levy, if the levy, together with other levies made or authorized by such city or town, will not exceed the levy which is legally allowed; or such city or town may place in said fund or advance or loan to said fund any money which it is not prohibited by law from advancing, loaning to or placing in said fund.

[1965 c 7 § 35.48.010. Prior: 1961 c 46 § 1; 1943 c 244 § 2; Rem. Supp. 1943 § 9351-11.]

Notes:

Purpose--1943 c 244: "WHEREAS, there are many millions of dollars of delinquent and unpaid local improvement district and condemnation award bonds and warrants issued by various cities of the state and not protected by the Local Improvement Guaranty Fund, only a small part of which for the present at least can be paid and many of which will never be paid because of inability of property owners to pay the special assessments levied to provide funds for payment thereof and the depreciated value of the real estate which is the only security provided by present law from which payment of the assessments may be enforced; and, WHEREAS, the cities are not legally liable under existing law for payment of such bonds and warrants except as there are moneys available in the special fund from which the same are payable; and, WHEREAS, such cities and its citizens as a whole have derived benefit from the improvements installed with the proceeds or as a result of the issuance of such bonds and warrants; and, WHEREAS, the nonpayment of such unpaid and delinquent bonds and warrants not only causes great hardship and

suffering on those who have invested money in such bonds and warrants, but also reflects discredit on the financial structure of the various cities involved, to the detriment of the cities as a whole and also the entire state; NOW, THEREFORE, this law is enacted to enable cities to provide some relief from the hardship imposed by such conditions." [1943 c 244 § 1.]

RCW 35.48.020 Use of revolving fund--Maximum bond price.

Any moneys in such revolving fund may be used for the purchase of unpaid delinquent local improvement warrants, or bonds and interest payments, or bonds and interest coupons thereon, issued by the city or town, payable from a local improvement district fund or condemnation award fund, to which the local improvement guaranty fund law is not applicable, if the assessment, or last installment thereof, against which the bonds or warrants have been issued, has been delinquent not more than thirty-two years. The maximum purchase price to be paid for said bonds or warrants shall be fixed by the municipality, and may from time to time be changed but shall never exceed fifty percent of the face value of the bonds, interest payments, interest coupons, or warrants: PROVIDED, That no warrants shall be issued payable from the revolving fund unless there is sufficient cash in said fund available for payment of such warrants.

[1983 c 167 § 45; 1965 c 7 § 35.48.020. Prior: 1961 c 46 § 2; 1943 c 244 § 3; Rem. Supp. 1943 § 9351-12.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 35.48.030 Subrogation--Refund of surplus.

The purchase of any such bonds or warrants shall not relieve the local improvement or condemnation award fund from which the same are payable from liability for payment of the same, but the city or town upon purchase thereof shall become subrogated to all the rights of the former owners thereof and may proceed to enforcement of said bonds or warrants as any owner thereof might do. The city or town may sell any property acquired by it in such proceedings upon such terms and for such prices as it sees fit, or it may resell any of the bonds or warrants for such prices as it shall fix.

Any excess in any local improvement district fund or condemnation award fund which will average a payment of one dollar to each payer into said fund shall, after payment, retirement, or cancellation of all bonds or warrants payable from said fund, be refunded and paid to the payers into the fund in the proportion that their respective assessments bear to the entire original assessment levied for such improvement, and any unpaid assessments, or portion thereof, shall be reduced in the same proportion. Any proceeds derived from the sale of any bonds or warrants, or from the sale of real estate, shall be placed in the revolving fund.

[1965 c 7 § 35.48.030. Prior: 1943 c 244 § 4; Rem. Supp. 1943 § 9351-13.]

RCW 35.48.040 Refund to revolving fund.

If there are funds in any local improvement district fund or condemnation award fund sufficient to pay or retire any bond or warrant issued and payable from said fund, and the city or

town is the owner and holder of the bond or warrant next payable from the fund, the city or town treasurer shall from the moneys in the local improvement or condemnation award fund place in the revolving fund a sum of money equivalent to the amount paid by the city or town for such bond or warrant and shall thereupon cancel, mark paid and remove from said revolving fund such bond or warrant.

[1965 c 7 § 35.48.040. Prior: 1943 c 244 § 5; Rem. Supp. 1943 § 9351-14.]

RCW 35.48.050 Purchase of warrants on previous funds--Transfer of assets to revolving fund--Disposition.

Whenever a city or town has heretofore by ordinance created a fund for use in purchasing delinquent local improvement or condemnation award bonds or warrants not protected by the local improvement guaranty fund law, and has purchased any such bonds or warrants and issued warrants payable from said fund, which warrants are unpaid because of lack of funds and have remained unpaid for a period of less than thirty-two years from date of issue thereof, the city or town may use any funds available in the revolving fund to purchase said warrants at such price as it may determine, but in no event at more than fifty percent of the face value, without interest.

Whenever all such warrants have been purchased or paid, the city or town may transfer to the revolving fund any bonds, warrants or other assets belonging to said fund first above mentioned, and thereafter such bonds, warrants or other assets shall be held and disposed of for the benefit of said revolving fund in the same manner as other funds and assets therein: PROVIDED, That nothing contained in this chapter shall legalize any warrants heretofore issued or render any city or town liable thereunder.

[1965 c 7 § 35.48.050. Prior: 1961 c 46 § 3; 1943 c 244 § 6; Rem. Supp. 1943 § 9351-15.]

RCW 35.48.060 Procedure governed by ordinance.

All actions of a city or town respecting the purchase of bonds and warrants or sales of bonds, warrants or assets of the revolving fund shall be as directed by general or special ordinance.

[1965 c 7 § 35.48.060. Prior: 1943 c 244 § 7; Rem. Supp. 1943 § 9351-16.]

Chapter 35.49 RCW
LOCAL IMPROVEMENTS--COLLECTION OF ASSESSMENTS

Sections

35.49.010 Collection by city treasurer--Notices.
35.49.020 Installments--Number--Due date.
35.49.030 Ordinance to prescribe time of payment--Interest--Penalties.
35.49.040 Payment without interest or penalty.
35.49.050 Prepayment of installments subsequently due.

35.49.060 Payment by city or town.
35.49.070 Payment by county.
35.49.080 Payment by metropolitan park district.
35.49.090 Payment by joint owner.
35.49.100 Payment in error--Remedy.
35.49.110 Record of payment.
35.49.130 Tax liens--City may protect assessment lien at foreclosure sale.
35.49.140 Tax liens--Payment by city after taking property on foreclosure of local assessments.
35.49.150 Tax title property--City may acquire from county before resale.
35.49.160 Tax title property--Disposition of proceeds upon resale.
35.49.170 Acquisition of property by state or political subdivisions which is subject to unpaid assessments and delinquencies.

Notes:
Prepayment of taxes and assessments: RCW 35.21.650.

RCW 35.49.010 Collection by city treasurer--Notices.

All assessments for local improvements in local improvement districts shall be collected by the city treasurer and shall be kept in a separate fund to be known as "local improvement fund, district No. . . . ." and shall be used for no other purpose than the redemption of warrants drawn upon and bonds issued against the fund to provide payment for the cost and expense of the improvement.

All assessments for local improvements in a utility local improvement district shall be collected by the city treasurer, shall be paid into the appropriate revenue bond fund, and shall be used for no other purpose than the redemption of revenue bonds issued to provide funds for the cost and expense of the improvement.

As soon as the assessment roll has been placed in the hands of the city or town treasurer for collection, he shall publish a notice in the official newspaper of the city or town once a week for two consecutive weeks, that the roll is in his hands for collection and that all or any portion of the assessment may be paid within thirty days from the date of the first publication of the notice without penalty, interest or costs.

Within fifteen days of the first newspaper publication, the city or town treasurer shall notify each owner or reputed owner whose name appears on the assessment roll, at the address shown on the tax rolls of the county treasurer for each item of property described on the list, of the nature of the assessment, of the amount of his real property subject to such assessment, of the total amount of assessment due, and of the time during which such assessment may be paid without penalty, interest, or costs.

[1972 ex.s. c 137 § 1; 1969 ex.s. c 258 § 13; 1967 c 52 § 13; 1965 c 7 § 35.49.010. Prior: (i) 1911 c 98 § 28; RRS § 9380. (ii) 1911 c 98 § 50, part; RRS § 9403, part.]

Notes:

Severability--1972 ex.s. c 137: "If any provision of this 1972 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons

or circumstances is not affected." [1972 ex.s. c 137 § 6.]

Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

Saving--1927 c 275: "All local improvement initiated or proceedings commenced by any city or town before the taking effect of this act, relating to the making of any local improvement, or the collection and foreclosure of local improvement, or the collection and foreclosure of local improvement assessments, and the sale of property therefor, shall proceed without being in any manner affected by the passage of this act; PROVIDED, That any city or town may at its option foreclose in the manner provided in this act the lien of any local improvement assessment created prior to the effective date of this act, and cause deed to issue, but as to any such property purchased by such city or town at such foreclosure the same shall be held and sold by such city or town under and pursuant to the provisions of law in force and effect prior to the taking effect of this act." [1927 c 275 § 8.]

RCW 35.49.020 Installments--Number--Due date.

In all cases where bonds are issued to pay the cost and expense of a local improvement, the ordinance levying the assessments shall provide that the sum charged against any lot, tract, and parcel of land or other property, or any portion thereof, may be paid during the thirty day period allowed for the payment of assessments without penalty or interest and that thereafter the sum remaining unpaid may be paid in equal annual principal installments or in equal annual installments of principal and interest. The number of installments shall be less by two than the number of years which the bonds issued to pay for the improvement are to run. The estimated interest rate may be stated in the ordinance confirming the assessment roll. Where payment is required in equal annual principal installments, interest on the whole amount unpaid at the rate fixed by the ordinance authorizing the issuance and sale of the bonds shall be due on the due date of the first installment of principal and each year thereafter on the due date of each installment of principal: PROVIDED, That the legislative authority of any city or town having made a bond issue payable on or before twenty-two years after the date of issue may provide by ordinance that all assessments and portions of assessments unpaid after the thirty day period allowed for payment of assessments without penalty or interest may be paid in ten equal installments beginning with the eleventh year and ending with the twentieth year from the expiration of said thirty day period, together with interest on the unpaid installments at the rate fixed by such ordinance, and that in each year after the said thirty day period, to and including the tenth year thereafter, one installment of interest on the principal sum of the assessment at the rate so fixed shall be paid and collected, and that beginning with the eleventh year after the thirty day period one installment of the principal, together with the interest due thereon, and on all installments thereafter to become due shall be paid and collected.

[1982 c 96 § 1; 1981 c 323 § 5; 1969 ex.s. c 258 § 14; 1965 c 7 § 35.49.020. Prior: 1925 ex.s. c 117 § 1; 1915 c 168 § 5; 1911 c 98 § 49; 1899 c 124 § 4; RRS § 9402.]

RCW 35.49.030 Ordinance to prescribe time of payment--Interest--Penalties.

Every city and town shall prescribe by ordinance within what time assessments or installments thereof shall be paid, and shall provide for the payment and collection of interest thereon at a rate as shall be fixed by the legislative body of the city or town. Assessments or installments thereof, when delinquent, in addition to such interest, shall bear such penalty not

less than five percent as shall be by general ordinance prescribed.

[1971 ex.s. c 116 § 5; 1969 ex.s. c 258 § 15; 1965 c 7 § 35.49.030. Prior: 1955 c 353 § 3; prior: 1927 c 275 § 1, part; 1921 c 92 § 1, part; 1911 c 98 § 24, part; RRS § 9376, part.]

RCW 35.49.040 Payment without interest or penalty.

The owner of any lot, tract, or parcel of land or other property charged with local improvement assessment may redeem it from all or any portion thereof by paying to the city or town treasurer all or any portion thereof without interest within thirty days after the first publication by the treasurer of notice that the assessment roll is in his hands for collection.

[1965 c 7 § 35.49.040. Prior: 1911 c 98 § 50, part; RRS § 9403, part.]

RCW 35.49.050 Prepayment of installments subsequently due.

The owner of any lot, tract, or parcel of land or other property charged with a local improvement assessment may redeem it from all liability for the unpaid amount of the assessment at any time after the thirty day period allowed for payment of assessments without penalty or interest by paying the entire installments of the assessment remaining unpaid to the city or town treasurer with interest thereon to the date of maturity of the installment next falling due.

[1965 c 7 § 35.49.050. Prior: 1911 c 98 § 50, part; RRS § 9403, part.]

RCW 35.49.060 Payment by city or town.

On or before the fifteenth day of August of each year, the city or town treasurer shall certify to the city or town council a detailed statement showing:

(1) The proceedings authorizing and confirming any local improvement assessments or utility local improvement assessments affecting city or town property,

(2) The lots, tracts, or parcels of lands of the city or town so assessed,

(3) The several assessments against each,

(4) The interest, penalties, and charges thereon,

(5) The penalties and charges which will accrue upon the assessments to the date of payment, and

(6) The total of all such assessments, interest, penalty, and charges.

The longest outstanding liens shall be paid first, but if the money in the "city (or town) property assessments redemption fund" is insufficient at any time to discharge all such liens against the lands of the city or town upon a given assessment roll, the city or town treasurer may pay such portion thereof as may be possible from the funds available.

If deemed necessary, the city or town council may transfer money from the general fund to the redemption fund as a loan to be repaid when the money is available for repayment.

[1967 c 52 § 14; 1965 c 7 § 35.49.060. Prior: 1929 c 183 § 2, part; 1909 c 130 § 2; RRS § 9345, part.]

Notes:

Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

RCW 35.49.070 Payment by county.

Upon the confirmation of the assessment roll for a local improvement district or utility local improvement district, the city or town treasurer shall certify and forward to the board of county commissioners a statement of all the lots, tracts, or parcels of land held or owned by the county assessed thereon, separately describing each lot, tract, or parcel, with the amount of the assessment charged against it.

The board of county commissioners shall cause the amount of such local assessments to be paid to the city or town as other claims against the county are paid.

If title to any property thus described was acquired by the county through foreclosure of general tax liens, the county shall:

(1) Pay the assessment from the proceeds of the sale of the property; or

(2) Sell the property subject to the lien of the assessment.

[1967 c 52 § 15; 1965 c 7 § 35.49.070. Prior: 1929 c 139 § 1; 1905 c 29 § 3; RRS § 9342.]

Notes:

Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

RCW 35.49.080 Payment by metropolitan park district.

Upon the confirmation of the assessment roll for a local improvement district or utility local improvement district, the city treasurer shall certify and forward to the board of park commissioners of any metropolitan park district in which the city is located, a statement of all the lots, tracts, and parcels of land or other property held or owned by the district, assessed thereon, separately describing each lot, tract, or parcel with the amount of the assessment charged against it.

The board of park commissioners shall cause the amount of the local assessments to be paid as other claims against the metropolitan park district are paid.

[1967 c 52 § 16; 1965 c 7 § 35.49.080. Prior: 1929 c 204 § 3; RRS § 9343-3.]

Notes:

Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

RCW 35.49.090 Payment by joint owner.

If any assessment for a local improvement, or an installment thereof, or judgment for either of them is paid, or a certificate of sale for either of them is redeemed by a joint owner of any of the property so assessed, he may, after demand and refusal, recover from his co-owners, by an action brought in superior court, the respective portions of the payment which each co-owner should bear. He shall have a lien upon the undivided interests of his co-owners from

the date of the payment made by him and in the action shall recover interest at ten percent from the date of payment by him and the costs of the action in addition to the principal sum due him.

[1965 c 7 § 35.49.090. Prior: 1911 c 98 § 62; RRS § 9415.]

RCW 35.49.100 Payment in error--Remedy.

If, through error or inadvertence, a person pays any assessment for a local improvement or an installment thereof upon the lands of another, he may, after demand and refusal, recover from the owner of such lands, by an action in the superior court, the amount so paid and the costs of the action.

[1965 c 7 § 35.49.100. Prior: 1911 c 98 § 65; RRS § 9418.]

RCW 35.49.110 Record of payment.

If the amount of any assessment for a local improvement with interest, penalty, costs, and charges accrued thereon is paid to the treasurer before sale of the property in foreclosure of the lien thereon, the city or town treasurer shall mark it paid upon the assessment roll with the date of payment thereof.

[1965 c 7 § 35.49.110. Prior: 1927 c 275 § 2; 1911 c 98 § 30; RRS § 9382.]

RCW 35.49.130 Tax liens--City may protect assessment lien at foreclosure sale.

If any property situated in a local improvement district or utility local improvement district created by a city or town is offered for sale for general taxes by the county treasurer, the city or town shall have power to protect the lien or liens of any local improvement assessments outstanding against the whole or portion of such property by purchase at the treasurer's foreclosure sale.

[1995 c 38 § 2; 1994 c 301 § 4; 1965 c 7 § 35.49.130. Prior: (i) 1911 c 98 § 63; RRS § 9416. (ii) 1929 c 143 § 1, part; 1925 ex.s. c 170 § 1, part; 1911 c 98 § 40, part; RRS § 9393, part.]

Notes:

Acts of municipal officers ratified and confirmed--1995 c 38: See note following RCW 3.02.045.

RCW 35.49.140 Tax liens--Payment by city after taking property on foreclosure of local assessments.

If a city or town has bid in any property on sale for local improvement assessments, it may satisfy the lien of any outstanding general taxes upon the property by payment of the face of such taxes and costs, without penalty or interest, but this shall not apply where certificates of delinquency against the property have been issued to private persons.

[1965 c 7 § 35.49.140. Prior: 1929 c 143 § 1, part; 1925 ex.s. c 170 § 1, part; 1911 c 98 § 40, part; RRS § 9393, part.]

RCW 35.49.150 Tax title property--City may acquire from county before resale.

If property is struck off to or bid in by a county at a sale for general taxes, and is subject to local improvement assessments in any city or town, or has been taken over by the city or town on the foreclosure of local improvement assessments, the city or town may acquire the property from the county at any time before resale and receive a deed therefor upon paying the face of such taxes and costs, without penalty or interest.

[1965 c 7 § 35.49.150. Prior: 1929 c 143 § 1, part; 1925 ex.s. c 170 § 1, part; 1911 c 98 § 40, part; RRS § 9393, part.]

RCW 35.49.160 Tax title property--Disposition of proceeds upon resale.

Whenever property struck off to or bid in by a county at a sale for general taxes is subsequently sold by the county, the proceeds of the sale shall first be applied to discharge in full the lien or liens for general taxes for which property was sold; the remainder, or such portion thereof as may be necessary, shall be paid to the city or town to discharge all local improvement assessment liens against the property; and the surplus, if any, shall be distributed among the proper county funds.

[1965 c 7 § 35.49.160. Prior: 1929 c 143 § 1, part; 1925 ex.s. c 170 § 1, part; 1911 c 98 § 40, part; RRS § 9393, part.]

RCW 35.49.170 Acquisition of property by state or political subdivisions which is subject to unpaid assessments and delinquencies.

See RCW 79.44.190.

Chapter 35.50 RCW
LOCAL IMPROVEMENTS--FORECLOSURE OF ASSESSMENTS

Sections

35.50.005 Filing of title, diagram, expense--Posting proposed roll.
35.50.010 Assessment lien--Attachment--Priority.
35.50.020 Assessment lien--Validity.
35.50.030 Authority and conditions precedent to foreclosure.
35.50.040 Entire assessment, foreclosure of.
35.50.050 Limitation of foreclosure action.
35.50.220 Procedure--Commencement of action.
35.50.225 Procedure--Form of summons.
35.50.230 Procedure--Parties and property included.
35.50.240 Procedure--Pleadings and evidence.
35.50.250 Procedure--Summons and service.
35.50.260 Procedure--Trial and judgment--Notice of sale.
35.50.270 Procedure--Sale--Right of redemption.

RCW 35.50.005 Filing of title, diagram, expense--Posting proposed roll.

Within fifteen days after any city or town has ordered a local improvement and created a local improvement district, the city or town shall cause to be filed with the officer authorized by law to collect the assessments for such improvement, the title of the improvement and district number and a copy of the diagram or print showing the boundaries of the district and preliminary assessment roll or abstract of same showing thereon the lots, tracts and parcels of land that will be specially benefited thereby and the estimated cost and expense of such improvement to be borne by each lot, tract, or parcel of land. Such officer shall immediately post the proposed assessment roll upon his index of local improvement assessments against the properties affected by the local improvement.

[1969 ex.s. c 258 § 16; 1965 c 7 § 35.50.005. Prior: 1955 c 353 § 1.]

RCW 35.50.010 Assessment lien--Attachment--Priority.

The charge assessed upon the respective lots, tracts, or parcels of land and other property in the assessment roll confirmed by ordinance of the city or town council for the purpose of paying the cost and expense in whole or in part of any local improvement, shall be a lien upon the property assessed from the time the assessment roll is placed in the hands of the city or town treasurer for collection, but as between the grantor and grantee, or vendor and vendee of any real property, when there is no express agreement as to payment of the local improvement assessments against the real property, the lien of such assessment shall attach thirty days after the filing of the diagram or print and the estimated cost and expense of such improvement to be borne by each lot, tract, or parcel of land, as provided in RCW 35.50.005. Interest and penalty shall be included in and shall be a part of the assessment lien.

The assessment lien shall be paramount and superior to any other lien or encumbrance theretofore or thereafter created except a lien for general taxes.

[1965 c 7 § 35.50.010. Prior: 1955 c 353 § 4; prior: (i) 1911 c 98 § 20; RRS § 9372. (ii) 1927 c 275 § 1, part; 1921 c 92 § 1; 1911 c 98 § 24, part; RRS § 9376, part.]

RCW 35.50.020 Assessment lien--Validity.

If the city or town council in making assessments against any property within any local improvement district or utility local improvement district has acted in good faith and without fraud, the assessments shall be valid and enforceable as such and the lien thereof upon the property assessed shall be valid.

It shall be no objection to the validity of the assessment, or the lien thereof:

(1) That the contract for the improvement was not awarded in the manner or at the time required by law; or

(2) That the assessment was made by an unauthorized officer or person if the assessment

roll was confirmed by the city or town authorities; or

(3) That the assessment is based upon a front foot basis, or upon a basis of benefits to the property within the improvement district unless it is made to appear that the city or town authorities did not act in good faith and did not attempt to act fairly in regard thereto or unless it is made to appear that the city or town authorities acted fraudulently or oppressively in making the assessment.

All local improvement assessments heretofore or hereafter made by city or town authorities in good faith are valid and in full force and effect.

[1967 c 52 § 17; 1965 c 7 § 35.50.020. Prior: 1911 c 98 § 61; RRS § 9414.]

Notes:

Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

RCW 35.50.030 Authority and conditions precedent to foreclosure.

If on the first day of January in any year, two installments of any local improvement assessment are delinquent, or if the final installment thereof has been delinquent for more than one year, the city or town shall proceed with the foreclosure of the delinquent assessment or delinquent installments thereof by proceedings brought in its own name in the superior court of the county in which the city or town is situate.

The proceedings shall be commenced on or before March 1st of that year or on or before such other date in such year as may be fixed by general ordinance, but not before the city or town treasurer has notified by certified mail the persons whose names appear on the assessment roll as owners of the property charged with the assessments or installments which are delinquent, at the address last known to the treasurer, a notice thirty days before the commencement of the proceedings. If the person whose name appears on the tax rolls of the county assessor as owner of the property, or the address shown for the owner, differs from that appearing on the city or town assessment roll, then the treasurer shall also mail a copy of the notice to that person or that address.

The notice shall state the amount due, including foreclosure costs, upon each separate lot, tract, or parcel of land and the date after which the proceedings will be commenced. The city or town treasurer shall file with the clerk of the superior court at the time of commencement of the foreclosure proceeding the affidavit of the person who mailed the notices. This affidavit shall be conclusive proof of compliance with the requirements of this section.

[1997 c 393 § 1; 1983 c 303 § 18; 1982 c 91 § 1; 1981 c 323 § 6; 1965 c 7 § 35.50.030. Prior: 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part; prior: 1897 c 111.]

Notes:

Severability--1983 c 303: See RCW 36.60.905.

Severability--1982 c 91: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 91 § 10.]

Construction--1933 c 9: "The provisions of this act shall be applicable to the lien of assessments heretofore as well as hereafter levied and to foreclosure proceedings now pending." [1933 c 9 § 3.]

RCW 35.50.040 Entire assessment, foreclosure of.

When the local improvement assessment is payable in installments, the enforcement of the lien of any installment shall not prevent the enforcement of the lien of any subsequent installment.

A city or town may by general ordinance provide that upon failure to pay any installment due the entire assessment shall become due and payable and the collection thereof enforced by foreclosure: PROVIDED, That the payment of all delinquent installments together with interest, penalty, and administrative costs at any time before entry of judgment in foreclosure shall extend the time of payment on the remainder of the assessments as if there had been no delinquency or foreclosure. Where foreclosure of two installments of the same assessment on any lot, tract, or parcel is sought, the city or town treasurer shall cause such lot, tract, or parcel to be dismissed from the action, if the installment first delinquent together with interest, penalty, administrative costs, and charges is paid at any time before sale.

[1997 c 393 § 2; 1965 c 7 § 35.50.040. Prior: (i) 1933 c 9 § 1, part; 1927 c 275 § 5, part; 1919 c 70 § 2, part; 1915 c 185 § 1; 1911 c 98 §§ 34, 36, part; RRS § 9386, part. (ii) 1919 c 70 § 1; 1911 c 98 § 35; RRS § 9388; prior: 1897 c 111.]

RCW 35.50.050 Limitation of foreclosure action.

An action to collect a local improvement assessment or any installment thereof or to enforce the lien thereof whether brought by the city or town, or by any person having the right to bring such action must be commenced within ten years after the assessment becomes delinquent or within ten years after the last installment becomes delinquent, if the assessment is payable in installments: PROVIDED, That the time during which payment of principal is deferred as to economically disadvantaged property owners as provided for in RCW 35.43.250 shall not be a part of the time limited for the commencement of action.

[1989 c 11 § 6; 1972 ex.s. c 137 § 5; 1965 c 7 § 35.50.050. Prior: 1911 c 98 § 41; RRS § 9394.]

Notes:

Severability--1989 c 11: See note following RCW 9A.56.220.

Severability--1972 ex.s. c 137: See note following RCW 35.49.010.

RCW 35.50.220 Procedure--Commencement of action.

In foreclosing local improvement assessment liens, a city or town shall proceed by filing a complaint in the superior court of the county in which the city or town is located. It shall be sufficient to allege in the complaint (1) the passage of the ordinance authorizing the improvement, (2) the making of the improvement, (3) the levying of the assessment, (4) the confirmation thereof, (5) the date of delinquency of the installment or installments of the

assessment for the enforcement of which the action is brought and (6) that they have not been paid prior to delinquency or at all.

[1982 c 91 § 2; 1965 c 7 § 35.50.220. Prior: 1933 c 9 § 2, part; RRS § 9386-1, part.]

Notes:

Severability--1982 c 91: See note following RCW 35.50.030.

RCW 35.50.225 Procedure--Form of summons.

In foreclosing local improvement assessments, the summons shall be substantially in the following form:

SUPERIOR COURT OF WASHINGTON
FOR [. . . . . .] COUNTY

. . . . . ,	No . . . . .
Plaintiff,	
v.	SUMMONS FOR FORECLOSURE
. . . . . ,	OF LOCAL IMPROVEMENT
Defendant.	ASSESSMENT LIEN

To the Defendant: A lawsuit has been started against you in the above entitled court by . . . . . ., plaintiff. Plaintiff's claim is stated in the written complaint, a copy of which is served upon you with this summons. The purpose of this suit is to foreclose on your interest in the following described property:

[legal description]

which is located at:

[street address]

In order to defend against this lawsuit, you must respond to the complaint by stating your defense in writing, and by serving a copy upon the person signing this summons within 20 days after the service of this summons, excluding the day of service, or a default judgment may be entered against you without notice. A default judgment is one where plaintiff is entitled to what he asks for because you have not responded. If you serve a notice of appearance on the undersigned person, you are entitled to notice before a default judgment may be entered.

IMPORTANT NOTICE

If judgment is taken against you, either by default or after hearing by the court, your property will be sold at public auction.

You may prevent the sale by paying the amount of the judgment at any time prior to the sale.

If your property is sold, you may redeem the property at any time up to two years after the date of the sale, by paying the amount for which the property was sold, plus interest and costs of the sale.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

[signed] . . . . . .
. . . . . .
Print or Type Name
( ) Plaintiff ( ) Plaintiff's Attorney
P.O. Address . . . . . .
Dated . . . . . Telephone Number . . . . . .

[1982 c 91 § 6.]

Notes:

Severability--1982 c 91: See note following RCW 35.50.030.

RCW 35.50.230 Procedure--Parties and property included.

In foreclosing local improvement assessment liens, it is not necessary to bring a separate suit for each of the lots, tracts, or parcels of land or other property or for each separate local improvement district or utility local improvement district. All or any of the lots, tracts, or parcels of land or other property upon which local improvement assessments are delinquent under any and all local improvement assessment rolls in the city or town may be proceeded against in the same action. For all lots, tracts, or parcels which contain a residential structure with an assessed value of at least two thousand dollars, all persons owning or claiming to own the property shall be made defendants thereto. For all other lots, tracts, or parcels, the persons whose names appear on the assessment roll and property tax rolls as owners of the property charged with the assessments or taxes shall be made defendants thereto.

[1983 c 303 § 19; 1982 c 91 § 3; 1967 c 52 § 19; 1965 c 7 § 35.50.230. Prior: 1933 c 9 § 2, part; RRS § 9386-1, part.]

Notes:

Severability--1983 c 303: See RCW 36.60.905.

Severability--1982 c 91: See note following RCW 35.50.030.

Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

RCW 35.50.240 Procedure--Pleadings and evidence.

In foreclosing local improvement assessment liens, the assessment roll and the ordinance confirming it, or duly authenticated copies thereof shall be prima facie evidence of the regularity and legality of the proceedings connected therewith and the burden of proof shall be on the defendants.

[1982 c 91 § 4; 1965 c 7 § 35.50.240. Prior: 1933 c 9 § 2, part; RRS § 9386-1, part.]

Notes:

Severability--1982 c 91: See note following RCW 35.50.030.

RCW 35.50.250 Procedure--Summons and service.

In foreclosing local improvement assessments, if the lot, tract, or parcel contains a residential structure with an assessed value of at least two thousand dollars, the summons shall be served upon the defendants in the manner required by RCW 4.28.080. For all other lots, tracts, or parcels the summons shall be served by either personal service on the defendants or by certified and regular mail.

[1983 c 303 § 20; 1982 c 91 § 5; 1965 c 7 § 35.50.250. Prior: 1933 c 9 § 2, part; RRS § 9386-1, part.]

Notes:

Severability--1983 c 303: See RCW 36.60.905.

Severability--1982 c 91: See note following RCW 35.50.030.

Commencement of actions: Chapter 4.28 RCW.

RCW 35.50.260 Procedure--Trial and judgment--Notice of sale.

In foreclosing local improvement assessments the action shall be tried to the court without a jury. If the parties interested in any particular lot, tract, or parcel default, the court may enter judgment of foreclosure and sale as to such parties and lots, tracts, or parcels and the action may proceed as to the remaining defendants and lots, tracts, or parcels. Judgment and order of sale may be entered as to any one or more separate lots, tracts, or parcels involved in the action and the court shall retain jurisdiction to others.

The judgment shall specify separately the amount of the installments with interest, penalty, and all reasonable administrative costs, including, but not limited to, the title searches, chargeable to each lot, tract, or parcel. The judgment shall have the effect of a separate judgment as to each lot, tract, or parcel described in the judgment, and any appeal shall not invalidate or delay the judgment except as to the property concerning which the appeal is taken. In the judgment the court shall order the lots, tracts, or parcels therein described sold by the city or town treasurer or by the county sheriff and an order of sale shall issue pursuant thereto for the enforcement of the judgment.

In all other respects, the trial, judgment, and appeals to the supreme court or the court of

appeals shall be governed by the statutes governing the foreclosure of mortgages on real property.

Prior to the sale of the property, if the property is shown on the property tax rolls under unknown owner or if the property contains a residential structure having an assessed value of two thousand dollars or more, the treasurer shall order or conduct a title search of the property to determine the record title holders and all persons claiming a mortgage, deed of trust, or mechanic's, laborer's, materialmen's, or vendor's lien on the property.

At least thirty days prior to the sale of the property, a copy of the notice of sale shall be mailed by certified and regular mail to all defendants in the foreclosure action as to that parcel, lot, or tract and, if the owner is unknown or the property contains a residential structure having an assessed value of two thousand dollars or more, a copy of the notice of sale shall be mailed by regular and certified mail to any additional record title holders and persons claiming a mortgage, deed of trust, or mechanic's, laborer's, materialmen's, or vendor's lien on the property.

In all other respects the procedure for sale shall be conducted in the same manner as property tax sales described in RCW 84.64.080.

[1997 c 393 § 3; 1983 c 303 § 21; 1982 c 91 § 7; 1971 c 81 § 93; 1965 c 7 § 35.50.260. Prior: 1933 c 9 § 2, part; RRS § 9386-1, part.]

Notes:

Severability--1983 c 303: See RCW 36.60.905.

Severability--1982 c 91: See note following RCW 35.50.030.

Foreclosure of real estate mortgages and personal property liens: Chapter 61.12 RCW.

Foreclosure of special assessments by water-sewer districts--Attorneys' fees: RCW 57.16.150.

RCW 35.50.270 Procedure--Sale--Right of redemption.

In foreclosing local improvement assessments, all sales shall be subject to the right of redemption within two years from the date of sale.

[1983 c 303 § 22; 1982 c 91 § 8; 1965 c 7 § 35.50.270. Prior: 1933 c 9 § 2, part; RRS § 9386-1, part.]

Notes:

Severability--1983 c 303: See RCW 36.60.905.

Severability--1982 c 91: See note following RCW 35.50.030.

Chapter 35.51 RCW
LOCAL IMPROVEMENTS--CLASSIFICATION OF PROPERTY--RESERVE FUNDS

Sections

35.51.010 Definitions.
35.51.020 Joint planning, construction, and operation of improvements.
35.51.030 Alternative or additional method of assessment--Classification of property.
35.51.040 Reserve fund authorized--Use.
35.51.050 Loan agreements--Assessments may be pledged.
35.51.900 Authority supplemental--1985 c 397.

35.51.9001 Authority supplemental--1997 c 426.
35.51.901 Severability--1985 c 397.

RCW 35.51.010 Definitions.

The definitions set forth in this section apply throughout this chapter.

(1) "Local improvement district" means any local improvement district, local utility district, or any other similar special assessment district.

(2) "Municipality" means any city, town, county, metropolitan municipal corporation, or any other municipal corporation or quasi-municipal corporation of the state of Washington authorized to order local improvements, to establish local improvement districts, and to levy special assessments on property specially benefited thereby to pay the expense of the improvements.

(3) "Permissible floor area" means the maximum total floor area, at grade and above and below grade, of a building or other structure that may lawfully be developed on a property.

(4) "Private land use restriction" means any restriction on the use of property imposed by agreement and enforceable by a court of law and that the legislative authority of a municipality determines is useful in measuring special benefits to a property from an improvement. Such restrictions include but are not limited to easements, covenants, and equitable servitudes that are not mere personal obligations.

(5) "Public land use restriction" means any restriction on the use of property imposed by federal, state, or local laws, regulations, ordinances, or resolutions. Such restrictions include but are not limited to local zoning ordinances and historic preservation statutes.

[1985 c 397 § 5.]

RCW 35.51.020 Joint planning, construction, and operation of improvements.

A municipality may contract with any other municipality, with a public corporation, or with the state of Washington, for the following purposes:

(1) To have the acquisition or construction of the whole or any part of an improvement performed by another municipality, by a public corporation, or by the state of Washington;

(2) To pay, from assessments on property within a local improvement district or from the proceeds of local improvement district bonds, notes or warrants, the whole or any part of the expense of an improvement ordered, constructed, acquired, or owned by another municipality or a public corporation; or

(3) To integrate the planning, financing, construction, acquisition, management, or operation, or any combination thereof, of the improvements of one municipality or a public corporation with the planning, financing, construction, acquisition, management, or operation, or any combination thereof, of the improvements of another municipality or public corporation on such terms and conditions as may be mutually agreed upon including, but not limited to, the allocation of the costs of the improvements and the allocation of planning, financing,

construction, management, operation, or other responsibilities.

[1987 c 242 § 5; 1985 c 397 § 6.]

Notes:

Policy--1987 c 242: See note following RCW 35.43.005.

RCW 35.51.030 Alternative or additional method of assessment--Classification of property.

(1) As an alternative or in addition to other methods of ascertaining assessments for local improvements, the legislative authority of a municipality may develop and apply a system of classification of properties based upon some or all of the public land use restrictions or private land use restrictions to which such property may be put at the time the assessment roll is confirmed.

(2) The legislative authority of a municipality may classify property into office, retail, residential, public, or any other classifications the legislative authority finds reasonable, and may levy special assessments upon different classes of property at different rates, but in no case may a special assessment exceed the special benefit to a particular property. A municipality also may exempt certain classes of property from assessment if the legislative authority of the municipality determines that properties within such classes will not specially benefit from the improvement.

(3) For each property within a classification, the legislative authority of the municipality may determine the special assessment after consideration of any or all of the following:

(a) Square footage of the property;

(b) Permissible floor area;

(c) Distance from or proximity of access to the local improvement;

(d) Private land use restrictions and public land use restrictions;

(e) Existing facilities on the property at the time the assessment roll is confirmed; and

(f) Any other factor the legislative authority finds to be a reasonable measure of the special benefits to the properties being assessed.

(4) If after the assessment roll is confirmed, the legislative authority of a municipality finds that the lawful uses of any assessed property have changed and that the property no longer falls within its original classification, the legislative authority may, in its discretion, reclassify and reassess such property whether or not the bonds issued to pay any part of such costs remain outstanding. If such reassessment reduces the total outstanding assessments within the local improvement district, the legislative authority shall either reassess all other properties upward in an aggregate amount equal to such reduction, or shall pledge additional money, including money in a reserve fund, to the payment of principal of and interest on such bonds in an amount equal to such reduction.

(5) When the legislative authority of a municipality determines that it will use the alternative or additional method of assessment authorized by this section, it may select and describe the method or methods of assessment in the ordinance ordering a local improvement and creating a local improvement district if such method or methods of assessment have been

described in the notice of hearing required under RCW 35.43.150. If the method or methods of assessment are so selected and described in the ordinance ordering a local improvement and creating a local improvement district, the action and decision of the legislative authority as to such method or methods of assessment shall be final and conclusive, and no lawsuit whatsoever may be maintained challenging such method or methods of assessment unless that lawsuit is served and filed no later than thirty days after the date of passage of the ordinance ordering the improvement, and creating the district or, when applicable, no later than thirty days after the expiration of the thirty-day protest period provided in RCW 35.43.180.

[1985 c 397 § 7.]

RCW 35.51.040 Reserve fund authorized--Use.

For the purpose of securing the payment of the principal of and interest on an issue of local improvement bonds, notes, warrants, or other short-term obligations, the legislative authority of a municipality may create a reserve fund in an amount not exceeding fifteen percent of the principal amount of the bonds, notes, or warrants issued. The cost of a reserve fund may be included in the cost and expense of any local improvement for assessment against the property in the local improvement district to pay the cost, or any part thereof. The reserve fund may be provided for from the proceeds of the bonds, notes, warrants, or other short-term obligations, from special assessment payments, or from any other money legally available therefor. The legislative authority of a municipality shall provide that after payment of administrative costs a sum in proportion to the ratio between the part of the original assessment against a given lot, tract, or parcel of land in a local improvement district assessed to create a reserve fund, if any, and the total original amount of such assessment, plus a proportionate share of any interest accrued in the reserve fund, shall be credited and applied, respectively, to any nondelinquent portion of the principal of that assessment and any nondelinquent installment interest on that assessment paid by a property owner, but in no event may the principal amount of bonds outstanding exceed the principal amount of assessments outstanding. Whether the payment is made during the thirty-day prepayment period referred to in RCW 35.49.010 and 35.49.020 or thereafter and whenever all or part of a remaining nondelinquent assessment or any nondelinquent installment payment of principal and interest is paid, the reserve fund balance shall be reduced accordingly as each such sum is thus credited and applied to a nondelinquent principal payment and a nondelinquent interest payment. Each payment of a nondelinquent assessment or any nondelinquent installment payment of principal and interest shall be reduced by the amount of the credit. The balance of a reserve fund remaining after payment in full and retirement of all local improvement bonds, notes, warrants, or other short-term obligations secured by such fund shall be transferred to the municipality's guaranty fund.

Where, before July 26, 1987, a municipality established a reserve fund under this section that did not provide for a credit or reimbursement of the money remaining in the reserve fund to the owners of the lots, tracts, or parcels of property subject to the assessments, the balance in the reserve fund shall be distributed, after payment in full and retirement of all local improvement district bonds and other obligations secured by the reserve fund, to those owners of the lots,

tracts, or parcels of property subject to the assessments at the time the final installment or assessment payment on the lot, tract, or parcel was made. No owner is eligible to receive reimbursement for a lot, tract, or parcel if a lien on an unpaid assessment, or an installment thereon, that was imposed on such property remains in effect at the time the reimbursement is made or was foreclosed on the property. The amount to be distributed to the owners of each lot, tract, or parcel that is eligible for reimbursement shall be equal to the balance in the reserve fund, multiplied by the assessment imposed on the lot, tract, or parcel, divided by the total of all the assessments on the lots, tracts, or parcels eligible for reimbursement.

[1987 c 340 § 1; 1985 c 397 § 8.]

RCW 35.51.050 Loan agreements--Assessments may be pledged.

Assessments for local improvements in a local improvement district created by a municipality may be pledged and applied when collected to the payment of its obligations under a loan agreement entered into under chapter 39.69 RCW to pay costs of improvements in such a local improvement district.

[1997 c 426 § 4.]

RCW 35.51.900 Authority supplemental--1985 c 397.

The authority granted by sections 1 through 8 of this act is supplemental and in addition to the authority granted by Title 35 RCW and to any other authority granted to cities, towns, or municipal corporations to levy special assessments.

[1985 c 397 § 12.]

RCW 35.51.9001 Authority supplemental--1997 c 426.

The authority granted by RCW 35.51.050 is supplemental and in addition to the authority granted by Title 35 RCW and to any other authority granted to cities, towns, or municipal corporations to levy, pledge, and apply special assessments.

[1997 c 426 § 5.]

RCW 35.51.901 Severability--1985 c 397.

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

[1985 c 397 § 13.]

Chapter 35.53 RCW

LOCAL IMPROVEMENTS--DISPOSITION OF PROPERTY ACQUIRED

Sections

35.53.010 Property to be held in trust--Taxability.
35.53.020 Discharge of trust.
35.53.030 Sale or lease of trust property.
35.53.040 Termination of trust in certain property.
35.53.050 Termination of trust in certain property--Complaint--Allegations.
35.53.060 Termination of trust in certain property--Property--Parties--Summons.
35.53.070 Termination of trust in certain property--Receivership--Regulations.

RCW 35.53.010 Property to be held in trust--Taxability.

Property bid in by the city or town or struck off to it pursuant to proceedings for the foreclosure of local improvement assessment liens shall be held in trust by the city or town for the fund of the improvement district or the revenue bond fund into which assessments in utility local improvement districts are pledged to be paid for the benefit of which the property was sold. Any property so held in trust shall be exempt from taxation for general state, county and municipal purposes during the period that it is so held.

[1967 c 52 § 20; 1965 c 7 § 35.53.010. Prior: 1933 c 107 § 1, part; 1927 c 275 § 3, part; 1911 c 98 § 31, part; RRS § 9383, part.]

Notes:

Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

RCW 35.53.020 Discharge of trust.

The city or town may relieve itself of its trust relation to a local improvement district fund or revenue bond fund into which utility local improvement assessments are pledged to be paid as to any lot, tract, or parcel of property by paying into the fund the amount of the delinquent assessment for which the property was sold and all accrued interest, together with interest to the time of the next call of bonds or warrants against such fund at the rate provided thereon. Upon such payment the city or town shall hold the property discharged of the trust.

[1967 c 52 § 21; 1965 c 7 § 35.53.020. Prior: 1933 c 107 § 1, part; 1927 c 275 § 3, part; 1911 c 98 § 31, part; RRS § 9383, part.]

Notes:

Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

RCW 35.53.030 Sale or lease of trust property.

A city or town may lease or sell and convey any such property held in trust by it, by virtue of the conveyance thereof to it by a local improvement assessment deed. The sale may be public or private and for such price and upon such terms as may be determined by resolution of

the council, any provisions of law, charter, or ordinance to the contrary notwithstanding. After first reimbursing any funds which may have advanced moneys on account of any lot, tract, or parcel, all proceeds resulting from lease or sale thereof shall ratably belong and be paid into the funds of the local improvement concerned.

[1965 c 7 § 35.53.030. Prior: 1927 c 275 § 4; 1911 c 98 § 32; RRS § 9384.]

RCW 35.53.040 Termination of trust in certain property.

A city or town which has heretofore acquired or hereafter acquires any property through foreclosure of delinquent assessments for local improvements initiated or proceedings commenced before June 8, 1927, may terminate its trust therein by an action in the superior court, if all the bonds and warrants outstanding in the local improvement district in which the assessments were levied are delinquent.

[1965 c 7 § 35.53.040. Prior: 1929 c 142 § 1, part; RRS § 9384-1, part.]

RCW 35.53.050 Termination of trust in certain property--Complaint--Allegations.

The complaint in any such action by a city or town to terminate its trust in property acquired at a local improvement assessment sale shall set forth:

(1) The number of the local improvement district or utility local improvement district,

(2) The bonds and warrants owing thereby,

(3) The owners thereof or that the owners are unknown,

(4) A description of the assets of the district with the estimated value thereof,

(5) The amount of the assessments, including penalty and interest, of any other local improvement districts or utility local improvement districts which are a lien upon the same property,

(6) The amount of the bonds and warrants owing by such other districts and the names of the owners thereof unless they are unknown, except where the bonds and warrants are guaranteed by a local improvement guaranty fund or pursuant to any other form of guaranty authorized by law.

[1967 c 52 § 22; 1965 c 7 § 35.53.050. Prior: 1929 c 142 § 1, part; RRS § 9384-1, part.]

Notes:

Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

RCW 35.53.060 Termination of trust in certain property--Property--Parties--Summons.

Two or more delinquent districts and all property, bonds and warrants therein may be included in one action to terminate the trust.

All persons owning any bonds or warrants of the districts involved in the action or having an interest therein shall be made parties defendant except in cases where the bonds or warrants

are guaranteed by a local improvement guaranty fund or pursuant to any other form of guaranty authorized by law.

Summons shall be served as in other actions. Unknown owners and unknown parties shall be served by publication.

[1965 c 7 § 35.53.060. Prior: 1929 c 142 § 1, part; RRS § 9384-1, part.]

Notes:
Commencement of actions: Chapter 4.28 RCW.

RCW 35.53.070 Termination of trust in certain property--Receivership--Regulations.

In such an action the court after acquiring jurisdiction shall proceed as in the case of a receivership except that the city or town shall serve as trustee in lieu of a receiver.

The assets of the improvement districts involved shall be sold at such prices and in such manner as the court may deem advisable and be applied to the costs and expenses of the action and the liquidation of the bonds and warrants of the districts or revenue bonds to which utility local improvement assessments are pledged to pay.

No notice to present claims other than the summons in the action shall be necessary. Any claim presented shall be accompanied by the bonds and warrants upon which it is based. Dividends upon any bonds or warrants for which no claim was filed shall be paid into the general fund of the city or town, but the owner thereof may obtain it at any time within five years thereafter upon surrender and cancellation of his bonds and warrants.

Upon the termination of the receivership the city or town shall be discharged from all trusts relating to the property, funds, bonds, and warrants involved in the action.

[1967 c 52 § 23; 1965 c 7 § 35.53.070. Prior: 1929 c 142 § 1, part; RRS § 9384-1, part.]

Notes:

Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

Chapter 35.54 RCW
LOCAL IMPROVEMENTS--GUARANTY FUNDS

Sections

35.54.010 Establishment.
35.54.020 Rules and regulations.
35.54.030 Source--Interest and earnings.
35.54.040 Source--Subrogation rights to assessments.
35.54.050 Source--Surplus from improvement funds.
35.54.060 Source--Taxation.
35.54.070 Use of fund--Purchase of bonds, coupons and warrants.
35.54.080 Use of fund--Purchase of general tax certificates or property on or after foreclosure--Disposition.
35.54.090 Warrants against fund.
35.54.095 Transfer of assets to general fund--When authorized--Payment of claims as general obligation, when.

35.54.100 Deferral of collection of assessments for economically disadvantaged persons--Payment from guaranty fund--Lien--Payment dates for deferred obligations.

RCW 35.54.010 Establishment.

There is established in every city and town a fund to be designated the "local improvement guaranty fund" for the purpose of guaranteeing, to the extent of the fund, the payment of its local improvement bonds and warrants issued to pay for any local improvement ordered in the city or town or in any area wholly or partly outside its corporate boundaries: (1) In any city of the first class having a population of more than three hundred thousand, subsequent to June 8, 1927; (2) in any city or town having created and maintained a guaranty fund under chapter 141, Laws of 1923, subsequent to the date of establishment of such fund; and (3) in any other city or town subsequent to April 7, 1926: PROVIDED, That this shall not apply to any city of the first class which maintains a local improvement guaranty fund under chapter 138, Laws of 1917, but any such city maintaining a guaranty fund under chapter 138, Laws of 1917 may by ordinance elect to operate under the provisions of this chapter and may transfer to the guaranty fund created hereunder all the assets of the former fund and, upon such election and transfer, all bonds guaranteed under the former fund shall be guaranteed under the provisions of this chapter.

[1971 ex.s. c 116 § 7; 1965 c 7 § 35.54.010. Prior: (i) 1917 c 138 § 1; RRS § 8986. (ii) 1917 c 138 § 2; RRS § 8987. (iii) 1917 c 138 § 3; RRS § 8988. (iv) 1917 c 138 § 4; RRS § 8989. (v) 1917 c 138 § 5; RRS § 8990. (vi) 1917 c 138 § 6; RRS § 8991. (vii) 1927 c 209 § 1; 1925 ex.s. c 183 § 1; 1923 c 141 § 1; RRS § 9351-1. (viii) 1927 c 209 § 2, part; 1925 ex.s. c 183 § 2, part; 1923 c 141 § 2, part; RRS § 9351-2, part.]

RCW 35.54.020 Rules and regulations.

Every city and town operating under the provisions of this chapter shall prescribe by ordinance appropriate rules and regulations for the maintenance and operation of the guaranty fund not inconsistent with the provisions of this chapter.

[1965 c 7 § 35.54.020. Prior: 1933 c 109 § 1, part; 1927 c 209 § 3, part; 1925 ex.s. c 183 § 3, part; 1923 c 141 § 3, part; RRS § 9351-3, part.]

RCW 35.54.030 Source--Interest and earnings.

Interest and earnings from the local improvement guaranty fund shall be paid into the fund.

[1965 c 7 § 35.54.030. Prior: 1933 c 109 § 1, part; 1927 c 209 § 3, part; 1925 ex.s. c 183 § 3, part; 1923 c 141 § 3, part; RRS § 9351-3, part.]

RCW 35.54.040 Source--Subrogation rights to assessments.

Whenever any sum is paid out of the local improvement guaranty fund on account of

principal or interest of a local improvement bond or warrant, the city or town as trustee of the fund shall be subrogated to all the rights of the holder of the bond or interest coupon or warrant so paid, and the proceeds thereof, or of the underlying assessment, shall become part of the guaranty fund.

[1965 c 7 § 35.54.040. Prior: 1933 c 109 § 1, part; 1927 c 209 § 3, part; 1925 ex.s. c 183 § 3, part; 1923 c 141 § 3, part; RRS § 9351-3, part.]

RCW 35.54.050 Source--Surplus from improvement funds.

If in any local improvement fund guaranteed by a local improvement guaranty fund there is a surplus remaining after the payment of all outstanding bonds and warrants payable therefrom, it shall be paid into the local improvement guaranty fund.

[1965 c 7 § 35.54.050. Prior: 1933 c 109 § 1, part; 1927 c 209 § 3, part; 1925 ex.s. c 183 § 3, part; 1923 c 141 § 3, part; RRS § 9351-3, part.]

RCW 35.54.060 Source--Taxation.

For the purpose of maintaining the local improvement guaranty fund, every city and town shall, at the time of making its annual budget and tax levy, provide for the levy of a sum sufficient, with the other sources of the fund, to pay the warrants issued against the fund during the preceding fiscal year and to establish a balance therein: PROVIDED, That the levy in any one year shall not exceed the greater of: (1) Twelve percent of the outstanding obligations guaranteed by the fund, or (2) the total amount of delinquent assessments and interest accumulated on the delinquent assessments before the levy as of September 1.

The taxes levied for the maintenance of the local improvement guaranty fund shall be additional to and, if need be, in excess of all statutory and charter limitations applicable to tax levies in any city or town.

[1981 c 323 § 7; 1965 c 7 § 35.54.060. Prior: (i) 1933 c 109 § 1, part; 1927 c 209 § 3, part; 1925 ex.s. c 183 § 3, part; 1923 c 141 § 3, part; RRS § 9351-3, part. (ii) 1927 c 209 § 2, part; 1925 ex.s. c 183 § 2, part; 1923 c 141 § 2, part; RRS § 9351-2, part.]

Notes:
Special assessments or taxation for local improvements: State Constitution Art. 7 § 9.

RCW 35.54.070 Use of fund--Purchase of bonds, coupons and warrants.

Defaulted bonds, interest coupons and warrants against local improvement funds shall be purchased out of the guaranty fund, and as between the several issues of bonds, coupons, or warrants no preference shall exist, but they shall be purchased in the order of their presentation.

[1965 c 7 § 35.54.070. Prior: 1933 c 109 § 1, part; 1927 c 209 § 3, part; 1925 ex.s. c 183 § 3, part; 1923 c 141 § 3, part; RRS § 9351-3, part.]

RCW 35.54.080 Use of fund--Purchase of general tax certificates or property on or after foreclosure--Disposition.

For the purpose of protecting the guaranty fund, so much of the guaranty fund as is necessary may be used to purchase certificates of delinquency for general taxes on property subject to local improvement assessments which underlie the bonds, coupons, or warrants guaranteed by the fund, or to purchase such property at county tax foreclosures, or from the county after foreclosure.

The city or town, as trustee of the fund, may foreclose the lien of general tax certificates of delinquency and purchase the property at foreclosure sale; when doing so the court costs, costs of publication, expense for clerical work and other expenses incidental thereto shall be charged to and paid from the local improvement guaranty fund.

After acquiring title to property by purchase at general tax foreclosure sale or from the county after foreclosure, a city or town may lease it or sell it at public or private sale at such price on such terms as may be determined by resolution of the council. All proceeds shall belong to and be paid into the local improvement guaranty fund.

[1965 c 7 § 35.54.080. Prior: 1933 c 109 § 1, part; 1927 c 209 § 3, part; 1925 ex.s. c 183 § 3, part; 1923 c 141 § 3, part; RRS § 9351-3, part.]

RCW 35.54.090 Warrants against fund.

Warrants drawing interest at a rate established by the issuing officer under the direction of the legislative authority of the city or town shall be issued against the local improvement guaranty fund to meet any liability accruing against it. The warrants so issued shall at no time exceed five percent of the outstanding obligations guaranteed by the fund.

[1981 c 323 § 8; 1965 c 7 § 35.54.090. Prior: 1933 c 109 § 1, part; 1927 c 209 § 3, part; 1925 ex.s. c 183 § 3, part; 1923 c 141 § 3, part; RRS § 9351-3, part.]

RCW 35.54.095 Transfer of assets to general fund--When authorized--Payment of claims as general obligation, when.

(1) Any city or town maintaining a local improvement guaranty fund under this chapter, upon certification by the city or town treasurer that the local improvement guaranty fund has sufficient funds currently on hand to meet all valid outstanding obligations of the fund and all other obligations of the fund reasonably expected to be incurred in the near future, may by ordinance transfer assets from such fund to its general fund. The net cash of the local improvement guaranty fund may be reduced by such transfer to an amount not less than ten percent of the net outstanding obligations guaranteed by such fund.

(2) If, at any time within five years of any transfer of assets from the local improvement guaranty fund to the general fund of a city or town, the net cash of the local improvement guaranty fund is reduced below the minimum amount specified in subsection (1) of this section, the city or town shall, to the extent of the amount transferred, pay valid claims against the local

improvement guaranty fund as a general obligation of the city or town. In addition, such city or town shall pay all reasonable costs of collection necessarily incurred by the holders of valid claims against the local improvement guaranty fund.

[1979 c 55 § 1.]

RCW 35.54.100 Deferral of collection of assessments for economically disadvantaged persons--Payment from guaranty fund--Lien--Payment dates for deferred obligations.

Whenever payment of a local improvement district assessment is deferred pursuant to the provisions of RCW 35.43.250 the amount of the deferred assessment shall be paid out of the local improvement guaranty fund. The local improvement guaranty fund shall have a lien on the benefited property in an amount equal to the deferral together with interest as provided for by the establishing ordinance.

The lien may accumulate up to an amount not to exceed the sum of two installments: PROVIDED, That the ordinance creating the local improvement district may provide for one or additional deferrals of up to two installments. Local improvement assessment obligations deferred under chapter 137, Laws of 1972 ex. sess. shall become payable upon the earliest of the following dates:

(1) Upon the date and pursuant to conditions established by the political subdivision granting the deferral; or

(2) Upon the sale of property which has a deferred assessment lien upon it from the purchase price; or

(3) Upon the death of the person to whom the deferral was granted from the value of his estate; except a surviving spouse shall be allowed to continue the deferral which shall then be payable by that spouse as provided in this section.

[1972 ex.s. c 137 § 3.]

Notes:

Severability--1972 ex.s. c 137: See note following RCW 35.49.010.

Chapter 35.55 RCW
LOCAL IMPROVEMENTS--FILLING LOWLANDS

Sections

35.55.010 Authority--Second class cities.
35.55.020 Alternative methods of financing.
35.55.030 Boundaries--Excepted property.
35.55.040 Damages--Eminent domain.
35.55.050 Estimates--Plans and specifications.
35.55.060 Assessment roll--Items--Assessment units--Installments.
35.55.070 Hearing on assessment roll--Notice--Council's authority.
35.55.080 Hearings--Appellate review.
35.55.090 Lien--Collection of assessments.

35.55.100 Interest on assessments.
35.55.110 Payment of cost of improvement--Interest on warrants.
35.55.120 Local improvement bonds--Terms.
35.55.130 Local improvement bonds--Guaranties.
35.55.140 Local improvement bonds and warrants--Sale to pay damages, preliminary financing.
35.55.150 Local improvement fund--Investment.
35.55.160 Letting contract for improvement--Excess or deficiency of fund.
35.55.170 Payment of contractor--Bonds, warrants, cash.
35.55.180 Reassessments.
35.55.190 Provisions of chapter not exclusive.

Notes:
Assessments and charges against state lands: Chapter 79.44 RCW.

RCW 35.55.010 Authority--Second class cities.

If the city council of any city of the second class deems it necessary or expedient on account of the public health, sanitation, the general welfare, or other cause, to fill or raise the grade of any marshlands, swamplands, tidelands, shorelands, or lands commonly known as tideflats, or any other lowlands situated within the limits of the city, and to clear and prepare the lands for such filling, it may do so and assess the expense thereof, including the cost of making compensation for property taken or damaged, and all other costs and expense incidental to such improvement, to the property benefited, except such amount of such expense as the city council may direct to be paid out of the current or general expense fund.

If, in the judgment of the city council the special benefits for any such improvement shall extend beyond the boundaries of the filled area, the council may create an enlarged district which shall include, as near as may be, all the property, whether actually filled or not, which will be specially benefited by such improvement, and in such case the council shall specify and describe the boundaries of such enlarged district in the ordinance providing for such improvement and shall specify that such portion of the total cost and expense of such improvement as may not be borne by the current or general expense fund, shall be distributed and assessed against all the property of such enlarged district.

[1994 c 81 § 57; 1965 c 7 § 35.55.010. Prior: 1917 c 63 § 1; 1909 c 147 § 1; RRS § 9432.]

RCW 35.55.020 Alternative methods of financing.

If the city council desires to make any improvement authorized by the provisions of this chapter it shall provide therefor by ordinance and unless the ordinance provides that the improvement shall be paid for wholly or in part by special assessments upon the property benefited, compensation therefor shall be made from any general funds of the city applicable thereto. If the ordinance provides that the improvement shall be paid for wholly or in part by special assessments upon property benefited, the proceedings for the making of the special assessments shall be as hereinafter provided.

[1965 c 7 § 35.55.020. Prior: 1909 c 147 § 2, part; RRS § 9433, part.]

Notes:
Special assessments or taxation for local improvements: State Constitution Art. 7 § 9.

RCW 35.55.030 Boundaries--Excepted property.

Such ordinance shall specify the boundaries of the proposed improvement district and shall describe the lands which it is proposed to assess for said improvement. If any parcel of land within the boundaries of such proposed improvement district has been wholly filled to the proposed grade elevation of the proposed fill, such parcel of land may be excluded from the lists of lands to be assessed, when in the opinion of the city council justice and equity require its exclusion. The boundaries of any improvement district may be altered so as to exclude land therefrom at any time up to the levying of the assessment but such changing of the boundaries shall be by ordinance.

[1965 c 7 § 35.55.030. Prior: 1909 c 147 § 2, part; RRS § 9433, part.]

RCW 35.55.040 Damages--Eminent domain.

If an ordinance has been passed as in this chapter provided, and it appears that in making of the improvement so authorized, private property will be taken or damaged thereby, the city shall file a petition in the superior court of the county in which such city is situated, in the name of the city, praying that just compensation to be made for the property to be taken or damaged for the improvement specified in the ordinance be ascertained, and conduct proceedings in eminent domain in accordance with the statutes relating to cities for the ascertainment of the compensation to be made for the taking and damaging of property, except insofar as the same may be inconsistent with this chapter.

The filling of unimproved and uncultivated lowlands of the character mentioned in RCW 35.55.010 shall not be considered as damaging or taking of such lands. The damage if any, done to cultivated lands or growing crops thereon, or to buildings and other improvements situated within the district proposed to be filled, shall be ascertained and determined in the manner above provided; but no damage shall be awarded to any property owner for buildings or improvements placed upon lands included within said district after the publication of the ordinance defining the boundaries of the proposed improvement district: PROVIDED, That the city shall after the passage of such ordinance, proceed with said improvement with due diligence. If the improvement is to be made at the expense of the property benefited, no account shall be taken of benefits by the jury or court in assessing the amount of compensation to be made to the owner of any property within such district, but such compensation shall be assessed without regard to benefits to the end that said property for which damages may be so awarded, may be assessed the same as other property within the district for its just share and proportion of the expense of making said improvement, and the fact that compensation has been awarded for the damaging or taking of any parcel of land shall not preclude the assessment of such parcel of land for its just

proportion of said improvement.

[1965 c 7 § 35.55.040. Prior: 1909 c 147 § 3; RRS § 9434.]

Notes:
Eminent domain by cities: Chapter 8.12 RCW.

RCW 35.55.050 Estimates--Plans and specifications.

At the time of the initiation of the proceedings for any improvement as contemplated by this chapter, or at any time afterward, the city council shall cause plans and specifications for said improvement to be prepared and shall cause an estimate to be made of the cost and expense of making said improvement, including the cost of supervision and engineering, abstractor's fees, interest and discounts and all other expenses incidental to said improvement, including an estimate of the amount of damages for property taken or damaged, which plans, specifications and estimates shall be approved by the city council.

[1965 c 7 § 35.55.050. Prior: 1909 c 147 § 4; RRS § 9435.]

RCW 35.55.060 Assessment roll--Items--Assessment units--Installments.

When such plans and specifications have been prepared and the estimates of the cost and expense of making the improvement have been adopted by the council and when an estimate has been made of the compensation to be paid for property damaged or taken, either before or after the compensation has been ascertained in the eminent domain proceedings, the city council shall cause an assessment roll to be prepared containing a list of all of the property within the improvement district which it is proposed to assess for the improvement, together with the names of the owners, if known, and if unknown the property shall be assessed to an unknown owner, and opposite each description shall be set the amount assessed to such description.

When so ordered by the council, the entire amount of compensation paid or to be paid for property damaged or taken, including all of the costs and expenses incidental to the condemnation proceedings together with the entire cost and expense of making the improvement, may be assessed against the property within the district subject to assessment, but the council may order any portion of the costs paid out of the current or general expense fund of the city.

The assessments shall be made according to and in proportion to surface area one square foot of surface to be the unit of assessment, except that the several parcels of land in any enlarged district not actually filled shall be assessed in accordance with special benefits: PROVIDED, That where any parcel of land was partially filled by the owner prior to the initiation of the improvement, an equitable deduction for such partial filling may be allowed.

The cost and expense incidental to the filling of the streets, alleys and public places within such assessment district shall be borne by the private property within such district subject to assessment when so ordered by the council. When the assessments are payable in installments, the assessment roll when equalized, shall show the number of installments and the amounts thereof. The assessments may be made payable in any number of equal annual installments not

exceeding ten in number.

[1965 c 7 § 35.55.060. Prior: 1917 c 63 § 2; 1909 c 147 § 5; RRS § 9436.]

RCW 35.55.070 Hearing on assessment roll--Notice--Council's authority.

When such assessment roll has been prepared it shall be filed in the office of the city clerk and thereupon the city clerk shall give notice by publication in at least three issues of the official paper that such roll is on file in his office and that at a date mentioned in said notice, which shall be at least twenty days after the date of the first publication thereof, the city council will sit as a board of equalization to equalize said roll and to hear, consider and determine protests and objections against the same.

At the time specified in the notice, the city council shall sit as a board of equalization to equalize the roll and they may adjourn the sitting from time to time until the equalization of such roll is completed. The city council as board of equalization may hear, consider and determine objections and protests against any assessment and may make such alterations and modifications in the assessment roll as justice and equity may require.

[1965 c 7 § 35.55.070. Prior: 1909 c 147 § 6; RRS § 9437.]

RCW 35.55.080 Hearings--Appellate review.

Any person who has made objections to the assessment as equalized, shall have the right to appeal from the equalization as made by the city council to the superior court of the county. The appeal shall be made by filing a written notice of appeal with the city clerk within ten days after the equalization of the assessments by the council. The notice of appeal shall describe the property and the objections of such appellant to such assessment.

The appellant shall also file with the clerk of the superior court within ten days from the time of taking the appeal a copy of the notice of appeal together with a copy of the assessment roll and proceedings thereon, certified by the city clerk and a bond to the city conditioned to pay all costs that may be awarded against appellant in such sum not less than two hundred dollars and with such security as shall be approved by the clerk of the court.

The case shall be docketed by the clerk of the court in the name of the person taking the appeal as plaintiff and the city as defendant. The cause shall then be at issue and shall be tried immediately by the court as in the case of equitable causes; no further pleadings shall be necessary. The judgment of the court shall be either to confirm, modify or annul the assessment insofar as the same affects the property of the appellant. Appellate review of the superior court's decision may be sought as in other causes.

[1988 c 202 § 38; 1971 c 81 § 94; 1965 c 7 § 35.55.080. Prior: 1909 c 147 § 7; RRS § 9438.]

Notes:

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 35.55.090 Lien--Collection of assessments.

From and after the equalization of the roll, the several assessments therein shall become a lien upon the real estate described therein and shall remain a lien until paid. The assessment lien shall take precedence of all other liens against such property, except the lien of general taxes. The assessments shall be collected by the same officers and enforced in the same manner as provided by law for the collection and enforcement of local assessments for street improvements. All of the provisions of laws and ordinances relative to the enforcement and collection of local assessments for street improvements shall be applicable to these assessments.

[1965 c 7 § 35.55.090. Prior: 1909 c 147 § 8; RRS § 9439.]

Notes:
Assessments for local improvements, collection and foreclosure: Chapters 35.49, 35.50 RCW.

RCW 35.55.100 Interest on assessments.

The local assessments shall bear interest at such rate as may be fixed by the council after the expiration of thirty days after the equalization of the assessment roll and shall bear such interest after delinquency as may be provided by general ordinance of the city.

[1981 c 156 § 3; 1965 c 7 § 35.55.100. Prior: 1909 c 147 § 12, part; RRS § 9443, part.]

RCW 35.55.110 Payment of cost of improvement--Interest on warrants.

If the improvement contemplated by this chapter is ordered to be made upon the immediate payment plan, the city council shall provide for the payment thereof by the issuance of local improvement fund warrants against the local improvement district, which warrants shall be paid only out of the funds derived from the local assessments in the district and shall bear interest at a rate determined by the city council from date of issuance. If the improvement is ordered to be made upon the bond installment plan, the city council shall provide for the issuance of bonds against the improvement district.

[1981 c 156 § 4; 1965 c 7 § 35.55.110. Prior: (i) 1909 c 147 § 12, part; RRS § 9443, part. (ii) 1909 c 147 § 9; RRS § 9440.]

RCW 35.55.120 Local improvement bonds--Terms.

The city council shall have full authority to provide for the issuance of bonds against the improvement district fund in such denominations as the city council may provide which shall bear such rate of interest as the city council may fix. Interest shall be paid annually and the bonds shall become due and payable at such time, not exceeding ten years from the date thereof, as may be fixed by the council and shall be payable out of the local assessment district fund.

If so ordered by the council, the bonds may be issued in such a way that different numbers of the bonds may become due and payable at different intervals of time, or they may be so issued that all of the bonds against said district mature together.

[1981 c 156 § 5; 1965 c 7 § 35.55.120. Prior: 1909 c 147 § 10, part; RRS § 9441, part.]

RCW 35.55.130 Local improvement bonds--Guaranties.

The city may guarantee the payment of the whole or any part of the bonds issued against a local improvement district, but the guaranties on the part of the city, other than a city operating under the council-manager form or the commission form, shall be made only by ordinance passed by the vote of not less than nine councilmembers and the approval of the mayor in noncharter code cities that retained the old second class city plan of government with twelve council positions, and six councilmembers and approval of the mayor in cities of the second class. In a city under the council-manager form of government, such guaranties shall be made only in an ordinance passed by a vote of three out of five or five out of seven councilmembers, as the case may be, and approval of the mayor. In a city under the commission form of government, such guaranties shall be made only in an ordinance passed by a vote of two out of three of the commissioners. The mayor's approval shall not be necessary in commission form cities.

[1994 c 81 § 58; 1965 c 7 § 35.55.130. Prior: 1909 c 147 § 10, part; RRS § 9441, part.]

RCW 35.55.140 Local improvement bonds and warrants--Sale to pay damages, preliminary financing.

The city council may negotiate sufficient warrants or bonds against any local improvement district at a price not less than ninety-five percent of their par value to raise sufficient money to pay any and all compensation which may be awarded for property damaged or taken in the eminent domain proceedings including the costs of such proceedings. In lieu of so doing, the city council may negotiate current or general expense fund warrants at par to raise funds for the payment of such compensation and expenses in the first instance, but in that event the current or general expense fund shall be reimbursed out of the first moneys collected in any such local assessment district or realized from the negotiation or sale of local improvement warrants or bonds.

[1965 c 7 § 35.55.140. Prior: 1909 c 147 § 11; RRS § 9442.]

RCW 35.55.150 Local improvement fund--Investment.

If money accumulates in an improvement fund and is likely to lie idle awaiting the maturity of the bonds against the district, the city council, under proper safeguards, may invest it temporarily, or may borrow it temporarily, at a reasonable rate of interest, but when so invested or borrowed, the city shall be responsible and liable for the restoration to such fund of the money so invested or borrowed with interest thereon, whenever required for the redemption of bonds maturing against such district.

[1965 c 7 § 35.55.150. Prior: 1909 c 147 § 15; RRS § 9446.]

RCW 35.55.160 Letting contract for improvement--Excess or deficiency of fund.

The contract for the making of the improvement may be let either before or after the making up of the equalization of the assessment roll, and warrants, or bonds may be issued against the local improvement district fund either before or after the equalization of the roll as in the judgment of the council may best subserve the public interest.

If, after the assessment roll is made up and equalized, based in whole or in part upon an estimate of the cost of the improvement, and it is found that the estimate was too high, the excess shall be rebated pro rata to the property owners on the assessment roll, the rebates to be deducted from the last installment, or installments, when the assessment is upon the installment plan.

If it is found that the estimated cost was too low and that the actual bona fide cost of the improvement is greater than the estimate, the city council, after due notice and a hearing, as in case of the original equalization of the roll, may add the required additional amount to the assessment roll to be apportioned among the several parcels of property upon the same rules and principles as if it had been originally included, except that the additional amount shall be added to the last installment of an assessment if assessments are payable upon the installment plan. The same notice shall be required for adding to the assessment roll in this manner as is required for the original equalization of the roll, and the property owner shall have the right of appeal.

[1965 c 7 § 35.55.160. Prior: 1909 c 147 § 13; RRS § 9444.]

RCW 35.55.170 Payment of contractor--Bonds, warrants, cash.

The city council may provide in letting the contract for an improvement, that the contractor shall accept special fund warrants or local improvement bonds against the local improvement district within which such improvement is to be made, in payment for the contract price of the work, and that the warrants or bonds may be issued to the contractor from time to time as the work progresses, or the city council may negotiate the special fund warrants or bonds against the local improvement district at not less than ninety-five cents in money for each dollar of warrants or bonds, and with the proceeds pay the contractor for the work and pay the other costs of such improvement.

[1965 c 7 § 35.55.170. Prior: 1909 c 147 § 14; RRS § 9445.]

RCW 35.55.180 Reassessments.

If any assessment is found to be invalid for any cause or if it is set aside for any reason in judicial proceeding, a reassessment may be made and all laws relative to the reassessment of local assessments, for street or other improvements, shall, as far as practicable, be applicable hereto.

[1965 c 7 § 35.55.180. Prior: 1909 c 147 § 16; RRS § 9447.]

RCW 35.55.190 Provisions of chapter not exclusive.

The provisions of this chapter shall not be construed as repealing or in any wise affecting any existing laws relative to the making of any such improvements, but shall be considered as concurrent therewith.

[1965 c 7 § 35.55.190. Prior: 1909 c 147 § 17; RRS § 9448.]

Chapter 35.56 RCW
LOCAL IMPROVEMENTS--FILLING AND DRAINING LOWLANDS--WATERWAYS

Sections

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Notes:

Assessments and charges against state lands: Chapter 79.44 RCW.

RCW 35.56.010 Authority--First and second class cities.

If the city council or commission of any city of the first or second class in this state deems it necessary or expedient on account of the public health, sanitation, the general welfare, or other cause, to fill or raise the grade or elevation of any marshlands, swamplands, tidelands or lands commonly known as tideflats, or any other lands situated within the limits of such city and to clear and prepare said lands for such filling it may do so by proceeding in accordance with the provisions of this chapter.

For the purpose of filling and raising the grade or elevation of such lands and to secure material therefor and to provide for the proper drainage thereof after such fill has been effected, the city council or commission may acquire rights of way (and where necessary or desirable, may vacate, use and appropriate streets and alleys for such purposes) and lay out, build, construct and maintain over and across such lowlands, canals or artificial waterways of at least sufficient width, depth and length to provide and afford the quantity of earth, dirt and material required to complete such fill, and with the earth, dirt and material removed in digging and constructing such canals and waterways, fill and raise the grade or elevation of such marshlands, swamplands, tidelands or tideflats; and such canals or waterways shall be constructed of such width and depth (provided that all the earth, dirt and other suitable material removed in constructing the same shall be used to fill the lowlands as herein provided) as will make them available, convenient and suitable to provide water frontage for landings, wharves and other conveniences of navigation and commerce for the use and benefit of the city and the public. If canals or waterways are to be constructed as herein provided, such city may construct and maintain the necessary bridges over and across the same; such canals or waterways shall be forever under the control of such city and shall be and become public thoroughfares and waterways for the use and benefit of commerce, shipping, the city and the public generally.

The expense of making such improvement and in doing, accomplishing and effecting all the work provided for in this chapter including the cost of making compensation for property taken or damaged, and all other cost and expense incidental to such improvement, shall be assessed to the property benefited, except such amount of such expense as the city council or commission, in its discretion, may direct to be paid out of the current or general expense fund.

[1994 c 81 § 59; 1965 c 7 § 35.56.010. Prior: 1929 c 63 § 1; 1913 c 16 § 1; RRS § 9449.]

RCW 35.56.020 Alternative methods of financing.

If the city council or commission desires to make any improvement authorized by the provisions of this chapter it shall provide therefor by ordinance and unless the ordinance provides that the improvement shall be paid for wholly or in part by special assessment upon the property benefited, compensation therefor shall be made from any general or special funds of the city applicable thereto. If the ordinance provides that the improvement shall be paid for wholly or in part by special assessments upon property benefited, the proceedings for the making of such special assessment shall be as hereafter provided.

[1965 c 7 § 35.56.020. Prior: 1913 c 16 § 2, part; RRS § 9450, part.]

Notes:
Special assessments or taxation for local improvements: State Constitution Art. 7 § 9.

RCW 35.56.030 Boundaries--Excepted property.

Such ordinance shall specify the boundaries of the proposed improvement district and shall describe the lands which it is proposed to assess for said improvement, and shall provide for the filling of such lowlands and shall outline the general scheme or plan of such fill. If any parcel of land within the boundaries of such proposed improvement district prior to the initiation of the improvement has been wholly filled to the proposed grade or elevation of the proposed fill, such parcel of land may be excluded from the lands to be assessed when in the opinion of the city council or commission justice and equity require its exclusion. The boundaries of any improvement district may be altered so as to exclude land therefrom at any time up to the levying of the assessment but such changing of the boundaries shall be by ordinance.

[1965 c 7 § 35.56.030. Prior: 1913 c 16 § 2, part; RRS § 9450, part.]

RCW 35.56.040 Conditions precedent to passage of ordinance--Protests.

Upon the introduction of an ordinance providing for such fill, if the city council or commission desires to proceed, it shall fix a time, not less than ten days, in which protests against said fill may be filed in the office of the city clerk. Thereupon it shall be the duty of the clerk of said city to publish in the official newspaper of said city in at least two consecutive issues thereof before the time fixed for the filing of protests, a notice of the time fixed for the filing of protests together with a copy of the proposed ordinance as introduced.

Protests against the proposed fill to be effective must be filed by the owners of more than half of the area of land situated within the proposed filling district exclusive of streets, alleys and public places on or before the date fixed for such filing. If an effective protest is filed the council shall not proceed further unless two-thirds of the members of the city council vote to proceed with the work; if the city is operating under a commission form of government composed of three commissioners, the commission shall not proceed further except by a unanimous affirmative vote of all the members thereof, if the commission is composed of five members, at least four affirmative votes thereof shall be necessary before proceeding.

If no effective protest is filed or if an effective protest is filed and two-thirds of the councilmen vote to proceed with the work or in cases where cities are operating under the commission form of government, the commissioners vote unanimously or four out of five commissioners vote to proceed with the work, the city council or commission shall at such meeting or in a succeeding meeting proceed to pass the proposed ordinance for the work, with such amendments and modifications as to the said city council or commission of said city may seem proper. The local improvement district shall be called "filling district No. . . . ."

[1965 c 7 § 35.56.040. Prior: 1913 c 16 § 2, part; RRS § 9450, part.]

RCW 35.56.050 Damages--Eminent domain.

If an ordinance is passed as in this chapter provided, and it appears that in making of the improvements so authorized, private property will be taken or damaged thereby within or without the city, the city shall file a petition in the superior court of the county in which such city is situated, in the name of the city, praying that just compensation be made for the property to be taken or damaged for the improvement specified in the ordinance and conduct proceedings in eminent domain in accordance with the statutes relating to cities for the ascertainment of the compensation to be made for the taking and damaging of property, except insofar as the same may be inconsistent with this chapter.

The filling of unimproved and uncultivated lowlands of the character mentioned in RCW 35.56.010 shall not be considered as a damaging or taking of such lands. The damage, if any, done to cultivated lands or growing crops thereon, or to buildings and other improvements situated within the district proposed to be filled shall be ascertained and determined in the manner above provided; but no damage shall be awarded to any property owner for buildings or improvements placed upon lands included within said district after the publication of the ordinance defining the boundaries of the proposed improvement district: PROVIDED, That the city shall, after the passage of such ordinance, proceed with said improvement with due diligence.

If the improvement is to be made at the expense of the property benefited, no account shall be taken of benefits by the jury or court in assessing the amount of compensation to be made to the owner of any property within such district, but such compensation shall be assessed without regard to benefits to the end that said property for which damages may be so awarded, may be assessed the same as other property within the district for its just share and proportion of the expense of making said improvement, and the fact that compensation has been awarded for the damaging or taking of any parcel of land shall not preclude the assessment of such parcel of land for its just proportion of said improvement.

[1965 c 7 § 35.56.050. Prior: (i) 1913 c 16 § 3; RRS § 9451. (ii) 1929 c 63 § 4; 1913 c 16 § 21; RRS § 9469.]

Notes:
Eminent domain, cities: Chapter 8.12 RCW.

RCW 35.56.060 Estimates--Plans and specifications.

At the time of the initiation of the proceedings for any improvement as contemplated by this chapter or at any time afterward, the city council or commission shall cause plans and specifications for said improvement to be prepared and shall cause an estimate to be made of the cost and expense of making said improvement, including the cost of supervision and engineering, abstractor's fees, interest and discounts and all other expenses incidental to said improvement, including an estimate of the amount of damages for property taken or damaged, which plans, specifications and estimates shall be approved by the city council or commission.

[1965 c 7 § 35.56.060. Prior: 1913 c 16 § 4; RRS § 9452.]

RCW 35.56.070 Assessment roll--Items--Assessment units--Installments.

When such plans and specifications shall have been prepared and the estimate of the cost and expense of making the improvement has been adopted by the council or commission and when an estimate has been made of the compensation to be paid for property damaged or taken, either before or after the compensation has been ascertained in the eminent domain proceedings, the city council or commission shall cause an assessment roll to be prepared containing a list of all the property within the improvement district which it is proposed to assess for the improvements together with the names of the owners, if known, and if unknown, the property shall be assessed to an unknown owner, and opposite each description shall be set the amount assessed to such description.

When so ordered by the city council or commission, the entire amount of compensation paid or to be paid for property damaged or taken, including all of the costs and expenses incidental to the condemnation proceedings together with the entire cost and expense of making the improvement may be assessed against the property within the district subject to assessment, but the city council or commission may order any portion of the costs paid out of the current or general expense fund of the city. The assessments shall be made according to and in proportion to surface area, one square foot of surface to be the unit of assessment: PROVIDED, That where any parcel of land was wholly or partially filled by the owner prior to the initiation of the improvement an equitable deduction for such filling or partial filling may be allowed.

The cost and expense incidental to the filling of the streets, alleys and public places within said assessment district shall be borne by the private property within such district subject to assessment when so ordered by the city council or commission. When the assessments are payable in installments, the assessment roll when equalized shall show the number of installments and the amounts thereof. The assessment may be made payable in any number of equal annual installments not exceeding fifteen in number.

[1965 c 7 § 35.56.070. Prior: 1913 c 16 § 5; RRS § 9453.]

RCW 35.56.080 Hearing on assessment roll--Notice--Council's authority.

When such assessment roll has been prepared it shall be filed in the office of the city clerk and thereupon the city clerk shall give notice by publication in at least three issues of the official paper that such roll is on file in his office and on a date mentioned in said notice, which shall be at least twenty days after the date of the first publication thereof, the city council or commission will sit as a board of equalization to equalize said roll and to hear, consider and determine protests and objections against the same.

At the time specified in the notice, the city council or commission shall sit as a board of equalization to equalize the roll and they may adjourn the sitting from time to time until the equalization of such roll is completed. The city council or commission as such board of equalization may hear, consider and determine objections and protests against any assessment

and make such alterations and modifications in the assessment roll as justice and equity may require.

[1965 c 7 § 35.56.080. Prior: 1913 c 16 § 6; RRS § 9454.]

RCW 35.56.090 Hearing--Appellate review.

Any person who has made objections to the assessment as equalized, shall have the right to appeal from the equalization as made by the city council or commission to the superior court of the county. The appeal shall be made by filing a written notice of appeal with the city clerk within ten days after the equalization of the assessments by the council or commission. The notice of appeal shall describe the property and the objections of such appellant to such assessment.

The appellant shall also file with the clerk of the superior court within ten days from the time of taking the appeal a copy of the notice of appeal together with a copy of the assessment roll and proceedings thereon, certified by the city clerk and a bond to the city conditioned to pay all costs that may be awarded against appellant in such sum not less than two hundred dollars, and with such security as shall be approved by the clerk of the court.

The case shall be docketed by the clerk of the court in the name of the person taking the appeal as plaintiff, and the city as defendant. The cause shall then be at issue and shall be tried immediately by the court as in the case of equitable causes; no further pleadings shall be necessary. The judgment of the court shall be either to confirm, modify or annul the assessment insofar as the same affects the property of the appellant. Appellate review of the superior court's decision may be sought as in other causes.

[1988 c 202 § 39; 1971 c 81 § 95; 1965 c 7 § 35.56.090. Prior: 1913 c 16 § 7; RRS § 9455.]

Notes:

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 35.56.100 Lien--Collection of assessments.

From and after the equalization of the roll, the several assessments therein shall become a lien upon the real estate described therein and shall remain a lien until paid. The assessment lien shall take precedence of all other liens against such property, except the lien of general taxes. The assessments shall be collected by the same officers and enforced in the same manner as provided by law for the collection and enforcement of local assessments for street improvements. All of the provisions of laws and ordinances relative to the guaranty, enforcement, and collection of local assessments for street improvements, including foreclosure in case of delinquency, shall be applicable to these assessments.

[1965 c 7 § 35.56.100. Prior: 1929 c 63 § 2; 1913 c 16 § 8; RRS § 9456.]

Notes:

Assessments for local improvements, collection and foreclosure: Chapters 35.49, 35.50 RCW.

RCW 35.56.110 Interest on assessments.

The local assessments shall bear interest at such rate as may be fixed by the council or commission from and after the expiration of thirty days after the equalization of the assessment roll and shall bear such interest after delinquency as may be provided by general ordinance of the city.

[1981 c 156 § 6; 1965 c 7 § 35.56.110. Prior: 1929 c 63 § 3; 1913 c 16 § 12; RRS § 9460.]

RCW 35.56.120 Payment of cost of improvement--Interest on warrants.

If the improvement contemplated by this chapter is ordered to be made upon the immediate payment plan, the city council or commission shall provide for the payment thereof by the issuance of local improvement fund warrants against the local improvement district, which warrants shall be paid only out of the funds derived from the local assessments in the district and shall bear interest at a rate determined by the city council or commission from date of issuance. If the improvement is ordered to be made upon the bond installment plan, the city council or commission shall provide for the issuance of bonds against the improvement district.

[1981 c 156 § 7; 1965 c 7 § 35.56.120. Prior: 1913 c 16 § 9; RRS § 9457.]

RCW 35.56.130 Local improvement bonds--Terms.

The city council or commission shall have full authority to provide for the issuance of such bonds against the improvement district fund in such denominations as the city council or commission may provide, which shall bear such rate of interest as the city council or commission may fix. Interest shall be paid annually and the bonds shall become due and payable at such time, not exceeding fifteen years from the date thereof, as may be fixed by the said council or commission and shall be payable out of the assessment district funds.

If so ordered by the council or commission, the bonds may be issued in such a way that different numbers of the bonds may become due and payable at different intervals of time, or they may be so issued that all of the bonds against said district mature together. The city may reserve the right to call or mature any bond on any interest paying date when sufficient funds are on hand for its redemption; but bonds shall be called in numerical order.

[1981 c 156 § 8; 1965 c 7 § 35.56.130. Prior: 1913 c 16 § 10, part; RRS § 9458, part.]

RCW 35.56.140 Local improvement bonds--Guaranties.

The city may guarantee the payment of the whole or any part of the bonds issued against a local improvement district, but the guaranties on the part of the city shall be made only by ordinance passed by the vote of not less than two-thirds of the councilmen and the approval of the mayor, or three commissioners in case the governing body consist of three commissioners, or four where such city is governed by five commissioners.

[1965 c 7 § 35.56.140. Prior: 1913 c 16 § 10, part; RRS § 9458, part.]

RCW 35.56.150 Local improvement bonds and warrants--Sale to pay damages--Preliminary financing.

The city council or commission may negotiate sufficient warrants or bonds against any local improvement district at a price not less than ninety-five percent of their par value to raise sufficient money to pay any and all compensation which may be awarded for property damaged or taken in the eminent domain proceedings, including the costs of such proceedings. In lieu of so doing, the city council or commission may negotiate current or general expense fund warrants at par to raise funds for the payment of such compensation and expenses in the first instance, but in that event the current or general expense fund shall be reimbursed out of the first moneys collected in any such local assessment district or realized from the negotiation or sale of local improvement warrants or bonds.

[1965 c 7 § 35.56.150. Prior: 1913 c 16 § 11; RRS § 9459.]

RCW 35.56.160 Local improvement fund--Investment.

If money accumulates in an improvement fund and is likely to lie idle waiting the maturity of the bonds against the district, the city council or commission, under proper safeguards, may invest it temporarily, or may borrow it temporarily, at a reasonable rate of interest, but when so invested or borrowed, the city shall be responsible and liable for the restoration to such fund of the money so invested or borrowed with interest thereon, whenever required for the redemption of bonds maturing against such district.

[1965 c 7 § 35.56.160. Prior: 1913 c 16 § 15; RRS § 9463.]

RCW 35.56.170 Letting contracts for improvement--Excess or deficiency of fund.

The contract for the making of the improvement may be let either before or after the making up of the equalization of the assessment roll, and warrants or bonds may be issued against the local improvement district fund either before or after the equalization of the roll as in the judgment of the council or commission may best subserve the public interest.

If after the assessment roll is made up and equalized, based in whole or in part upon an estimate of the cost of the improvement, and it is found that the estimate was too high, the excess shall be rebated pro rata to the property owners on the assessment roll, the rebates to be deducted from the last installment, or installments, when the assessment is upon the installment plan.

If it is found that the estimated cost was too low and that the actual bona fide cost of the improvement is greater than the estimate, the city council or commission after due notice and a hearing, as in case of the original equalization of the roll, may add the required additional amount to the assessment roll to be apportioned among the several parcels of property upon the same rules and principles as if it had been originally included except that the additional amount

shall be added to the last installment of an assessment if assessments are payable upon the installment plan. The same notice shall be required for adding to the assessment roll in this manner as is required for the original equalization of the roll, and the property owner shall have the right of appeal.

[1965 c 7 § 35.56.170. Prior: 1913 c 16 § 13; RRS § 9461.]

RCW 35.56.180 Payment of contractor--Bonds--Warrants--Cash.

The city council or commission may provide in letting the contract for an improvement, that the contractor shall accept special fund warrants or local improvement bonds against the local improvement district within which such improvement is to be made, in payment for the contract price of the work, and that the warrants or bonds may be issued to the contractor from time to time as the work progresses, or the city council or commission may negotiate the special fund warrants or bonds against the local improvement district at not less than ninety-five cents in money for each dollar of warrants or bonds, and with the proceeds pay the contractor for the work and pay the other costs of such improvement.

[1965 c 7 § 35.56.180. Prior: 1913 c 16 § 14; RRS § 9462.]

RCW 35.56.190 Tax levy--General--Purposes--Limit.

For the purpose of raising revenues to carry on any project under this chapter including funds for the payment for the lands taken, purchased, acquired or condemned and the expenses incident to the acquiring thereof, or any other cost or expenses incurred by the city under the provisions of this chapter but not including the cost of actually filling the lands for which the local improvement district was created, a city may levy an annual tax of not exceeding seventy-five cents per thousand dollars of assessed valuation of all property within the city. The city council or commission may create a fund into which all moneys so derived from taxation and moneys derived from rents and issues of the lands shall be paid and against which special fund warrants may be drawn or negotiable bonds issued to meet expenditures under this chapter.

[1973 1st ex.s. c 195 § 22; 1965 c 7 § 35.56.190. Prior: 1913 c 16 § 19; RRS § 9467.]

Notes:

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 35.56.200 Waterways constructed--Requirements.

In the filling of any marshland, swampland, tideland or tideflats no canal or waterway shall be constructed in connection therewith less than three hundred feet wide at the top between the shore lines and with sufficient slope to the sides or banks thereof to as nearly as practicable render bulkheadings or other protection against caving or falling in of said sides or banks unnecessary and of sufficient depth to meet all ordinary requirements of navigation and commerce.

[1965 c 7 § 35.56.200. Prior: 1913 c 16 § 17, part; RRS § 9465, part.]

RCW 35.56.210 Waterways constructed--Control.

The canal or waterway shall be and remain under the control of the city and immediately upon its completion the city shall establish outer dock lines lengthwise of said canal or waterway on both sides thereof in such manner and position that not less than two hundred feet of the width thereof shall always remain open between such lines and beyond and between which lines no right shall ever be granted to build wharves or other obstructions except bridges; nor shall any permanent obstruction to the free use of the channel so laid out between said wharf or dock lines excepting bridges, their approaches, piers, abutments and spans, ever be permitted but the same shall be kept open for navigation.

[1965 c 7 § 35.56.210. Prior: 1913 c 16 § 17, part; RRS § 9465, part.]

RCW 35.56.220 Waterways constructed--Leasing facilities.

The city shall have the right to lease the area so created between the said shore lines and the wharf lines so established or any part, parts or parcels thereof during times when the use thereof is not required by the city, for periods not exceeding thirty years, to private individuals or concerns for wharf, warehouse or manufacturing purposes at such annual rate or rental per lineal foot of frontage on the canal or waterway as it may deem reasonable.

The rates of wharfage, and other charges to the public which any lessee may impose shall be reasonable; and the city council or commission may regulate such rates. The lease so granted by the city shall never be transferred or assigned without the consent of the city council or commission having been first obtained.

A city shall never lease to any individual or concern more than four hundred lineal feet of frontage of the area lying between the shore lines and the dock lines and no individual or concern shall ever hold or occupy by lease, sublease or otherwise more than the said four hundred lineal feet of frontage of such area: PROVIDED, That any individual or concern may acquire by lease or sublease whatever additional number of lineal feet of frontage of such area may in the judgment of the city council or commission be necessary for the use of such individual or concern, upon petition therefor to the city council or commission signed by not less than five hundred resident freeholders of the city.

[1965 c 7 § 35.56.220. Prior: 1913 c 16 § 17, part; RRS § 9465, part.]

RCW 35.56.230 Waterway shoreline front--Lessee must lease abutting property.

If the city owns the land abutting upon any part of the area between the shore lines and dock lines, no portion of the area which has city owned property abutting upon it shall ever be leased unless an equal frontage of the abutting property immediately adjoining it is leased at the same time for the same period to the same individual or concern.

[1965 c 7 § 35.56.230. Prior: 1913 c 16 § 17, part; RRS § 9465, part.]

RCW 35.56.240 Waterways constructed--Acquisition of abutting property.

While acquiring the rights of way for such canals or waterways or at any time thereafter such city may acquire for its own use and public use by purchase, gift, condemnation or otherwise, and pay therefor by any lawful means including but not restricted to payment out of the current expense fund of such city or by bonding the city or by pledging revenues to be derived from rents and issues therefrom, lands abutting upon the shore lines or right-of-way of such canals or waterways to a distance, depth or width of not more than three hundred feet back from the banks or shore lines of such canals or waterways on either side or both sides thereof, or not more than three hundred lineal feet back from and abutting on the outer lines of such rights-of-way on either side or both sides of such rights-of-way, and such area of such abutting lands as the council or commission may deem necessary for its use for public docks, bridges, wharves, streets and other conveniences of navigation and commerce and for its own use and benefit generally.

[1965 c 7 § 35.56.240. Prior: 1913 c 16 § 18, part; RRS § 9466, part.]

RCW 35.56.250 Waterways--Abutting city owned lands--Lease of.

If the city is not using the abutting lands so acquired it may lease any parcels thereof as may be deemed for the best interest and convenience of navigation, commerce and the public interest and welfare to private individuals or concerns for terms not exceeding thirty years each at such annual rate or rental as the city council or commission of such city may deem just, proper and fair, for the purpose of erecting wharves for wholesale and retail warehouses and for general commercial purposes and manufacturing sites, but the said city shall never convey or part with title to the abutting lands above mentioned and so acquired nor with the control other than in the manner herein specified. Any lease or leases granted by the city on such abutting lands shall never be transferred or assigned without the consent of the city council or commission having been first obtained.

A city shall never lease to any individual or concern more than four hundred lineal feet of canal or waterway frontage of said land and no individual or concern shall ever hold or occupy by lease, sublease, or otherwise more than the said four hundred lineal feet of said frontage: PROVIDED, That any individual or concern may acquire by lease or sublease whatever additional frontage of such abutting land may be in the judgment of the city council or commission necessary for the use of such individual or concern, upon petition presented to the city council or commission therefor signed by not less than five hundred resident freeholders of such city.

[1965 c 7 § 35.56.250. Prior: 1913 c 16 § 18, part; RRS § 9466, part.]

RCW 35.56.260 Waterways--Abutting lands--Lessee must lease shoreline property.

At the time that the city leases to any individual or concern any of the land abutting on the area between the shore lines and the dock lines the same individual or concern must likewise for the same period of time lease all of the area between the shore line and dock line of such canal or waterway lying contiguous to and immediately in front of the abutting land so leased.

[1965 c 7 § 35.56.260. Prior: 1913 c 16 § 18, part; RRS § 9466, part.]

RCW 35.56.270 Work by day labor.

When a city undertakes any improvement authorized by this chapter and the expenditures required exceed the sum of five hundred dollars, it shall be done by contract and shall be let to the lowest responsible bidder, after due notice, under such regulation as may be prescribed by ordinance: PROVIDED, That the city council or commission may reject all bids presented and readvertise, or, if in the judgment of the city council or commission the work can be performed, or supplies or materials furnished by the city independent of contract, cheaper than under the bid submitted, it may after having so advertised and examined the bids, cause the work to be performed or supplies or materials to be furnished independent of contract. This section shall be construed as a concurrent and cumulative power conferred on cities and shall not be construed as in any wise repealing or affecting any law now in force relating to the performing, execution and construction of public works.

[1965 c 7 § 35.56.270. Prior: 1913 c 16 § 20; RRS § 9468.]

RCW 35.56.280 Reassessments.

If any assessment is found to be invalid for any cause or if it is set aside for any reason in judicial proceeding, a reassessment may be made and all laws then in force relative to the reassessment of local assessments, for street or other improvements, shall, as far as practical, be applicable hereto.

[1965 c 7 § 35.56.280. Prior: 1913 c 16 § 16; RRS § 9464.]

Notes:

Local improvements, assessments and reassessments: Chapter 35.44 RCW.

RCW 35.56.290 Provisions of chapter not exclusive.

The provisions of this chapter shall not be construed as repealing or in any wise affecting other existing laws relative to the making of any such improvements but shall be considered as concurrent therewith.

[1965 c 7 § 35.56.290. Prior: 1929 c 63 § 5; 1913 c 16 § 22; RRS § 9470.]

Chapter 35.57 RCW
PUBLIC FACILITIES DISTRICTS

Sections

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35.57.900 Severability--1999 c 165.

RCW 35.57.010 Creation--Board of directors--Corporate powers.

(1) The legislative authority of any town or city located in a county with a population of less than one million may create a public facilities district. The legislative authorities of any contiguous group of towns or cities located in a county or counties each with a population of less than one million may enter an agreement under chapter 39.34 RCW for the creation and joint operation of a public facilities district.

(2) A public facilities district shall be coextensive with the boundaries of the city or town or contiguous group of cities or towns that created the district.

(3)(a) A public facilities district created by a single city or town shall be governed by a board of directors consisting of five members selected as follows: (i) Two members appointed by the legislative authority of the city or town; and (ii) three members appointed by legislative authority based on recommendations from local organizations. The members appointed under (a)(i) of this subsection, shall not be members of the legislative authority of the city or town. The members appointed under (a)(ii) of this subsection, shall be based on recommendations received from local organizations that may include, but are not limited to the local chamber of commerce, local economic development council, and local labor council. The members shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(b) A public facilities district created by [a] contiguous group of cities and towns shall be governed by a board of directors consisting of seven members selected as follows: (i) Three members appointed by the legislative authorities of the cities and towns; and (ii) four members appointed by the legislative authority based on recommendations from local organizations. The members appointed under (b)(i) of this subsection shall not be members of the legislative

authorities of the cities and towns. The members appointed under (b)(ii) of this subsection, shall be based on recommendations received from local organizations that include, but are not limited to the local chamber of commerce, local economic development council, local labor council, and a neighborhood organization that is directly affected by the location of the regional center in their area. The members of the board of directors shall be appointed in accordance with the terms of the agreement under chapter 39.34 RCW for the joint operation of the district and shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(4) A public facilities district is a municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

(5) A public facilities district shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, and to sue and be sued.

(6) A public facilities district may acquire and transfer real and personal property by lease, sublease, purchase, or sale. No direct or collateral attack on any metropolitan [public] facilities district purported to be authorized or created in conformance with this chapter may be commenced more than thirty days after creation by the city legislative authority.

[1999 c 165 § 1.]

RCW 35.57.020 Regional centers--Charges and fees--Powers.

(1) A public facilities district is authorized to acquire, construct, own, remodel, maintain, equip, reequip, repair, finance, and operate one or more regional centers. For purposes of this chapter, "regional center" means a convention, conference, or special events center, or any combination of facilities, and related parking facilities, serving a regional population constructed, improved, or rehabilitated after July 25, 1999, at a cost of at least ten million dollars, including debt service. "Regional center" also includes an existing convention, conference, or special events center, and related parking facilities, serving a regional population, that is improved or rehabilitated after July 25, 1999, where the costs of improvement or rehabilitation are at least ten million dollars, including debt service. A regional center is conclusively presumed to serve a regional population if state and local government investment in the construction, improvement, or rehabilitation of the regional center is equal to or greater than ten million dollars.

(2) A public facilities district may impose charges and fees for the use of its facilities, and may accept and expend or use gifts, grants, and donations for the purpose of a regional center.

(3) A public facilities district may impose charges, fees, and taxes authorized in RCW 35.57.040, and use revenues derived therefrom for the purpose of paying principal and interest payments on bonds issued by the public facilities district to construct a regional center.

(4) Notwithstanding the establishment of a career, civil, or merit service system, a public

facilities district may contract with a public or private entity for the operation or management of its public facilities.

(5) A public facilities district is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of any regional center.

[1999 c 165 § 2.]

RCW 35.57.030 General obligation bonds.

(1) To carry out the purpose of this chapter, a public facilities district may issue general obligation bonds, not to exceed an amount, together with any outstanding nonvoter-approved general obligation indebtedness, equal to one-half of one percent of the value of the taxable property within the district, as the term "value of the taxable property" is defined in RCW 39.36.015. A facilities district additionally may issue general obligation bonds for capital purposes only, together with any outstanding general obligation indebtedness, not to exceed an amount equal to one and one-fourth percent of the value of the taxable property within the district, as the term "value of the taxable property" is defined in RCW 39.36.015, when authorized by the voters of the public facilities district pursuant to Article VIII, section 6 of the state Constitution, and to provide for the retirement thereof by taxes authorized in chapter 165, Laws of 1999.

(2) General obligation bonds may be issued with a maturity of up to thirty years, and shall be issued and sold in accordance with the provisions of chapter 39.46 RCW.

(3) The general obligation bonds may be payable from the operating revenues of the public facilities district in addition to the tax receipts of the district.

[1999 c 165 § 3.]

RCW 35.57.040 Authorized charges, fees, and taxes--Gifts.

(1) The board of directors of the public facilities district may impose the following for the purpose of funding a regional center:

(a) Charges and fees for the use of any of its facilities;

(b) Admission charges under RCW 35.57.100;

(c) Vehicle parking charges under RCW 35.57.110; and

(d) Sales and use taxes authorized under RCW 82.14.048 and 82.14.390.

(2) The board may accept and expend or use gifts, grants, and donations for the purpose of a regional center. The revenue from the charges, fees, and taxes imposed under this section shall be used only for the purposes authorized by this chapter.

[1999 c 165 § 4.]

RCW 35.57.050 Travel, expense reimbursement policy--Required.

The board of directors of the public facilities district shall adopt a resolution that may be amended from time to time that shall establish the basic requirements governing methods and amounts of reimbursement payable to such district officials and employees for travel and other business expenses incurred on behalf of the district. The resolution shall, among other things, establish procedures for approving such expenses; the form of the travel and expense voucher; and requirements governing the use of credit cards issued in the name of the district. The resolution may also establish procedures for payment of per diem to board members. The state auditor shall, as provided by general law, cooperate with the public facilities district in establishing adequate procedures for regulating and auditing the reimbursement of all such expenses.

[1999 c 165 § 5.]

RCW 35.57.060 Expenditure of funds--Purposes.

The board of directors of the public facilities district shall have authority to authorize the expenditure of funds for the public purposes of preparing and distributing information to the general public and promoting, advertising, improving, developing, operating, and maintaining a regional center. Nothing contained in this section may be construed to authorize preparation and distribution of information to the general public for the purpose of influencing the outcome of a district election.

[1999 c 165 § 6.]

RCW 35.57.070 Service provider agreements.

The public facilities district may secure services by means of an agreement with a service provider. The public facilities district shall publish notice, establish criteria, receive and evaluate proposals, and negotiate with respondents under requirements set forth by district resolution.

[1999 c 165 § 7.]

RCW 35.57.080 Purchases and sales--Procedures.

In addition to provisions contained in chapter 39.04 RCW, the public facilities district is authorized to follow procedures contained in RCW 43.19.1906 and 43.19.1911 for all purchases, contracts for purchase, and sales.

[1999 c 165 § 8.]

RCW 35.57.090 Revenue bonds--Limitations.

(1) A public facilities district may issue revenue bonds to fund revenue-generating facilities, or portions of facilities, which it is authorized to provide or operate. Whenever revenue bonds are to be issued, the board of directors of the district shall create or have created a special

fund or funds from which, along with any reserves created pursuant to RCW 39.44.140, the principal and interest on such revenue bonds shall exclusively be payable. The board may obligate the district to set aside and pay into the special fund or funds a fixed proportion or a fixed amount of the revenues from the public improvements, projects, or facilities, and all related additions, that are funded by the revenue bonds. This amount or proportion shall be a lien and charge against these revenues, subject only to operating and maintenance expenses. The board shall have due regard for the cost of operation and maintenance of the public improvements, projects, or facilities, or additions, that are funded by the revenue bonds, and shall not set aside into the special fund or funds a greater amount or proportion of the revenues that in its judgment will be available over and above the cost of maintenance and operation and the amount or proportion, if any, of the revenue so previously pledged. The board may also provide that revenue bonds payable out of the same source or sources of revenue may later be issued on a parity with any revenue bonds being issued and sold.

(2) Revenue bonds issued under this section shall not be an indebtedness of the district issuing the bonds, and the interest and principal on the bonds shall only be payable from the revenues lawfully pledged to meet the principal and interest requirements and any reserves created under RCW 39.44.140. The owner or bearer of a revenue bond or any interest coupon issued under this section shall not have any claim against the district arising from the bond or coupon except for payment from the revenues lawfully pledged to meet the principal and interest requirements and any reserves created under RCW 39.44.140. The substance of the limitations included in this subsection shall be plainly printed, written, or engraved on each bond issued under this section.

(3) Revenue bonds with a maturity in excess of thirty years shall not be issued. The board of directors of the district shall by resolution determine for each revenue bond issue the amount, date, form, terms, conditions, denominations, maximum fixed or variable interest rate or rates, maturity or maturities, redemption rights, registration privileges, manner of execution, manner of sale, callable provisions, if any, and covenants including the refunding of existing revenue bonds. Facsimile signatures may be used on the bonds and any coupons. Refunding revenue bonds may be issued in the same manner as revenue bonds are issued.

[1999 c 165 § 9.]

RCW 35.57.100 Tax on admissions.

A public facility district may levy and fix a tax of not more than one cent on twenty cents or fraction thereof to be paid by the person who pays an admission charge to a regional center. This includes a tax on persons who are admitted free of charge or at reduced rates if other persons pay a charge or a regular higher charge for the same privileges or accommodations.

The term "admission charge" includes:

(1) A charge made for season tickets or subscriptions;

(2) A cover charge, or a charge made for use of seats and tables reserved or otherwise, and other similar accommodations;

(3) A charge made for food and refreshment if free entertainment, recreation, or

amusement is provided;

(4) A charge made for rental or use of equipment or facilities for purposes of recreation or amusement; if the rental of the equipment or facilities is necessary to the enjoyment of a privilege for which a general admission is charged, the combined charges shall be considered as the admission charge;

(5) Automobile parking charges if the amount of the charge is determined according to the number of passengers in the automobile.

[1999 c 165 § 10.]

RCW 35.57.110 Tax on vehicle parking charges.

A public facility district may levy and fix a tax on any vehicle parking charges imposed at any parking facility that is owned or leased by the public facility district as part of a regional center. No county or city or town within which the regional center is located may impose a tax of the same or similar kind on any vehicle parking charges at the facility. For the purposes of this section, "vehicle parking charges" means only the actual parking charges exclusive of taxes and service charges and the value of any other benefit conferred. The tax authorized under this section shall be at the rate of not more than ten percent.

[1999 c 165 § 11.]

RCW 35.57.900 Severability--1999 c 165.

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

[1999 c 165 § 23.]

Chapter 35.58 RCW
METROPOLITAN MUNICIPAL CORPORATIONS

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Notes:

Acquisition of

interests in land for conservation, protection, preservation, or open space purposes by metropolitan municipal corporation: RCW 64.04.130.

open space, land, or rights to future development by counties, cities, or metropolitan municipal corporations, tax levy: RCW 84.34.200 through 84.34.240, 84.52.010.

County assumption of metropolitan municipal corporation functions: Chapter 36.56 RCW.

Local governmental organizations, actions affecting boundaries, etc., review by boundary review board: Chapter 36.93 RCW.

School districts, educational service districts, agreements with other governmental entities for transportation of students, the public or other noncommon school purposes--Limitations: RCW 28A.160.120.

Transportation centers authorized: Chapter 81.75 RCW.

RCW 35.58.010 Declaration of policy and purpose.

It is hereby declared to be the public policy of the state of Washington to provide for the people of the populous metropolitan areas in the state the means of obtaining essential services not adequately provided by existing agencies of local government. The growth of urban population and the movement of people into suburban areas has created problems of water pollution abatement, garbage disposal, water supply, transportation, planning, parks and parkways which extend beyond the boundaries of cities, counties and special districts. For reasons of topography, location and movement of population, and land conditions and development, one or more of these problems cannot be adequately met by the individual cities, counties and districts of many metropolitan areas.

It is the purpose of this chapter to enable cities and counties to act jointly to meet these common problems in order that the proper growth and development of the metropolitan areas of the state may be assured and the health and welfare of the people residing therein may be secured.

[1974 ex.s. c 70 § 1; 1965 c 7 § 35.58.010. Prior: 1957 c 213 § 1.]

RCW 35.58.020 Definitions.

The definitions set forth in this section apply throughout this chapter.

(1) "Metropolitan municipal corporation" means a municipal corporation of the state of Washington created pursuant to this chapter, or a county which has by ordinance or resolution assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation pursuant to the provisions of chapter 36.56 RCW.

(2) "Metropolitan area" means the area contained within the boundaries of a metropolitan municipal corporation, or within the boundaries of an area proposed to be organized as such a corporation.

(3) "City" means an incorporated city or town.

(4) "Component city" means an incorporated city or town within a metropolitan area.

(5) "Component county" means a county, all or part of which is included within a metropolitan area.

(6) "Central city" means the city with the largest population in a metropolitan area.

(7) "Central county" means the county containing the city with the largest population in a metropolitan area.

(8) "Special district" means any municipal corporation of the state of Washington other than a city, county, or metropolitan municipal corporation.

(9) "Metropolitan council" means the legislative body of a metropolitan municipal corporation, or the legislative body of a county which has by ordinance or resolution assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation pursuant

to the provisions of chapter 36.56 RCW.

(10) "City council" means the legislative body of any city or town.

(11) "Population" means the number of residents as shown by the figures released for the most recent official state, federal, or county census, or population determination made under the direction of the office of financial management.

(12) "Metropolitan function" means any of the functions of government named in RCW 35.58.050.

(13) "Authorized metropolitan function" means a metropolitan function which a metropolitan municipal corporation shall have been authorized to perform in the manner provided in this chapter.

(14) "Metropolitan public transportation" or "metropolitan transportation" for the purposes of this chapter means the transportation of packages, passengers, and their incidental baggage by means other than by chartered bus, sightseeing bus, or any other motor vehicle not on an individual fare-paying basis, together with the necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from such people-moving systems: PROVIDED, That nothing in this chapter shall be construed to prohibit a metropolitan municipal corporation from leasing its buses to private certified carriers; to prohibit a metropolitan municipal corporation from providing school bus service for the transportation of pupils; or to prohibit a metropolitan municipal corporation from chartering an electric streetcar on rails which it operates entirely within a city.

(15) "Pollution" has the meaning given in RCW 90.48.020.

[1982 c 103 § 1; 1979 c 151 § 28; 1977 ex.s. c 277 § 12. Prior: 1974 ex.s. c 84 § 1; 1974 ex.s. c 70 § 2; 1971 ex.s. c 303 § 2; 1965 c 7 § 35.58.020; prior: 1957 c 213 § 2.]

Notes:

Severability--Construction--Effective date--1977 ex.s. c 277: See RCW 36.56.900 and 36.56.910.

Population determinations, office of financial management: Chapter 43.62 RCW.

RCW 35.58.030 Corporations authorized--Limitation on boundaries.

Any area of the state containing two or more cities, at least one of which is of ten thousand or more population, may organize as a metropolitan municipal corporation for the performance of certain functions, as provided in this chapter. The boundaries of a metropolitan municipal corporation may not be expanded to include territory located in a county other than a component county except as a result of the consolidation of two or more contiguous metropolitan municipal corporations.

[1993 c 240 § 1; 1965 c 7 § 35.58.030. Prior: 1957 c 213 § 3.]

Notes:

Inclusion of code cities in metropolitan municipal corporations: Chapter 35A.57 RCW.

RCW 35.58.040 Territory which must be included or excluded--Boundaries.

At the time of its formation no metropolitan municipal corporation shall include only a part of any city, and every city shall be either wholly included or wholly excluded from the boundaries of such corporation. If subsequent to the formation of a metropolitan municipal corporation a part only of any city shall be included within the boundaries of a metropolitan municipal corporation such part shall be deemed to be "unincorporated" for the purpose of selecting a member of the metropolitan council pursuant to *RCW 35.58.120(3) and such city shall neither select nor participate in the selection of a member on the metropolitan council pursuant to RCW 35.58.120.

Any metropolitan municipal corporation now existing within a county with a population of one million or more shall, upon May 21, 1971, have the same boundaries as those of the respective central county of such metropolitan corporation. The boundaries of such metropolitan corporation may not be enlarged or diminished after such date by annexation as provided in chapter 35.58 RCW and any purported annexation of territory shall be deemed void. Any contiguous metropolitan municipal corporations may be consolidated into a single metropolitan municipal corporation upon such terms, for the purpose of performing such metropolitan function or functions, and to be effective at such time as may be approved by resolutions of the respective metropolitan councils. In the event of such consolidation the component city with the largest population shall be the central city of such consolidated metropolitan municipal corporation and the component county with the largest population shall be the central county of such consolidated metropolitan municipal corporation.

[1993 c 240 § 2; 1991 c 363 § 39; 1971 ex.s. c 303 § 3; 1967 c 105 § 1; 1965 c 7 § 35.58.040. Prior: 1957 c 213 § 4.]

Notes:

***Reviser's note:** RCW 35.58.120 was amended by 1993 c 240 § 4 deleting subsection (3).

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 35.58.050 Functions authorized.

A metropolitan municipal corporation shall have the power to perform any one or more of the following functions, when authorized in the manner provided in this chapter:

(1) Metropolitan water pollution abatement.

(2) Metropolitan water supply.

(3) Metropolitan public transportation.

(4) Metropolitan garbage disposal.

(5) Metropolitan parks and parkways.

(6) Metropolitan comprehensive planning.

[1974 ex.s. c 70 § 3; 1965 c 7 § 35.58.050. Prior: 1957 c 213 § 5.]

RCW 35.58.060 Unauthorized functions to be performed under other law.

All functions of local government which are not authorized as provided in this chapter to be performed by a metropolitan municipal corporation, shall continue to be performed by the

counties, cities and special districts within the metropolitan area as provided by law.

[1965 c 7 § 35.58.060. Prior: 1957 c 213 § 6.]

RCW 35.58.070 Resolution, petition for election--Requirements, procedure.

A metropolitan municipal corporation may be created by vote of the qualified electors residing in a metropolitan area in the manner provided in this chapter. An election to authorize the creation of a metropolitan municipal corporation may be called pursuant to resolution or petition in the following manner:

(1) A resolution or concurring resolutions calling for such an election may be adopted by either:

(a) The city council of a central city; or

(b) The city councils of two or more component cities other than a central city; or

(c) The board of commissioners of a central county.

A certified copy of such resolution or certified copies of such concurring resolutions shall be transmitted to the board of commissioners of the central county.

(2) A petition calling for such an election shall be signed by at least four percent of the qualified voters residing within the metropolitan area and shall be filed with the auditor of the central county.

Any resolution or petition calling for such an election shall describe the boundaries of the proposed metropolitan area, name the metropolitan function or functions which the metropolitan municipal corporation shall be authorized to perform initially and state that the formation of the metropolitan municipal corporation will be conducive to the welfare and benefit of the persons and property within the metropolitan area. After the filing of a first sufficient petition or resolution with such county auditor or board of county commissioners respectively, action by such auditor or board shall be deferred on any subsequent petition or resolution until after the election has been held pursuant to such first petition or resolution.

Upon receipt of such a petition, the auditor shall examine the same and certify to the sufficiency of the signatures thereon. For the purpose of examining the signatures on such petition, the auditor shall be permitted access to the voter registration books of each component county and each component city. No person may withdraw his name from a petition after it has been filed with the auditor. Within thirty days following the receipt of such petition, the auditor shall transmit the same to the board of commissioners of the central county, together with his certificate as to the sufficiency thereof.

[1965 c 7 § 35.58.070. Prior: 1957 c 213 § 7.]

RCW 35.58.080 Hearings on petition, resolution--Inclusion, exclusion of territory--Boundaries--Calling election.

Upon receipt of a duly certified petition or a valid resolution calling for an election on the formation of a metropolitan municipal corporation, the board of commissioners of the central county shall fix a date for a public hearing thereon which shall be not more than sixty nor less

than forty days following the receipt of such resolution or petition. Notice of such hearing shall be published once a week for at least four consecutive weeks in one or more newspapers of general circulation within the metropolitan area. The notice shall contain a description of the boundaries of the proposed metropolitan area, shall name the initial metropolitan function or functions and shall state the time and place of the hearing and the fact that any changes in the boundaries of the metropolitan area will be considered at such time and place. At such hearing or any continuation thereof, any interested person may appear and be heard on all matters relating to the effect of the formation of the proposed municipal metropolitan corporation. The commissioners may make such changes in the boundaries of the metropolitan area as they shall deem reasonable and proper, but may not delete any portion of the proposed area which will create an island of included or excluded lands, may not delete a portion of any city, and may not delete any portion of the proposed area which is contributing or may reasonably be expected to contribute to the pollution of any water course or body of water in the proposed area when the petition or resolution names metropolitan water pollution abatement as a function to be performed by the proposed metropolitan municipal corporation. If the commissioners shall determine that any additional territory should be included in the metropolitan area, a second hearing shall be held and notice given in the same manner as for the original hearing. The commissioners may adjourn the hearing on the formation of a metropolitan municipal corporation from time to time not exceeding thirty days in all. At the next regular meeting following the conclusion of such hearing the commissioners shall adopt a resolution fixing the boundaries of the proposed metropolitan municipal corporation, declaring that the formation of the proposed metropolitan municipal corporation will be conducive to the welfare and benefit of the persons and property therein and providing for the calling of a special election on the formation of the metropolitan municipal corporation to be held not more than one hundred twenty days nor less than sixty days following the adoption of such resolution.

[1974 ex.s. c 70 § 4; 1965 c 7 § 35.58.080. Prior: 1957 c 213 § 8.]

Notes:
Elections: Title 29 RCW.

RCW 35.58.090 Election procedure to form corporation and levy tax--Qualified voters--Establishment of corporation--First meeting of council.

The election on the formation of the metropolitan municipal corporation shall be conducted by the auditor of the central county in accordance with the general election laws of the state and the results thereof shall be canvassed by the county canvassing board of the central county, which shall certify the result of the election to the county legislative authority of the central county, and shall cause a certified copy of such canvass to be filed in the office of the secretary of state. Notice of the election shall be published in one or more newspapers of general circulation in each component county in the manner provided in the general election laws. No person shall be entitled to vote at such election unless that person is a qualified voter under the laws of the state in effect at the time of such election and has resided within the metropolitan

area for at least thirty days preceding the date of the election. The ballot proposition shall be in substantially the following form:

"FORMATION OF METROPOLITAN
MUNICIPAL CORPORATION

Shall a metropolitan municipal corporation be established for the area described in a resolution of the county legislative authority of . . . . . county adopted on the . . . . day of . . . . . ., 19. . ., to perform the metropolitan functions of . . . . . (here insert the title of each of the functions to be authorized as set forth in the petition or initial resolution).

YES . . . . . .☐
NO . . . . . .☐ "

If a majority of the persons voting on the proposition residing within the central city shall vote in favor thereof and a majority of the persons voting on the proposition residing in the metropolitan area outside of the central city shall vote in favor thereof, the metropolitan municipal corporation shall thereupon be established and the county legislative authority of the central county shall adopt a resolution setting a time and place for the first meeting of the metropolitan council which shall be held not later than sixty days after the date of such election. A copy of such resolution shall be transmitted to the legislative body of each component city and county and of each special district which shall be affected by the particular metropolitan functions authorized.

At the same election there shall be submitted to the voters residing within the metropolitan area, for their approval or rejection, a proposition authorizing the metropolitan municipal corporation, if formed, to levy at the earliest time permitted by law on all taxable property located within the metropolitan municipal corporation a general tax, for one year, of twenty-five cents per thousand dollars of assessed value in excess of any constitutional or statutory limitation for authorized purposes of the metropolitan municipal corporation. The proposition shall be expressed on the ballots in substantially the following form:

"ONE YEAR TWENTY-FIVE CENTS
PER THOUSAND DOLLARS OF
ASSESSED VALUE LEVY

Shall the metropolitan municipal corporation, if formed, levy a general tax of twenty-five cents per thousand dollars of assessed value for one year upon all the taxable property within said corporation in excess of the constitutional and/or statutory tax limits for authorized purposes of the corporation?

YES . . . . . .☐
NO . . . . . .☐ "

Such proposition to be effective must be approved by a majority of at least three-fifths of the persons voting on the proposition to levy such tax, with a forty percent validation requirement, in the manner set forth in Article VII, section 2(a) of the Constitution of this state.

[1993 c 240 § 3; 1973 1st ex.s. c 195 § 23; 1965 c 7 § 35.58.090. Prior: 1957 c 213 § 9.]

Notes:

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Canvassing the returns, generally: Chapter 29.62 RCW.

Conduct of elections--Canvass: RCW 29.13.040.

Notice of elections: RCW 29.27.080.

RCW 35.58.100 Additional functions--Authorized by election.

A metropolitan municipal corporation may be authorized to perform one or more metropolitan functions in addition to those which it has previously been authorized to perform, with the approval of the voters at an election, in the manner provided in this section.

An election to authorize a metropolitan municipal corporation to perform one or more additional metropolitan functions may be called pursuant to a resolution or a petition in the following manner:

(1) A resolution calling for such an election may be adopted by:

(a) The city council of the central city; or

(b) The city councils of at least one-half in number of the component cities other than the central city; or

(c) The board of commissioners of the central county. Such resolution shall be transmitted to the metropolitan council.

(2) A petition calling for such an election shall be signed by at least four percent of the registered voters residing within the metropolitan area and shall be filed with the auditor of the central county.

Any resolution or petition calling for such an election shall name the additional metropolitan functions which the metropolitan municipal corporation shall be authorized to perform.

Upon receipt of such a petition, the auditor shall examine the signatures thereon and certify to the sufficiency thereof. For the purpose of examining the signatures on such petition, the auditor shall be permitted access to all voter registration books of any component county and of all component cities. No person may withdraw his name from a petition after it has been filed with the auditor. Within thirty days following the receipt of such petition, the auditor shall transmit the same to the metropolitan council, together with his certificate as to the sufficiency of signatures thereon.

Upon receipt of a valid resolution or duly certified petition calling for an election on the authorization of the performance of one or more additional metropolitan functions, the metropolitan council shall cause to be called a special election to be held not more than one hundred and twenty days nor less than sixty days following such receipt. Such special election

shall be conducted and canvassed as provided in this chapter for an election on the question of forming a metropolitan municipal corporation. The ballot proposition shall be in substantially the following form:

> "Shall the . . . . . metropolitan municipal corporation be authorized to perform the additional metropolitan functions of . . . . . (here insert the title of each of the additional functions to be authorized as set forth in the petition or resolution)?
>
> YES . . . . . .☐
> NO . . . . . .☐ "

If a majority of the persons voting on the proposition shall vote in favor thereof, the metropolitan municipal corporation shall be authorized to perform such additional metropolitan function or functions.

[1967 c 105 § 2; 1965 c 7 § 35.58.100. Prior: 1957 c 213 § 10.]

RCW 35.58.110 Additional functions--Authorized without election.

A metropolitan municipal corporation may be authorized to perform one or more metropolitan functions in addition to those which it previously has been authorized to perform, without an election, in the manner provided in this section. A resolution providing for the performance of such additional metropolitan function or functions shall be adopted by the metropolitan council. A copy of such resolution shall be transmitted by registered mail to the legislative body of each component city and county. If, within ninety days after the date of such mailing, a concurring resolution is adopted by the legislative body of each component county, of each component city of the first class, and of at least two-thirds of all other component cities, and such concurring resolutions are transmitted to the metropolitan council, such council shall by resolution declare that the metropolitan municipal corporation has been authorized to perform such additional metropolitan function or functions. A copy of such resolution shall be transmitted by registered mail to the legislative body of each component city and county and of each special district which will be affected by the particular additional metropolitan function authorized.

[1965 c 7 § 35.58.110. Prior: 1957 c 213 § 11.]

Notes:
Election required to authorize public transportation function: RCW 35.58.245.

RCW 35.58.112 Recommended comprehensive plan for performance of additional function--Study and preparation.

The metropolitan council of a metropolitan municipal corporation upon the affirmative vote of two-thirds of the members of such council may make planning, engineering, legal,

financial and feasibility studies preliminary to or incident to the preparation of a recommended comprehensive plan for any metropolitan function, and may prepare such a recommended comprehensive plan before the metropolitan municipal corporation has been authorized to perform such function. The studies and plan may cover territory within and without the metropolitan municipal corporation. A recommended comprehensive plan prepared pursuant to this section for any metropolitan function may not be adopted by the metropolitan council unless the metropolitan municipal corporation shall have been authorized to perform such function.

[1967 c 105 § 7.]

RCW 35.58.114 Recommended comprehensive plan for performance of additional function--Resolution for special election to authorize additional function--Contents--Hearings--Election procedure.

Whenever a recommended comprehensive plan for the performance of any additional metropolitan function shall have been prepared and the metropolitan council shall have found the plan to be feasible the council may by resolution call a special election to authorize the performance of such additional function without the filing of the petitions or resolutions provided for in RCW 35.58.100.

If the metropolitan council shall determine that the performance of such function requires enlargement of the metropolitan area, such resolution shall contain a description of the boundaries of the proposed metropolitan area and may be adopted only after a public hearing thereon before the council. Notice of such hearing shall be published once a week for at least two consecutive weeks in one or more newspapers of general circulation within the proposed metropolitan area. The notice shall contain a description of the boundaries of the proposed metropolitan area, shall name the additional function or functions to be performed and shall state the time and place of the hearing and the fact that any changes in the boundaries of the proposed metropolitan area will be considered at such time and place. At such hearing any interested person may appear and be heard. The council may make such changes in the proposed metropolitan area as they shall deem reasonable and proper, but may not delete any portion of the existing metropolitan area and may not delete any portion of the proposed additional area which will create an island of included or excluded lands. If the council shall determine that the proposed additional area should be further enlarged, a second hearing shall be held and notice given in the same manner as for the original hearing. The council may adjourn the hearing or hearings from time to time.

Following the conclusion of such hearing or hearings the council may adopt a resolution fixing the boundaries of the proposed metropolitan area and calling a special election on the performance of such additional function. If the metropolitan municipal corporation is then authorized to perform the function of metropolitan sewage disposal the council may provide in such resolution that local governmental agencies collecting sewage from areas outside the metropolitan area as same is constituted on the date of adoption of such resolution will not thereafter be required to discharge such sewage into the metropolitan sewer system or to secure approval of local construction plans from the metropolitan municipal corporation unless such

local agency shall first have entered into a contract with the metropolitan municipal corporation for the disposal of such sewage. The metropolitan council may also provide in such resolution that the authorization to perform such additional function be effective only if the voters at such election also authorize the issuance of any general obligation bonds required to carry out the recommended comprehensive plan.

The resolution calling such election shall fix the form of the ballot proposition and the same may vary from that specified in RCW 35.58.100. If the metropolitan council shall find that the issuance of general obligation bonds is necessary to perform such additional function and to carry out such recommended comprehensive plan then the ballot proposition shall set forth the principal amount of such bonds and the maximum maturity thereof and the proposition shall be so worded that the voters may by a single yes or no vote authorize the performance of the designated function in the area described in the resolution and the issuance of such general obligation bonds.

The persons voting at such election shall be all of the qualified voters who have resided within the boundaries of the proposed metropolitan area for at least thirty days preceding the date of the election. The election shall be conducted and canvassed as provided in RCW 35.58.090.

If the resolution calling such election does not require the approval of general obligation bonds as a condition of the performance of such additional function and if a majority of the persons voting on the ballot proposition residing within the existing metropolitan municipal corporation shall vote in favor thereof and a majority of the persons residing within the area proposed to be added to the existing metropolitan municipal corporation shall vote in favor thereof the boundaries described in the resolution calling the election shall become the boundaries of the metropolitan municipal corporation and the metropolitan municipal corporation shall be authorized to perform the additional function described in the proposition.

If the resolution calling such election shall require the authorization of general obligation bonds as a condition of the performance of such additional function, then to be effective the ballot proposition must be approved as provided in the preceding paragraph and must also be approved by at least three-fifths of the persons voting thereon and the number of persons voting on such proposition must constitute not less than forty percent of the total number of votes cast within such area at the last preceding state general election.

[1967 c 105 § 8.]

RCW 35.58.116 Proposition for issuance of general obligation bonds or levy of general tax--Submission at same election or special election.

The metropolitan council may at the same election called to authorize the performance of an additional function or at a special election called by the council after it has been authorized to perform any metropolitan function submit a proposition for the issuance of general obligation bonds for capital purposes as provided in RCW 35.58.450 or a proposition for the levy of a general tax for any authorized purpose for one year in such total dollar amount as the metropolitan council may determine and specify in such proposition. Any such proposition to be

effective must be assented to by at least three-fifths of the persons voting thereon and the number of persons voting on such proposition shall constitute not less than forty percent of the total number of votes cast within the metropolitan area at the last preceding state general election. Any such proposition shall only be effective if the performance of the additional function shall be authorized at such election or shall have been authorized prior thereto.

[1967 c 105 § 9.]

RCW 35.58.120 Metropolitan council--Composition.

Unless the rights, powers, functions, and obligations of a metropolitan municipal corporation have been assumed by a county as provided in chapter 36.56 RCW, a metropolitan municipal corporation shall be governed by a metropolitan council composed of elected officials of the component counties and component cities, and possibly other persons, as determined by agreement of each of the component counties and the component cities equal in number to at least twenty-five percent of the total number of component cities that have at least seventy-five percent of the combined component city populations. The agreement shall remain in effect until altered in the same manner as the initial composition is determined.

[1993 c 240 § 4; 1983 c 92 § 1; 1981 c 190 § 3; 1974 ex.s. c 70 § 5; 1971 ex.s. c 303 § 5; 1969 ex.s. c 135 § 1; 1967 c 105 § 3; 1965 c 7 § 35.58.120. Prior: 1957 c 213 § 12.]

RCW 35.58.130 Metropolitan council--Organization, chairman, procedures.

At the first meeting of the metropolitan council following the formation of a metropolitan municipal corporation, the mayor of the central city shall serve as temporary chairman. As its first official act the council shall elect a chairman. The chairman shall be a voting member of the council and shall preside at all meetings. In the event of his absence or inability to act the council shall select one of its members to act as chairman pro tempore. A majority of all members of the council shall constitute a quorum for the transaction of business. A smaller number of council members than a quorum may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as the council may provide. The council shall determine its own rules and order of business, shall provide by resolution for the manner and time of holding all regular and special meetings and shall keep a journal of its proceedings which shall be a public record. Every legislative act of the council of a general or permanent nature shall be by resolution.

[1965 c 7 § 35.58.130. Prior: 1957 c 213 § 13.]

RCW 35.58.140 Metropolitan council--Terms.

Each member of a metropolitan council except those selected under the provisions of *RCW 35.58.120 (1)(a), (5), (7), and (8), shall hold office at the pleasure of the body which selected him. Each member, who shall hold office ex officio, may not hold office after he ceases to hold the position of elected county executive, mayor, commissioner, or councilman. The

chairman shall hold office until the second Tuesday in July of each even-numbered year and may, if reelected, serve more than one term. Each member shall hold office until his successor has been selected as provided in this chapter.

[1971 ex.s. c 303 § 6; 1969 ex.s. c 135 § 2; 1967 c 105 § 4; 1965 c 7 § 35.58.140. Prior: 1957 c 213 § 14.]

Notes:

***Reviser's note:** RCW 35.58.120 was amended by 1993 c 240 § 4 deleting subsections (1)(a), (5), (7), and (8).

RCW 35.58.150 Metropolitan council--Vacancies.

A vacancy in the office of a member of the metropolitan council shall be filled in the same manner as provided for the original selection. The meeting of mayors to fill a vacancy of the member selected under the provisions of *RCW 35.58.120(4) or of special district representatives to fill a vacancy of a member selected under *RCW 35.58.120(7) shall be held at such time and place as shall be designated by the chairman of the metropolitan council after ten days' written notice mailed to the mayors of each of the cities specified in *RCW 35.58.120(4) or to the representatives of the special purpose districts specified in *RCW 35.58.120(7), whichever is applicable.

[1984 c 44 § 1; 1967 c 105 § 5; 1965 c 7 § 35.58.150. Prior: 1957 c 213 § 15.]

Notes:

***Reviser's note:** RCW 35.58.120 was amended by 1993 c 240 § 4 deleting subsections (4) and (7).

RCW 35.58.160 Metropolitan council--Compensation--Waiver of compensation.

The chairman and committee chairmen of the metropolitan council except elected public officials serving on a full-time salaried basis may receive such compensation as the other members of the metropolitan council shall provide. Members of the council other than the chairman and committee chairmen shall receive compensation of fifty dollars per day or portion thereof for attendance at metropolitan council or committee meetings, or for performing other services on behalf of the metropolitan municipal corporation, but not exceeding a total of four thousand eight hundred dollars in any year, in addition to any compensation which they may receive as officers of component cities or counties: PROVIDED, That elected public officers serving in such capacities on a full-time basis shall not receive compensation for attendance at metropolitan, council, or committee meetings, or otherwise performing services on behalf of the metropolitan municipal corporation: PROVIDED FURTHER, That committee chairmen shall not receive compensation in any one year greater than one-third of the compensation authorized for the county commissioners or county councilmen of the central county.

Any member of the council may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the council as provided in this section. The waiver, to be effective, must be filed any time after the member's selection and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

All members of the council shall be reimbursed for expenses actually incurred by them in the conduct of official business for the metropolitan municipal corporation.

[1985 c 330 § 1; 1974 ex.s. c 84 § 2; 1965 c 7 § 35.58.160. Prior: 1957 c 213 § 16.]

RCW 35.58.170 Corporation name and seal.

The name of a metropolitan municipal corporation shall be established by its metropolitan council. Each metropolitan municipal corporation shall adopt a corporate seal containing the name of the corporation and the date of its formation.

[1965 c 7 § 35.58.170. Prior: 1957 c 213 § 17.]

RCW 35.58.180 General powers of corporation.

In addition to the powers specifically granted by this chapter a metropolitan municipal corporation shall have all powers which are necessary to carry out the purposes of the metropolitan municipal corporation and to perform authorized metropolitan functions. A metropolitan municipal corporation may contract with the United States or any agency thereof, any state or agency thereof, any other metropolitan municipal corporation, any county, city, special district, or governmental agency and any private person, firm or corporation for the purpose of receiving gifts or grants or securing loans or advances for preliminary planning and feasibility studies, or for the design, construction or operation of metropolitan facilities and a metropolitan municipal corporation may contract with any governmental agency or with any private person, firm or corporation for the use by either contracting party of all or any part of the facilities, structures, lands, interests in lands, air rights over lands and rights of way of all kinds which are owned, leased or held by the other party and for the purpose of planning, constructing or operating any facility or performing any service which the metropolitan municipal corporation may be authorized to operate or perform, on such terms as may be agreed upon by the contracting parties: PROVIDED, That before any contract for the lease or operation of any metropolitan public transportation facilities shall be let to any private person, firm or corporation, a general schedule of rental rates for bus equipment with or without drivers shall be publicly posted applicable to all private certificated carriers, and for other facilities competitive bids shall first be called upon such notice, bidder qualifications and bid conditions as the metropolitan council shall determine.

A metropolitan municipal corporation may sue and be sued in its corporate capacity in all courts and in all proceedings.

[1974 ex.s. c 84 § 3; 1967 c 105 § 6; 1965 c 7 § 35.58.180. Prior: 1957 c 213 § 18.]

RCW 35.58.190 Performance of function or functions--Commencement date.

The metropolitan council shall provide by resolution the effective date on which the metropolitan municipal corporation will commence to perform any one or more of the

metropolitan functions which it shall have been authorized to perform.

[1965 c 7 § 35.58.190. Prior: 1957 c 213 § 19.]

RCW 35.58.200 Powers relative to water pollution abatement.

If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan water pollution abatement, it shall have the following powers in addition to the general powers granted by this chapter:

(1) To prepare a comprehensive water pollution abatement plan including provisions for waterborne pollutant removal, water quality improvement, sewage disposal, and storm water drainage for the metropolitan area.

(2) To acquire by purchase, condemnation, gift, or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of metropolitan facilities for water pollution abatement, including but not limited to, removal of waterborne pollutants, water quality improvement, sewage disposal and storm water drainage within or without the metropolitan area, including but not limited to trunk, interceptor and outfall sewers, whether used to carry sanitary waste, storm water, or combined storm and sanitary sewage, lift and pumping stations, pipelines, drains, sewage treatment plants, flow control structures together with all lands, property rights, equipment and accessories necessary for such facilities. Sewer facilities which are owned by a county, city, or special district may be acquired or used by the metropolitan municipal corporation only with the consent of the legislative body of the county, city, or special districts owning such facilities. Counties, cities, and special districts are hereby authorized to convey or lease such facilities to metropolitan municipal corporations or to contract for their joint use on such terms as may be fixed by agreement between the legislative body of such county, city, or special district and the metropolitan council, without submitting the matter to the voters of such county, city, or district.

(3) To require counties, cities, special districts and other political subdivisions to discharge sewage collected by such entities from any portion of the metropolitan area which can drain by gravity flow into such metropolitan facilities as may be provided to serve such areas when the metropolitan council shall declare by resolution that the health, safety, or welfare of the people within the metropolitan area requires such action.

(4) To fix rates and charges for the use of metropolitan water pollution abatement facilities, and to expend the moneys so collected for authorized water pollution abatement activities.

(5) To establish minimum standards for the construction of local water pollution abatement facilities and to approve plans for construction of such facilities by component counties or cities or by special districts, which are connected to the facilities of the metropolitan municipal corporation. No such county, city, or special district shall construct such facilities without first securing such approval.

(6) To acquire by purchase, condemnation, gift, or grant, to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of facilities for the local collection of sewage or storm water in portions of the metropolitan area not contained within any

city or special district operating local public sewer facilities and, with the consent of the legislative body of any such city or special district, to exercise such powers within such city or special district and for such purpose to have all the powers conferred by law upon such city or special district with respect to such local collection facilities: PROVIDED, That such consent shall not be required if the department of ecology certifies that a water pollution problem exists within any such city or special district and notifies the city or special district to correct such problem and corrective construction of necessary local collection facilities shall not have been commenced within one year after notification. All costs of such local collection facilities shall be paid for by the area served thereby.

(7) To participate fully in federal and state programs under the federal water pollution control act (86 Stat. 816 et seq., 33 U.S.C. 1251 et seq.) and to take all actions necessary to secure to itself or its component agencies the benefits of that act and to meet the requirements of that act, including but not limited to the following:

(a) authority to develop and implement such plans as may be appropriate or necessary under the act.

(b) authority to require by appropriate regulations that its component agencies comply with all effluent treatment and limitation requirements, standards of performance requirements, pretreatment requirements, a user charge and industrial cost recovery system conforming to federal regulation, and all conditions of national permit discharge elimination system permits issued to the metropolitan municipal corporation or its component agencies. Adoption of such regulations and compliance therewith shall not constitute a breach of any sewage disposal contract between a metropolitan municipal corporation and its component agencies nor a defense to an action for the performance of all terms and conditions of such contracts not inconsistent with such regulations and such contracts, as modified by such regulations, shall be in all respects valid and enforceable.

[1975 c 36 § 1; 1974 ex.s. c 70 § 6; 1971 ex.s. c 303 § 7; 1965 c 7 § 35.58.200. Prior: 1957 c 213 § 20.]

RCW 35.58.210 Metropolitan water pollution abatement advisory committee.

If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan water pollution abatement, the metropolitan council shall, prior to the effective date of the assumption of such function, cause a metropolitan water pollution abatement advisory committee to be formed by notifying the legislative body of each component city and county which operates a sewer system to appoint one person to serve on such advisory committee and the board of commissioners of each water-sewer district which operates a sewer system, any portion of which lies within the metropolitan area, to appoint one person to serve on such committee who shall be a commissioner of such a water-sewer district. The metropolitan water pollution abatement advisory committee shall meet at the time and place provided in the notice and elect a chairman. The members of such committee shall serve at the pleasure of the appointing bodies and shall receive no compensation other than reimbursement for expenses actually incurred in the performance of their duties. The function of such advisory committee shall be to advise the metropolitan council in matters relating to the performance of the water

pollution abatement function.

[1999 c 153 § 33; 1974 ex.s. c 70 § 7; 1965 c 7 § 35.58.210. Prior: 1957 c 213 § 21.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

RCW 35.58.215 Powers relative to systems of sewerage.

A metropolitan municipal corporation authorized to perform water pollution abatement may exercise all the powers relating to systems of sewerage authorized by RCW 36.94.010, 36.94.020, and 36.94.140 for counties.

[1997 c 447 § 13.]

Notes:

Finding--Purpose--1997 c 447: See note following RCW 70.05.074.

RCW 35.58.220 Powers relative to water supply.

If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan water supply, it shall have the following powers in addition to the general powers granted by this chapter:

(1) To prepare a comprehensive plan for the development of sources of water supply, trunk supply mains and water treatment and storage facilities for the metropolitan area.

(2) To acquire by purchase, condemnation, gift or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of metropolitan facilities for water supply within or without the metropolitan area, including buildings, structures, water sheds, wells, springs, dams, settling basins, intakes, treatment plants, trunk supply mains and pumping stations, together with all lands, property, equipment and accessories necessary to enable the metropolitan municipal corporation to obtain and develop sources of water supply, treat and store water and deliver water through trunk supply mains. Water supply facilities which are owned by a city or special district may be acquired or used by the metropolitan municipal corporation only with the consent of the legislative body of the city or special district owning such facilities. Cities and special districts are hereby authorized to convey or lease such facilities to metropolitan municipal corporations or to contract for their joint use on such terms as may be fixed by agreement between the legislative body of such city or special district and the metropolitan council, without submitting the matter to the voters of such city or special district.

(3) To fix rates and charges for water supplied by the metropolitan municipal corporation.

(4) To acquire by purchase, condemnation, gift or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of facilities for the local distribution of water in portions of the metropolitan area not contained within any city, or water-sewer district that operates a water system, and, with the consent of the legislative body of any city or the water-sewer district, to exercise such powers within such city or water-sewer district and for such purpose to have all the powers conferred by law upon such city or

water-sewer district with respect to such local distribution facilities. All costs of such local distribution facilities shall be paid for by the area served thereby.

[1999 c 153 § 34; 1965 c 7 § 35.58.220. Prior: 1957 c 213 § 22.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

RCW 35.58.230 Metropolitan water advisory committee.

If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan water supply, the metropolitan council shall, prior to the effective date of the assumption of such function, cause a metropolitan water advisory committee to be formed by notifying the legislative body of each component city which operates a water system to appoint one person to serve on such advisory committee and the board of commissioners of each water-sewer district that operates a water system, any portion of which lies within the metropolitan area, to appoint one person to serve on such committee who shall be a water-sewer district commissioner. The metropolitan water advisory committee shall meet at the time and place provided in the notice and elect a chairman. The members of such committee shall serve at the pleasure of the appointing bodies and shall receive no compensation other than reimbursement for expenses actually incurred in the performance of their duties. The function of such advisory committee shall be to advise the metropolitan council with respect to matters relating to the performance of the water supply function.

The requirement to create a metropolitan water advisory committee shall not apply to a county that has assumed the rights, powers, functions, and obligations of the metropolitan municipal corporation under chapter 36.56 RCW.

[1999 c 153 § 35; 1993 c 240 § 5; 1965 c 7 § 35.58.230. Prior: 1957 c 213 § 23.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

RCW 35.58.240 Powers relative to transportation.

If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan transportation, it shall have the following powers in addition to the general powers granted by this chapter:

(1) To prepare, adopt, and carry out a general comprehensive plan for public transportation service which will best serve the residents of the metropolitan area and to amend said plan from time to time to meet changed conditions and requirements.

(2) To acquire by purchase, condemnation, gift, or grant and to lease, construct, add to, improve, replace, repair, maintain, operate, and regulate the use of metropolitan transportation facilities and properties within or without the metropolitan area, including systems of surface, underground, or overhead railways, tramways, buses, or any other means of local transportation except taxis, and including escalators, moving sidewalks, or other people-moving systems, passenger terminal and parking facilities and properties, and such other facilities and properties as may be necessary for passenger and vehicular access to and from such people-moving

systems, terminal and parking facilities and properties, together with all lands, rights of way, property, equipment, and accessories necessary for such systems and facilities. Public transportation facilities and properties which are owned by any city may be acquired or used by the metropolitan municipal corporation only with the consent of the city council of the city owning such facilities. Cities are hereby authorized to convey or lease such facilities to metropolitan corporations or to contract for their joint use on such terms as may be fixed by agreement between the city council of such city and the metropolitan council, without submitting the matter to the voters of such city.

The facilities and properties of a metropolitan public transportation system whose vehicles will operate primarily within the rights of way of public streets, roads, or highways, may be acquired, developed and operated without the corridor and design hearings which are required by RCW 35.58.273 for mass transit facilities operating on a separate right of way.

(3) To fix rates, tolls, fares, and charges for the use of such facilities and to establish various routes and classes of service. Fares or charges may be adjusted or eliminated for any distinguishable class of users including, but not limited to, senior citizens, handicapped persons, and students. Classes of service and fares will be maintained in the several parts of the metropolitan area at such levels as will provide, insofar as reasonably practicable, that the portion of any annual transit operating deficit of the metropolitan municipal corporation attributable to the operation of all routes, taken as a whole, which are located within the central city is approximately in proportion to the portion of total taxes collected by or on behalf of the metropolitan municipal corporation for transit purposes within the central city, and that the portion of such annual transit operating deficit attributable to the operation of all routes, taken as a whole, which are located outside the central city, is approximately in proportion to the portion of such taxes collected outside the central city.

In the event any metropolitan municipal corporation shall extend its metropolitan transportation function to any area or service already offered by any company holding a certificate of public convenience and necessity from the Washington utilities and transportation commission under RCW 81.68.040, it shall by purchase or condemnation acquire at the fair market value, from the person holding the existing certificate for providing the services, that portion of the operating authority and equipment representing the services within the area of public operation.

[1981 c 25 § 1; 1971 ex.s. c 303 § 8; 1967 c 105 § 11; 1965 c 7 § 35.58.240. Prior: 1957 c 213 § 24.]

RCW 35.58.245 Public transportation function--Authorization by election required--Procedure.

Notwithstanding any other provision of chapter 35.58 RCW a metropolitan municipal corporation may perform the function of metropolitan public transportation only if the performance of such function is authorized by election. The metropolitan council may call such election and certify the ballot proposition. The election shall be conducted and canvassed as provided in RCW 35.58.090 and the municipality shall be authorized to perform the function of metropolitan public transportation if a majority of the persons voting on the proposition shall

vote in favor.

[1971 ex.s. c 303 § 1.]

RCW 35.58.250 Other local public passenger transportation service prohibited--Agreements--Purchase--Condemnation.

Except in accordance with an agreement made as provided herein, upon the effective date on which the metropolitan municipal corporation commences to perform the metropolitan transportation function, no person or private corporation shall operate a local public passenger transportation service within the metropolitan area with the exception of taxis, busses owned or operated by a school district or private school, and busses owned or operated by any corporation or organization solely for the purposes of the corporation or organization and for the use of which no fee or fare is charged.

An agreement may be entered into between the metropolitan municipal corporation and any person or corporation legally operating a local public passenger transportation service wholly within or partly within and partly without the metropolitan area and on said effective date under which such person or corporation may continue to operate such service or any part thereof for such time and upon such terms and conditions as provided in such agreement. Where any such local public passenger transportation service will be required to cease to operate within the metropolitan area, the commission may agree with the owner of such service to purchase the assets used in providing such service, or if no agreement can be reached, the commission shall condemn such assets in the manner provided herein for the condemnation of other properties.

Wherever a privately owned public carrier operates wholly or partly within a metropolitan municipal corporation, the Washington utilities and transportation commission shall continue to exercise jurisdiction over such operation as provided by law.

[1965 c 7 § 35.58.250. Prior: 1957 c 213 § 25.]

RCW 35.58.260 Transportation function--Acquisition of city system.

If a metropolitan municipal corporation shall be authorized to perform the metropolitan transportation function, it shall, upon the effective date of the assumption of such power, have and exercise all rights with respect to the construction, acquisition, maintenance, operation, extension, alteration, repair, control and management of passenger transportation which any component city shall have been previously empowered to exercise and such powers shall not thereafter be exercised by such component cities without the consent of the metropolitan municipal corporation: PROVIDED, That any city owning and operating a public transportation system on such effective date may continue to operate such system within such city until such system shall have been acquired by the metropolitan municipal corporation and a metropolitan municipal corporation may not acquire such system without the consent of the city council of such city.

[1965 c 7 § 35.58.260. Prior: 1957 c 213 § 26.]

RCW 35.58.265 Acquisition of existing transportation system--Assumption of labor contracts--Transfer of employees--Preservation of employee benefits--Collective bargaining.

If a metropolitan municipal corporation shall perform the metropolitan transportation function and shall acquire any existing transportation system, it shall assume and observe all existing labor contracts relating to such system and, to the extent necessary for operation of facilities, all of the employees of such acquired transportation system whose duties are necessary to operate efficiently the facilities acquired shall be appointed to comparable positions to those which they held at the time of such transfer, and no employee or retired or pensioned employee of such systems shall be placed in any worse position with respect to pension seniority, wages, sick leave, vacation or other benefits that he enjoyed as an employee of such system prior to such acquisition. The metropolitan municipal corporation shall engage in collective bargaining with the duly appointed representatives of any employee labor organization having existing contracts with the acquired transportation system and may enter into labor contracts with such employee labor organization.

[1965 c 91 § 1.]

Notes:

Retention of employees, preservation of pension rights and other benefits upon acquisition of metropolitan facility: RCW 35.58.380 through 35.58.400.

RCW 35.58.268 Public transportation employees--Payroll deduction for political action committees.

Any public official authorized to disburse funds in payment of salaries and wages of public transportation employees may, upon written request of the employee, deduct from the salary or wages of the employee, contributions for payment of voluntary deductions for political action committees sponsored by labor or employee organizations with public transportation employees as members. For the purposes of this section, "public transportation employees" means employees of a public transportation system specified in RCW 35.58.272 who are covered by a collective bargaining agreement.

[1985 c 204 § 1.]

RCW 35.58.270 Metropolitan transit commission.

If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan transportation with a commission form of management, a metropolitan transit commission shall be formed prior to the effective date of the assumption of such function. Except as provided in this section, the metropolitan transit commission shall exercise all powers of the metropolitan municipal corporation with respect to metropolitan transportation facilities, including but not limited to the power to construct, acquire, maintain, operate, extend, alter,

repair, control and manage a local public transportation system within and without the metropolitan area, to establish new passenger transportation services and to alter, curtail, or abolish any services as the commission may deem desirable and to fix tolls and fares.

The comprehensive plan for public transportation service and any amendments thereof shall be adopted by the metropolitan council and the metropolitan transit commission shall provide transportation facilities and service consistent with such plan. The metropolitan transit commission shall authorize expenditures for transportation purposes within the budget adopted by the metropolitan council. Tolls and fares may be fixed or altered by the commission only after approval thereof by the metropolitan council. Bonds of the metropolitan municipal corporation for public transportation purposes shall be issued by the metropolitan council as provided in this chapter.

The metropolitan transit commission shall consist of seven members. Six of such members shall be appointed by the metropolitan council and the seventh member shall be the chairman of the metropolitan council who shall be ex officio the chairman of the metropolitan transit commission. Three of the six appointed members of the commission shall be residents of the central city and three shall be residents of the metropolitan area outside of the central city. The three central city members of the first metropolitan transit commission shall be selected from the existing transit commission of the central city, if there be a transit commission in such city. The terms of first appointees shall be for one, two, three, four, five and six years, respectively. Thereafter, commissioners shall serve for a term of four years. Compensation of transit commissioners shall be determined by the metropolitan council.

The requirement to create a metropolitan transit commission shall not apply to a county that has assumed the rights, powers, functions, and obligations of the metropolitan municipal corporation under chapter 36.56 RCW.

[1993 c 240 § 6; 1967 c 105 § 12; 1965 c 7 § 35.58.270. Prior: 1957 c 213 § 27.]

RCW 35.58.271 Public transportation in municipalities--Financing.

See chapter 35.95 RCW.

RCW 35.58.2711 Local sales and use taxes for financing public transportation systems.

See RCW 82.14.045 through 82.14.060.

RCW 35.58.2712 Public transportation feasibility study--Advanced financial support payments.

Any municipality, as defined in RCW 35.95.020, may be eligible to receive a one-time advanced financial support payment to perform a feasibility study to determine the need for public transportation to serve its residents. This payment shall be governed by the following conditions:

(1) The payment shall precede any advanced financial support payment to develop a plan

pursuant to RCW 36.57A.150;

(2) The amount of such payment shall be commensurate with the number of residents in and the size of the land area of such municipality and the number and size of school districts in such municipality and shall not exceed one hundred ten thousand dollars; and

(3) Repayment of an advanced financial support payment shall be made to the general fund by the municipality within two years after the date such advanced payment was received. The study shall be completed within one year after the date such advanced payment was received. The study and its recommendations shall then be presented to the legislative authority of the municipality. Within six months of its receipt of the study and its recommendations, the legislative authority shall pass a resolution adopting or rejecting all or part of the study. A copy of the resolution shall be transmitted to the state agency administering this section. Such repayment shall be waived within two years of the date such advanced payment was received if the legislative authority or the voters in such municipality do not elect to levy and collect taxes to support public transportation in their area. Such repayment shall not be waived in the event any of the provisions of this subsection are not followed;

(4) The feasibility study shall give consideration to consolidating or coordinating all or any portion of the K-12 pupil transportation system within the proposed boundaries of the municipality. Any school district lying wholly or in part within the proposed boundaries shall fully cooperate in the study unless the school board shall pass a resolution to the contrary setting forth the reasons therefor. A copy of the resolution shall be forwarded to the secretary of the department of transportation for inclusion in the municipality's application file.

The department of transportation shall provide technical assistance in the preparation of feasibility studies, and shall adopt reasonable rules and regulations to carry out the provisions of this section.

[1979 c 59 § 1; 1977 ex.s. c 44 § 6.]

Notes:

Severability--Effective date--1977 ex.s. c 44: See notes following RCW 36.57A.030.

RCW 35.58.272 Public transportation systems--Definitions.

"Municipality" as used in RCW 35.58.272 through 35.58.279, as now or hereafter amended, and in RCW 36.57.080, 36.57.100, 36.57.110, 35.58.2721, 35.58.2794, and chapter 36.57A RCW, means any metropolitan municipal corporation which shall have been authorized to perform the function of metropolitan public transportation; any county performing the public transportation function as authorized by RCW 36.57.100 and 36.57.110 or which has established a county transportation authority pursuant to chapter 36.57 RCW; any public transportation benefit area established pursuant to chapter 36.57A RCW; and any city, which is not located within the boundaries of a metropolitan municipal corporation, county transportation authority, or public transportation benefit area, and which owns, operates or contracts for the services of a publicly owned or operated system of transportation: PROVIDED, That the term "municipality" shall mean in respect to any county performing the public transportation function pursuant to

RCW 36.57.100 and 36.57.110 only that portion of the unincorporated area lying wholly within such unincorporated transportation benefit area.

"Motor vehicle" as used in RCW 35.58.272 through 35.58.279, as now or hereafter amended, shall have the same meaning as in RCW 82.44.010.

"County auditor" shall mean the county auditor of any county or any person designated to perform the duties of a county auditor pursuant to RCW 82.44.140.

"Person" shall mean any individual, corporation, firm, association or other form of business association.

[1975 1st ex.s. c 270 § 1; 1969 ex.s. c 255 § 7.]

NOTES:

Severability--1975 1st ex.s. c 270: "If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 270 § 30.]

Effective date--1975 1st ex.s. c 270: "This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1975." [1975 1st ex.s. c 270 § 31.]

Construction--1969 ex.s. c 255: "The powers and authority conferred upon municipalities under the provisions of this 1969 act shall be in addition to and supplemental to powers or authority conferred by any other law, and nothing contained herein limits any other power or authority of such municipalities." [1969 ex.s. c 255 § 21.]

Severability--1969 ex.s. c 255: "If any provision of this 1969 act, or its application to any municipality, person or circumstance is held invalid, the remainder of this 1969 act or the application of the provisions to other municipalities, persons or circumstances is not affected." [1969 ex.s. c 255 § 22.]

Contracts between political subdivisions for services and use of public transportation systems: RCW 39.33.050.

RCW 35.58.2721 Public transportation systems--Authority of municipalities to acquire, operate, etc.--Indebtedness--Bond issues.

(1) In addition to any other authority now provided by law, and subject only to constitutional limitations, the governing body of any municipality shall be authorized to acquire, construct, operate, and maintain a public transportation system and additions and betterments thereto, and to issue general obligation bonds for public mass transportation capital purposes including but not limited to replacement of equipment: PROVIDED, That the general indebtedness incurred under this section when considered together with all the other outstanding general indebtedness of the municipality shall not exceed the amounts of indebtedness authorized by chapter 39.36 RCW and chapter 35.58 RCW, as now or hereafter amended, to be incurred without and with the assent of the voters. Such bonds may be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

Any municipality is authorized to pledge for the payment or security of the principal of and interest on any bonds issued for authorized public transportation purposes all or any portion of any taxes authorized to be levied by the issuer, including, but not limited to, the local sales and use tax authorized pursuant to RCW 82.14.045, as now or hereafter amended. No motor vehicle excise taxes under RCW 35.58.273 may be pledged for bonds.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in

accordance with chapter 39.46 RCW.

[1990 c 42 § 315; 1983 c 167 § 46; 1979 ex.s. c 175 § 1; 1975 1st ex.s. c 270 § 7.]

Notes:

Purpose--Headings--Severability--Effective dates--Application--Implementation--1990 c 42: See notes following RCW 82.36.025.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

Financing of public transportation systems in municipalities: Chapter 35.95 RCW and RCW 82.14.045.

RCW 35.58.273 Public transportation systems--Motor vehicle excise tax authorized--Credits--Public hearing on route and design--Rules--Sales and use tax on rental cars.

(1) A municipality is authorized to levy and collect a special excise tax not exceeding .725 percent on the value, as determined under chapter 82.44 RCW, of every motor vehicle owned by a resident of such municipality for the privilege of using such motor vehicle provided that in no event shall the tax be less than one dollar and, subject to RCW 82.44.150 (3) and (4), the amount of such tax shall be credited against the amount of the excise tax levied by the state under *RCW 82.44.020(1). Before utilization of any excise tax moneys collected under authorization of this section for acquisition of right of way or construction of a mass transit facility on a separate right of way the municipality shall adopt rules affording the public an opportunity for "corridor public hearings" and "design public hearings" as herein defined, which rule shall provide in detail the procedures necessary for public participation in the following instances: (a) Prior to adoption of location and design plans having a substantial social, economic or environmental effect upon the locality upon which they are to be constructed or (b) on such mass rapid transit systems operating on a separate right of way whenever a substantial change is proposed relating to location or design in the adopted plan. In adopting rules the municipality shall adhere to the provisions of the Administrative Procedure Act.

(2) A "corridor public hearing" is a public hearing that: (a) Is held before the municipality is committed to a specific mass transit route proposal, and before a route location is established; (b) is held to afford an opportunity for participation by those interested in the determination of the need for, and the location of, the mass rapid transit system; (c) provides a public forum that affords a full opportunity for presenting views on the mass rapid transit system route location, and the social, economic and environmental effects on that location and alternate locations: PROVIDED, That such hearing shall not be deemed to be necessary before adoption of an overall mass rapid transit system plan by a vote of the electorate of the municipality.

(3) A "design public hearing" is a public hearing that: (a) Is held after the location is established but before the design is adopted; and (b) is held to afford an opportunity for participation by those interested in the determination of major design features of the mass rapid transit system; and (c) provides a public forum to afford a full opportunity for presenting views on the mass rapid transit system design, and the social, economic, environmental effects of that design and alternate designs.

(4) A municipality imposing a tax under subsection (1) of this section may also impose a sales and use tax, in addition to the tax authorized by RCW 82.14.030, upon retail car rentals within the municipality that are taxable by the state under chapters 82.08 and 82.12 RCW. The rate of tax shall not exceed 1.944 percent. The rate of tax imposed under this subsection shall bear the same ratio to the 1.944 percent rate authorized that the rate imposed under subsection (1) of this section bears to the rate authorized under subsection (1) of this section. The base of the tax shall be the selling price in the case of a sales tax or the rental value of the vehicle used in the case of a use tax. The tax imposed under this section shall be deducted from the amount of tax otherwise due under RCW 82.08.020(2). The revenue collected under this subsection shall be distributed in the same manner as special excise taxes under subsection (1) of this section.

[1998 c 321 § 25 (Referendum Bill No. 49, approved November 3, 1998); 1992 c 194 § 11; 1991 c 339 § 29; 1991 c 309 § 1; (1991 c 363 § 40 repealed by 1991 c 309 § 6); 1990 c 42 § 316; 1987 c 428 § 2; 1979 ex.s. c 175 § 2; 1969 ex.s. c 255 § 8.]

NOTES:

***Reviser's note:** RCW 82.44.020 was repealed by 2000 1st sp.s. c 1 § 2.

Purpose--Severability--1998 c 321: See notes following RCW 82.14.045.

Contingent effective dates--1998 c 321 §§ 23-42: "*(2) Sections 23 through 30 and 32 through 42 of this act take effect January 1, 1999, and section 31 of this act takes effect June 30, 2000, if sections 1 through 21 and 44 through 46 of this act are validly submitted to and are approved and ratified by the voters at a general election held in November 1998. If sections 1 through 21 and 44 through 46 of this act are not approved and ratified, sections 23 through 42 of this act are null and void in their entirety." [1998 c 321 § 47 (Referendum Bill No. 49, approved November 3, 1998).]

***Reviser's note:** Subsection (1) of this section was vetoed by the governor. The vetoed language is as follows:

"(1) Section 22 of this act takes effect ninety days after the end of the legislative session as provided in Article 2, section 1 of the state Constitution."

Legislative intent--1992 c 194: See note following RCW 82.08.020.

Effective dates--1992 c 194: See note following RCW 46.04.466.

Purpose--Headings--Severability--Effective dates--Application--Implementation--1990 c 42: See notes following RCW 82.36.025.

Effective date--1987 c 428: See note following RCW 47.78.010.

Administrative procedure act: Chapter 34.05 RCW.

RCW 35.58.274 Public transportation systems--Motor vehicles exempt from tax.

Any vehicle for which an excise tax is payable under *RCW 82.44.030 shall be exempt from the tax imposed by RCW 35.58.273.

[1985 c 7 § 100; 1969 ex.s. c 255 § 9.]

NOTES:

***Reviser's note:** RCW 82.44.030 was repealed by 2000 1st sp.s. c 1 § 2.

RCW 35.58.275 Public transportation systems--Provisions of motor vehicle excise tax chapter applicable.

The schedule and basis for the excise tax imposed under RCW 35.58.273 shall be as provided in *RCW 82.44.040 and RCW 82.44.050. Penalties, receipts, abatements, refunds and

all other similar matters relating to the tax shall be as provided in chapter 82.44 RCW.

[1969 ex.s. c 255 § 10.]

NOTES:

***Reviser's note:** RCW 82.44.040 and 82.44.050 were repealed by 1990 c 42 § 328, effective September 1, 1990. Cf. RCW 82.44.041.

RCW 35.58.276 Public transportation systems--When tax due and payable--Collection.

The excise tax authorized by RCW 35.58.273 shall be due and payable as set forth in RCW 82.44.060 and shall be collected by the county auditor of the county or counties in which such municipality is located or by a designee of the director under RCW 82.44.140, and remitted to the state at no cost to the municipality imposing the tax.

[1971 ex.s. c 199 § 1; 1969 ex.s. c 255 § 11.]

RCW 35.58.277 Public transportation systems--Remittance of tax by county auditor.

When remitting license fee receipts to the state pursuant to RCW 82.44.110, the county auditor shall at the same time remit the special excise taxes collected for the municipality and, subject to the provisions of subsection (2) of RCW 82.44.150, the sum so collected and paid over on behalf of the municipality shall be credited against the amount of the tax the auditor would otherwise be required to collect and pay over to the director of licensing for ultimate distribution to the general fund under chapter 82.44 RCW.

[1979 c 158 § 91; 1969 ex.s. c 255 § 12.]

RCW 35.58.278 Public transportation systems--Distribution of tax.

Distribution of the special excise taxes paid into the general fund on behalf of any municipality shall be made to such municipality as provided in RCW 82.44.150, as now or hereafter amended.

[1975 1st ex.s. c 270 § 2; 1974 ex.s. c 54 § 1; 1969 ex.s. c 255 § 13.]

NOTES:

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

Effective dates--1974 ex.s. c 54: "Section 6 of this 1974 amendatory act shall not take effect until June 30, 1981, and the remainder of this 1974 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately." [1974 ex.s. c 54 § 13.]

Severability--1974 ex.s. c 54: "If any provision of this 1974 amendatory act, or its application to any person or circumstances is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 54 § 14.]

RCW 35.58.279 Public transportation systems--Crediting and use of tax revenues.

All taxes levied and collected under RCW 35.58.273 shall be credited to a special fund in the treasury of the municipality imposing such tax. Such taxes shall be levied and used solely for the purpose of paying all or any part of the cost of acquiring, constructing, equipping or

operating a publicly owned mass transportation system, or contracting for the services thereof, or to pay or secure the payment of all or part of the principal of or interest on any general obligation bonds or revenue bonds issued for public transportation capital purposes and until withdrawn for use, the moneys accumulated in such fund or funds may be invested by the treasurer of such municipality in the manner authorized by the legislative body of the municipality.

No municipality may use any of the proceeds of the taxes levied and collected under RCW 35.58.273 for the purpose of financing ambulance services nor shall the expenditure of sales and use tax authorized pursuant to RCW 82.14.045 for ambulance services be counted as locally generated tax revenues for apportionment and distribution of the proceeds of the motor vehicle excise tax authorized pursuant to RCW 35.58.273, in the manner prescribed by chapter 82.44 RCW as now or hereafter amended.

If any of the revenue from any such special excise tax shall have been pledged by any municipality to secure the payment of any bonds as herein authorized, then as long as that pledge shall be in effect the legislature shall not withdraw from the municipality the authority to levy and collect the tax. After August 11, 1969, any municipality is authorized to pledge that the tax authorized by RCW 35.58.273 shall be levied, collected and applied as provided by law to pay or secure the payment of any bonds issued by such municipality after such date but before May 14, 1979, for authorized public transportation purposes.

[1981 c 319 § 3; 1979 ex.s. c 175 § 3; 1969 ex.s. c 255 § 14.]

RCW 35.58.2791 Public transportation systems--Internal combustion equipment to comply with pollution control standards.

No new internal combustion powered equipment shall be acquired with funds derived from the taxes levied and collected under RCW 35.58.273 or with funds derived from general obligation bonds wholly or partially secured by the taxes levied and collected under RCW 35.58.273 unless they meet the standards for control of pollutants emitted by internal combustion engines as determined by the state air pollution control board, which standards shall not be less than those required by similar federal standards.

[1969 ex.s. c 255 § 19.]

RCW 35.58.2792 Public transportation systems--Parking facilities to be in conjunction with system stations or transfer facilities.

The construction of parking facilities to be wholly or partially financed with funds derived from the taxes levied and collected under RCW 35.58.273 or with funds derived from general obligation bonds wholly or partially secured by taxes levied and collected under RCW 35.58.273 shall be in conjunction with and adjacent to public transportation stations or transfer facilities.

[1969 ex.s. c 255 § 20.]

RCW 35.58.2794 Public transportation systems--Research, testing, development, etc., of systems--Powers to comply with federal laws.

Any city, county, public transportation benefit area authority, county transportation authority, or metropolitan municipal corporation operating a public transportation system shall be authorized to conduct, contract for, participate in and support research, demonstration, testing and development of public transportation systems, equipment and use incentives and shall have all powers necessary to comply with any criteria, standards, and regulations which may be adopted under the urban mass transportation act (78 Stat. 302 et seq., 49 U.S.C. 1601 et seq.) and to take all actions necessary to meet the requirements of that act. Any county in which a county transportation authority or public transportation benefit area shall have been established and any metropolitan municipal corporation which shall have been authorized to perform the function of metropolitan public transportation shall have, in addition to such powers, the authority to prepare, adopt and carry out a comprehensive transit plan and to make such other plans and studies and to perform such programs as the governing body of the county authority public transportation benefit area authority or metropolitan municipal corporation shall deem necessary to implement and comply with said federal act.

[1975 1st ex.s. c 270 § 8.]

Notes:

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

RCW 35.58.2795 Public transportation systems--Six-year transit plans.

By April 1st of each year, the legislative authority of each municipality, as defined in RCW 35.58.272, and each regional transit authority shall prepare a six-year transit development plan for that calendar year and the ensuing five years. The program shall be consistent with the comprehensive plans adopted by counties, cities, and towns, pursuant to chapter 35.63, 35A.63, or 36.70 RCW, the inherent authority of a first class city or charter county derived from its charter, or chapter 36.70A RCW. The program shall contain information as to how the municipality intends to meet state and local long-range priorities for public transportation, capital improvements, significant operating changes planned for the system, and how the municipality intends to fund program needs. The six-year plan for each municipality and regional transit authority shall specifically set forth those projects of regional significance for inclusion in the transportation improvement program within that region. Each municipality and regional transit authority shall file the six-year program with the state department of transportation, the transportation improvement board, and cities, counties, and regional planning councils within which the municipality is located.

In developing its program, the municipality and the regional transit authority shall consider those policy recommendations affecting public transportation contained in the state transportation policy plan approved by the state transportation commission and, where appropriate, adopted by the legislature. The municipality shall conduct one or more public hearings while developing its program and for each annual update.

[1994 c 158 § 6; 1990 1st ex.s. c 17 § 60; 1989 c 396 § 1.]

Notes:

Captions not law--Severability--Effective date--1994 c 158: See RCW 47.80.902 through 47.80.904.

Severability--Part, section headings not law--1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

RCW 35.58.2796 Public transportation systems--Annual report by department.

The department of transportation shall develop an annual report summarizing the status of public transportation systems in the state. By September 1st of each year, copies of the report shall be submitted to the legislative transportation committee and to each municipality, as defined in RCW 35.58.272, and to individual members of the municipality's legislative authority. The department shall prepare and submit a preliminary report by December 1, 1989.

To assist the department with preparation of the report, each municipality shall file a system report by April 1st of each year with the state department of transportation identifying its public transportation services for the previous calendar year and its objectives for improving the efficiency and effectiveness of those services. The system report shall address those items required for each public transportation system in the department's report.

The department report shall describe individual public transportation systems, including contracted transportation services and dial-a-ride services, and include a state-wide summary of public transportation issues and data. The descriptions shall include the following elements and such other elements as the department deems appropriate after consultation with the municipalities and the legislative transportation committee:

(1) Equipment and facilities, including vehicle replacement standards;

(2) Services and service standards;

(3) Revenues, expenses, and ending balances, by fund source;

(4) Policy issues and system improvement objectives, including community participation in development of those objectives and how those objectives address state-wide transportation priorities;

(5) Operating indicators applied to public transportation services, revenues, and expenses. Operating indicators shall include operating cost per passenger trip, operating cost per revenue vehicle service hour, passenger trips per revenue service hour, passenger trips per vehicle service mile, vehicle service hours per employee, and farebox revenue as a percent of operating costs.

[1989 c 396 § 2.]

RCW 35.58.280 Powers relative to garbage disposal.

If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan garbage disposal, it shall have the following powers in addition to the general powers granted by this chapter:

(1) To prepare a comprehensive garbage disposal plan for the metropolitan area.

(2) To acquire by purchase, condemnation, gift, or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of metropolitan facilities for garbage disposal within or without the metropolitan area, including garbage disposal sites, central collection station sites, structures, machinery and equipment for the operation of central collection stations and for the hauling and disposal of garbage by any means, together with all lands, property, equipment and accessories necessary for such facilities. Garbage disposal facilities which are owned by a city or county may be acquired or used by the metropolitan municipal corporation only with the consent of the legislative body of the city or county owning such facilities. Cities and counties are hereby authorized to convey or lease such facilities to metropolitan municipal corporations or to contract for their joint use on such terms as may be fixed by agreement between the legislative body of such city or county and the metropolitan council, without submitting the matter to the voters of such city or county.

(3) To fix rates and charges for the use of metropolitan garbage disposal facilities.

(4) With the consent of any component city, to acquire by purchase, condemnation, gift or grant and to lease, construct, add to, improve, replace, repair, maintain, operate and regulate the use of facilities for the local collection of garbage within such city, and for such purpose to have all the powers conferred by law upon such city with respect to such local collection facilities. Nothing herein contained shall be deemed to authorize the local collection of garbage except in component cities. All costs of such local collection facilities shall be paid for by the area served thereby.

[1965 c 7 § 35.58.280. Prior: 1957 c 213 § 28.]

RCW 35.58.290 Powers relative to parks and parkways.

If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan parks and parkways, it shall have the following powers in addition to the general powers granted by this chapter:

(1) To prepare a comprehensive plan of metropolitan parks and parkways.

(2) To acquire by purchase, condemnation, gift or grant, to lease, construct, add to, improve, develop, replace, repair, maintain, operate and regulate the use of metropolitan parks and parkways, together with all lands, rights of way, property, equipment and accessories necessary therefor. A park or parkway shall be considered to be a metropolitan facility if the metropolitan council shall by resolution find it to be of use and benefit to all or a major portion of the residents of the metropolitan area. Parks or parkways which are owned by a component city or county may be acquired or used by the metropolitan municipal corporation only with the consent of the legislative body of such city or county. Cities and counties are hereby authorized to convey or lease such facilities to metropolitan municipal corporations or to contract for their joint use on such terms as may be fixed by agreement between the legislative bodies of such city or county and the metropolitan council, without submitting the matter to the voters of such city or county. If parks or parkways which have been acquired or used as metropolitan facilities shall no longer be used for park purposes by the metropolitan municipal corporation, such facilities shall revert to the component city or county which formerly owned them.

(3) To fix fees and charges for the use of metropolitan park and parkway facilities.

[1965 c 7 § 35.58.290. Prior: 1957 c 213 § 29.]

RCW 35.58.300 Metropolitan park board.

If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan parks and parkways, a metropolitan park board shall be formed prior to the effective date of the assumption of such function. Except as provided in this section, the metropolitan park board shall exercise all powers of the metropolitan municipal corporation with respect to metropolitan park and parkway facilities.

The metropolitan park board shall authorize expenditures for park and parkway purposes within the budget adopted by the metropolitan council. Bonds of the metropolitan municipal corporation for park and parkway purposes shall be issued by the metropolitan council as provided in this chapter.

The metropolitan park board shall consist of five members appointed by the metropolitan council at least two of whom shall be residents of the central city. The terms of first appointees shall be for one, two, three, four and five years, respectively. Thereafter members shall serve for a term of four years. Compensation of park board members shall be determined by the metropolitan council.

The requirement to create a metropolitan park board shall not apply to a county that has assumed the rights, powers, functions, and obligations of the metropolitan municipal corporation under chapter 36.56 RCW.

[1993 c 240 § 7; 1965 c 7 § 35.58.300. Prior: 1957 c 213 § 30.]

RCW 35.58.310 Powers relative to planning.

If a metropolitan municipal corporation shall be authorized to perform the function of metropolitan comprehensive planning, it shall have the following powers in addition to the general powers granted by this chapter:

(1) To prepare a recommended comprehensive land use and capital facilities plan for the metropolitan area.

(2) To review proposed zoning ordinances and resolutions or comprehensive plans of component cities and counties and make recommendations thereon. Such proposed zoning ordinances and resolutions or comprehensive plans must be submitted to the metropolitan council prior to adoption and may not be adopted until reviewed and returned by the metropolitan council. The metropolitan council shall cause such ordinances, resolutions and plans to be reviewed by the planning staff of the metropolitan municipal corporation and return such ordinances, resolutions and plans, together with their findings and recommendations thereon within sixty days following their submission.

(3) To provide planning services for component cities and counties upon request and upon payment therefor by the cities or counties receiving such service.

[1965 c 7 § 35.58.310. Prior: 1957 c 213 § 31.]

RCW 35.58.320 Eminent domain.

A metropolitan municipal corporation shall have power to acquire by purchase and condemnation all lands and property rights, both within and without the metropolitan area, which are necessary for its purposes. Such right of eminent domain shall be exercised by the metropolitan council in the same manner and by the same procedure as is or may be provided by law for cities, except insofar as such laws may be inconsistent with the provisions of this chapter.

[1993 c 240 § 8; 1965 c 7 § 35.58.320. Prior: 1957 c 213 § 32.]

Notes:
Eminent domain by cities: Chapter 8.12 RCW.

RCW 35.58.330 Powers may be exercised with relation to public rights of way without franchise--Conditions.

A metropolitan municipal corporation shall have power to construct or maintain metropolitan facilities in, along, on, under, over, or through public streets, bridges, viaducts, and other public rights of way without first obtaining a franchise from the county or city having jurisdiction over the same: PROVIDED, That such facilities shall be constructed and maintained in accordance with the ordinances and resolutions of such city or county relating to construction, installation and maintenance of similar facilities in such public properties.

[1965 c 7 § 35.58.330. Prior: 1957 c 213 § 33.]

RCW 35.58.340 Disposition of unneeded property.

Except as otherwise provided herein, a metropolitan municipal corporation may sell, or otherwise dispose of any real or personal property acquired in connection with any authorized metropolitan function and which is no longer required for the purposes of the metropolitan municipal corporation in the same manner as provided for cities. When the metropolitan council determines that a metropolitan facility or any part thereof which has been acquired from a component city or county without compensation is no longer required for metropolitan purposes, but is required as a local facility by the city or county from which it was acquired, the metropolitan council shall by resolution transfer it to such city or county.

[1993 c 240 § 9; 1965 c 7 § 35.58.340. Prior: 1957 c 213 § 34.]

RCW 35.58.350 Powers and functions of metropolitan municipal corporation--Where vested--Powers of metropolitan council.

All the powers and functions of a metropolitan municipal corporation shall be vested in the metropolitan council unless expressly vested in specific officers, boards, or commissions by

this chapter, or vested in the county legislative authority of a county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation as provided in chapter 36.56 RCW. Without limitation of the foregoing authority, or of other powers given it by this chapter, the metropolitan council shall have the following powers:

(1) To establish offices, departments, boards and commissions in addition to those provided by this chapter which are necessary to carry out the purposes of the metropolitan municipal corporation, and to prescribe the functions, powers and duties thereof.

(2) To appoint or provide for the appointment of, and to remove or to provide for the removal of, all officers and employees of the metropolitan municipal corporation except those whose appointment or removal is otherwise provided by this chapter.

(3) To fix the salaries, wages and other compensation of all officers and employees of the metropolitan municipal corporation unless the same shall be otherwise fixed in this chapter.

(4) To employ such engineering, legal, financial, or other specialized personnel as may be necessary to accomplish the purposes of the metropolitan municipal corporation.

[1993 c 240 § 10; 1965 c 7 § 35.58.350. Prior: 1957 c 213 § 35.]

RCW 35.58.360 Rules and regulations--Penalties--Enforcement.

A metropolitan municipal corporation shall have power to adopt by resolution such rules and regulations as shall be necessary or proper to enable it to carry out authorized metropolitan functions and may provide penalties for the violation thereof. Actions to impose or enforce such penalties may be brought in the superior court of the state of Washington in and for the central county.

[1965 c 7 § 35.58.360. Prior: 1957 c 213 § 36.]

RCW 35.58.370 Merit system.

The metropolitan council shall establish and provide for the operation and maintenance of a personnel merit system for the employment, classification, promotion, demotion, suspension, transfer, layoff and discharge of its appointive officers and employees solely on the basis of merit and fitness without regard to political influence or affiliation. The person appointed or body created for the purpose of administering such personnel system shall have power to make, amend and repeal rules and regulations as are deemed necessary for such merit system. Such rules and regulations shall provide:

(1) That the person to be discharged or demoted must be presented with the reasons for such discharge or demotion specifically stated; and

(2) That he shall be allowed a reasonable time in which to reply thereto in writing and that he be given a hearing thereon within a reasonable time.

[1965 c 7 § 35.58.370. Prior: 1957 c 213 § 37.]

RCW 35.58.380 Retention of existing personnel.

A metropolitan municipal corporation shall offer to employ every person who on the date such corporation acquires a metropolitan facility is employed in the operation of such facility by a component city or county or by a special district.

[1965 c 7 § 35.58.380. Prior: 1957 c 213 § 38.]

Notes:
Assumption of labor contracts upon acquisition of transportation system: RCW 35.58.265.

RCW 35.58.390 Prior employees pension rights preserved.

Where a metropolitan municipal corporation employs a person employed immediately prior thereto by a component city or county, or by a special district, such employee shall be deemed to remain an employee of such city, county, or special district for the purposes of any pension plan of such city, county, or special district, and shall continue to be entitled to all rights and benefits thereunder as if he had remained as an employee of the city, county, or special district, until the metropolitan municipal corporation has provided a pension plan and such employee has elected, in writing, to participate therein.

Until such election, the metropolitan municipal corporation shall deduct from the remuneration of such employee the amount which such employee is or may be required to pay in accordance with the provisions of the plan of such city, county, or special district and the metropolitan municipal corporation shall pay to the city, county, or special district any amounts required to be paid under the provisions of such plan by employer or employee.

[1965 c 7 § 35.58.390. Prior: 1957 c 213 § 39.]

Notes:
Preservation of pension rights upon acquisition of transportation system: RCW 35.58.265.
Public employment, civil service and pensions: Title 41 RCW.

RCW 35.58.400 Prior employees sick leave and vacation rights preserved.

Where a metropolitan municipal corporation employs a person employed immediately prior thereto by a component city or county or by a special district, the employee shall be deemed to remain an employee of such city, county, or special district for the purposes of any sick leave credit plan of the component city, county, or special district until the metropolitan municipal corporation has established a sick leave credit plan for its employees, whereupon the metropolitan municipal corporation shall place to the credit of the employee the sick leave credits standing to his credit in the plan of such city, county, or special district.

Where a metropolitan municipal corporation employs a person theretofore employed by a component city, county, or by a special district, the metropolitan municipal corporation shall, during the first year of his employment by the metropolitan municipal corporation, provide for such employee a vacation with pay equivalent to that which he would have been entitled if he

had remained in the employment of the city, county, or special district.

[1965 c 7 § 35.58.400. Prior: 1957 c 213 § 40.]

Notes:
Preservation of sick leave, vacation, and other benefits upon acquisition of transportation system: RCW 35.58.265.

RCW 35.58.410 Budget--Expenditures--Revenue estimates--Requirements for a county assuming the powers of a metropolitan municipal corporation.

(1) On or before the third Monday in June of each year, each metropolitan municipal corporation shall adopt a budget for the following calendar year. Such budget shall include a separate section for each authorized metropolitan function. Expenditures shall be segregated as to operation and maintenance expenses and capital and betterment outlays. Administrative and other expense general to the corporation shall be allocated between the authorized metropolitan functions. The budget shall contain an estimate of all revenues to be collected during the following budget year, including any surplus funds remaining unexpended from the preceding year. The metropolitan council shall not be required to confine capital or betterment expenditures made from bond proceeds or emergency expenditures to items provided in the budget. The affirmative vote of three-fourths of all members of the metropolitan council shall be required to authorize emergency expenditures.

(2) Subsection (1) of this section shall not apply to a county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW. This subsection (2) shall apply only to each county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW.

Each county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW shall, on or before the third Monday in June of each year, prepare an estimate of all revenues to be collected during the following calendar year, including any surplus funds remaining unexpended from the preceding year for each authorized metropolitan function.

By June 30 of each year, the county shall adopt the rate for sewage disposal that will be charged to component cities and water-sewer districts during the following budget year.

As long as any general obligation indebtedness remains outstanding that was issued by the metropolitan municipal corporation prior to the assumption by the county, the county shall continue to impose the taxes authorized by RCW 82.14.045 and 35.58.273(4) at the maximum rates and on all of the taxable events authorized by law. If, despite the continued imposition of those taxes, the estimate of revenues made on or before the third Monday in June shows that estimated revenues will be insufficient to make all debt service payments falling due in the following calendar year on all general obligation indebtedness issued by the metropolitan municipal corporation prior to the assumption by the county of the rights, powers, functions, and obligations of the metropolitan municipal corporation, the remaining amount required to make the debt service payments shall be designated as "supplemental income" and shall be obtained from component cities and component counties as provided under RCW 35.58.420.

The county shall prepare and adopt a budget each year in accordance with applicable general law or county charter. If supplemental income has been designated under this subsection, the supplemental income shall be reflected in the budget that is adopted. If during the budget year the actual tax revenues from the taxes imposed under the authority of RCW 82.14.045 and 35.58.273(4) exceed the estimates upon which the supplemental income was based, the difference shall be refunded to the component cities and component counties in proportion to their payments promptly after the end of the budget year. A county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW shall not be required to confine capital or betterment expenditures for authorized metropolitan functions from bond proceeds or emergency expenditures to items provided in the budget.

[1999 c 153 § 36; 1998 c 321 § 26 (Referendum Bill No. 49, approved November 3, 1998); 1993 c 240 § 11; 1965 c 7 § 35.58.410. Prior: 1957 c 213 § 41.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.
Purpose--Severability--1998 c 321: See notes following RCW 82.14.045.
Contingent effective dates--1998 c 321 §§ 23-42: See note following RCW 35.58.273.

RCW 35.58.420 Supplemental income payments by component city and county.

Each component city shall pay such proportion of the supplemental income of the metropolitan municipal corporation as the assessed valuation of property within its limits bears to the total assessed valuation of taxable property within the metropolitan area. Each component county shall pay such proportion of such supplemental income as the assessed valuation of the property within the unincorporated area of such county lying within the metropolitan area bears to the total assessed valuation of taxable property within the metropolitan area. In making such determination, the metropolitan council shall use the last available assessed valuations. The metropolitan council shall certify to each component city and county, prior to the fourth Monday in June of each year, the share of the supplemental income to be paid by such component city or county for the next calendar year. The latter shall then include such amount in its budget for the ensuing calendar year, and during such year shall pay to the metropolitan municipal corporation, in equal quarterly installments, the amount of its supplemental income share from whatever sources may be available to it.

[1965 c 7 § 35.58.420. Prior: 1957 c 213 § 42.]

RCW 35.58.430 Funds--Disbursements--Treasurer--Expenses--Election expenses.

The treasurer of each component county shall create a separate fund into which shall be paid all money collected from taxes levied by the metropolitan municipal corporation on property in such county and such money shall be forwarded quarterly by the treasurer of each such county to the treasurer of the central county as directed by the metropolitan council. The treasurer of the central county shall act as the treasurer of the metropolitan municipal corporation and shall establish and maintain such funds as may be authorized by the metropolitan council.

Money shall be disbursed from such funds upon warrants drawn by the auditor of the central county as authorized by the metropolitan council. The central county shall be reimbursed by the metropolitan municipal corporation for services rendered by the treasurer and auditor of the central county in connection with the receipt and disbursement of such funds. The expense of all special elections held pursuant to this chapter shall be paid by the metropolitan municipal corporation.

[1965 c 7 § 35.58.430. Prior: 1957 c 213 § 43.]

RCW 35.58.450 General obligation bonds--Issuance, sale, form, term, election, payment.

Notwithstanding the limitations of chapter 39.36 RCW and any other statutory limitations otherwise applicable and limiting municipal debt, a metropolitan municipal corporation shall have the power to contract indebtedness and issue general obligation bonds and to pledge the full faith and credit of the corporation to the payment thereof, for any authorized capital purpose of the metropolitan municipal corporation, not to exceed an amount, together with any outstanding nonvoter approved general indebtedness, equal to three-fourths of one percent of the value of the taxable property within the metropolitan municipal corporation, as the term "value of the taxable property" is defined in RCW 39.36.015. A metropolitan municipal corporation may additionally contract indebtedness and issue general obligation bonds, for any authorized capital purpose of a metropolitan municipal corporation, together with any other outstanding general indebtedness, not to exceed an amount equal to five percent of the value of the taxable property within the corporation, as the term "value of the taxable property" is defined in RCW 39.36.015, when a proposition authorizing the indebtedness has been approved by three-fifths of the persons voting on said proposition at said election at which such election the total number of persons voting on such bond proposition shall constitute not less than forty percent of the total number of voters voting within the area of said metropolitan municipal corporation at the last preceding state general election. Such general obligation bonds may be authorized in any total amount in one or more propositions and the amount of such authorization may exceed the amount of bonds which could then lawfully be issued. Such bonds may be issued in one or more series from time to time out of such authorization. The elections shall be held pursuant to RCW 39.36.050.

Whenever the voters of a metropolitan municipal corporation have, pursuant to RCW 84.52.056, approved excess property tax levies to retire such bond issues, both the principal of and interest on such general obligation bonds may be made payable from annual tax levies to be made upon all the taxable property within the metropolitan municipal corporation in excess of the constitutional and/or statutory tax limit. The principal of and interest on any general obligation bond may be made payable from any other taxes or any special assessments which the metropolitan municipal corporation may be authorized to levy or from any otherwise unpledged revenue which may be derived from the ownership or operation of properties or facilities incident to the performance of the authorized function for which such bonds are issued or may be made payable from any combination of the foregoing sources. The metropolitan council may include in the principal amount of such bond issue an amount for engineering, architectural,

planning, financial, legal, urban design and other services incident to acquisition or construction solely for authorized capital purposes.

General obligation bonds shall be issued and sold by the metropolitan council as provided in chapter 39.46 RCW and shall mature in not to exceed forty years from the date of issue.

[1993 c 240 § 13; 1984 c 186 § 18; 1983 c 167 § 47; 1973 1st ex.s. c 195 § 24; 1971 ex.s. c 303 § 9; 1970 ex.s. c 56 § 38; 1970 ex.s. c 42 § 13; 1970 ex.s. c 11 § 1. Prior: 1969 ex.s. c 255 § 17; 1969 ex.s. c 232 § 16; 1967 c 105 § 13; 1965 c 7 § 35.58.450; prior: 1957 c 213 § 45.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

Limitations upon indebtedness: State Constitution Art. 7 § 2 (Amendments 55, 59), Art. 8 § 6 (Amendment 27), chapter 39.36 RCW, RCW 84.52.050.

RCW 35.58.460 Revenue bonds--Issuance, sale, form, term, payment, reserves, actions.

(1) A metropolitan municipal corporation may issue revenue bonds to provide funds to carry out its authorized metropolitan water pollution abatement, water supply, garbage disposal or transportation purposes, without submitting the matter to the voters of the metropolitan municipal corporation. The metropolitan council shall create a special fund or funds for the sole purpose of paying the principal of and interest on the bonds of each such issue, into which fund or funds the metropolitan council may obligate the metropolitan municipal corporation to pay such amounts of the gross revenue of the particular utility constructed, acquired, improved, added to, or repaired out of the proceeds of sale of such bonds, as the metropolitan council shall determine and may obligate the metropolitan municipal corporation to pay such amounts out of otherwise unpledged revenue which may be derived from the ownership, use or operation of properties or facilities owned, used or operated incident to the performance of the authorized function for which such bonds are issued or out of otherwise unpledged fees, tolls, charges, tariffs, fares, rentals, special taxes or other sources of payment lawfully authorized for such purpose, as the metropolitan council shall determine. The principal of, and interest on, such bonds shall be payable only out of such special fund or funds, and the owners of such bonds shall have a lien and charge against the gross revenue of such utility or any other revenue, fees, tolls, charges, tariffs, fares, special taxes or other authorized sources pledged to the payment of such bonds.

Such revenue bonds and the interest thereon issued against such fund or funds shall be a valid claim of the owners thereof only as against such fund or funds and the revenue pledged therefor, and shall not constitute a general indebtedness of the metropolitan municipal corporation.

Each such revenue bond shall state upon its face that it is payable from such special fund or funds, and all revenue bonds issued under this chapter shall be negotiable securities within the provisions of the law of this state. Such revenue bonds may be registered either as to principal only or as to principal and interest as provided in RCW 39.46.030, or may be bearer bonds; shall be in such denominations as the metropolitan council shall deem proper; shall be payable at such time or times and at such places as shall be determined by the metropolitan council; shall bear interest at such rate or rates as shall be determined by the metropolitan council; shall be signed by the chairman and attested by the secretary of the metropolitan council, any of which signatures may be facsimile signatures, and the seal of the metropolitan municipal corporation shall be impressed or imprinted thereon; any attached interest coupons shall be signed by the facsimile signatures of said officials.

Such revenue bonds shall be sold in such manner, at such price and at such rate or rates of interest as the metropolitan council shall deem to be for the best interests of the metropolitan municipal corporation, either at public or private sale.

The metropolitan council may at the time of the issuance of such revenue bonds make such covenants with the owners of said bonds as it may deem necessary to secure and guarantee the payment of the principal thereof and the interest thereon, including but not being limited to covenants to set aside adequate reserves to secure or guarantee the payment of such principal and interest, to maintain rates sufficient to pay such principal and interest and to maintain adequate coverage over debt service, to appoint a trustee or trustees for the bond owners to safeguard the expenditure of the proceeds of sale of such bonds and to fix the powers and duties of such trustee or trustees and to make such other covenants as the metropolitan council may deem necessary to accomplish the most advantageous sale of such bonds. The metropolitan council may also provide that revenue bonds payable out of the same source may later be issued on a parity with revenue bonds being issued and sold.

The metropolitan council may include in the principal amount of any such revenue bond issue an amount to establish necessary reserves, an amount for working capital and an amount necessary for interest during the period of construction of any such metropolitan facilities plus six months. The metropolitan council may, if it deems it to the best interest of the metropolitan municipal corporation, provide in any contract for the construction or acquisition of any metropolitan facilities or additions or improvements thereto or replacements or extensions thereof that payment therefor shall be made only in such revenue bonds at the par value thereof.

If the metropolitan municipal corporation shall fail to carry out or perform any of its obligations or covenants made in the authorization, issuance and sale of such bonds, the owner of any such bond may bring action against the metropolitan municipal corporation and compel the performance of any or all of such covenants.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

[1993 c 240 § 14; 1983 c 167 § 48; 1974 ex.s. c 70 § 8; 1970 ex.s. c 56 § 39; 1970 ex.s. c 11 § 2; 1969 ex.s. c 255 § 18; 1969 ex.s. c 232 § 17; 1967 c 105 § 14; 1965 c 7 § 35.58.460. Prior: 1957 c 213 § 46.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.
Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.
Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.
Alternative authority to issue revenue bonds: RCW 39.46.150, 39.46.160.
Funds for reserve purposes may be included in issue amount: RCW 39.44.140.

RCW 35.58.470 Funding, refunding bonds.

The metropolitan council may, by resolution, without submitting the matter to the voters of the metropolitan municipal corporation, provide for the issuance of funding or refunding general obligation bonds to refund any outstanding general obligation bonds or any part thereof at maturity, or before maturity if they are by their terms or by other agreement subject to prior redemption, with the right in the metropolitan council to combine various series and issues of the outstanding bonds by a single issue of funding or refunding bonds, and to issue refunding bonds to pay any redemption premium payable on the outstanding bonds being refunded. The funding or refunding general obligation bonds shall, except as specifically provided in this section, be issued in accordance with the provisions of this chapter with respect to general obligation bonds.

The metropolitan council may, by resolution, without submitting the matter to the voters of the metropolitan municipal corporation, provide for the issuance of funding or refunding revenue bonds to refund any outstanding revenue bonds or any part thereof at maturity, or before maturity if they are by their terms or by agreement subject to prior redemption, with the right in the metropolitan council to combine various series and issues of the outstanding bonds by a single issue of refunding bonds, and to issue refunding bonds to pay any redemption premium payable on the outstanding bonds being refunded. The funding or refunding revenue bonds shall be payable only out of a special fund created out of the gross revenue of the particular utility, and shall be a valid claim only as against such special fund and the amount of the revenue of the utility pledged to the fund. The funding or refunding revenue bonds shall, except as specifically provided in this section, be issued in accordance with the provisions of this chapter with respect to revenue bonds.

The metropolitan council may exchange the funding or refunding bonds at par for the bonds which are being funded or refunded, or it may sell them in such manner, at such price and at such rate or rates of interest as it deems for the best interest of the metropolitan municipal corporation.

[1970 ex.s. c 56 § 40; 1969 ex.s. c 232 § 18; 1965 c 7 § 35.58.470. Prior: 1957 c 213 § 47.]

Notes:

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.
Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 35.58.480 Borrowing money from component city or county.

A metropolitan municipal corporation shall have the power when authorized by a majority of all members of the metropolitan council to borrow money from any component city or county and such cities or counties are hereby authorized to make such loans or advances on such terms as may be mutually agreed upon by the legislative bodies of the metropolitan

municipal corporation and any such component city or county to provide funds to carry out the purposes of the metropolitan municipal corporation.

[1965 c 7 § 35.58.480. Prior: 1957 c 213 § 48.]

RCW 35.58.490 Interest bearing warrants.

A metropolitan council shall have the power to authorize the issuance of interest bearing warrants on such terms and conditions as the metropolitan council shall provide and to repay the interest bearing warrants with any moneys legally authorized for such purposes, including tax receipts where appropriate.

[1993 c 240 § 15; 1965 c 7 § 35.58.490. Prior: 1957 c 213 § 49.]

RCW 35.58.500 Local improvement districts--Utility local improvement districts.

The metropolitan municipal corporation shall have the power to levy special assessments payable over a period of not exceeding twenty years on all property within the metropolitan area specially benefited by any improvement, on the basis of special benefits conferred, to pay in whole, or in part, the damages or costs of any such improvement, and for such purpose may establish local improvement districts and enlarged local improvement districts, issue local improvement warrants and bonds to be repaid by the collection of local improvement assessments and generally to exercise with respect to any improvements which it may be authorized to construct or acquire the same powers as may now or hereafter be conferred by law upon cities. Such local improvement districts shall be created and such special assessments levied and collected and local improvement warrants and bonds issued and sold in the same manner as shall now or hereafter be provided by law for cities. The duties imposed upon the city treasurer under such acts shall be imposed upon the treasurer of the county in which such local improvement district shall be located.

A metropolitan municipal corporation may provide that special benefit assessments levied in any local improvement district may be paid into such revenue bond redemption fund or funds as may be designated by the metropolitan council to secure the payment of revenue bonds issued to provide funds to pay the cost of improvements for which such assessments were levied. If local improvement district assessments shall be levied for payment into a revenue bond fund, the local improvement district created therefor shall be designated a utility local improvement district. A metropolitan municipal corporation that creates a utility local improvement district shall conform with the laws relating to utility local improvement districts created by a city.

[1993 c 240 § 16; 1965 c 7 § 35.58.500. Prior: 1957 c 213 § 50.]

Notes:

Local improvements, supplemental authority: Chapter 35.51 RCW.

Special assessments or taxation for local improvements: State Constitution Art. 7 § 9.

RCW 35.58.510 Obligations of corporation are legal investments and security for public deposits.

All banks, trust companies, bankers, savings banks, and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, curators, trustees and other fiduciaries, may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds or other obligations issued by a metropolitan municipal corporation pursuant to this chapter. Such bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this section to authorize any persons, political subdivisions and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations. Nothing contained in this section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities.

[1965 c 7 § 35.58.510. Prior: 1957 c 213 § 51.]

RCW 35.58.520 Investment of corporate funds.

A metropolitan municipal corporation shall have the power to invest its funds held in reserves or sinking funds or any such funds which are not required for immediate disbursement, in any investments in which a city is authorized to invest, as provided in RCW 35.39.030.

[1993 c 240 § 17; 1965 c 7 § 35.58.520. Prior: 1957 c 213 § 52.]

RCW 35.58.530 Annexation--Requirements, procedure.

Territory located within a component county that is annexed to a component city after the establishment of a metropolitan municipal corporation shall by such act be annexed to the metropolitan municipal corporation. Territory within a metropolitan municipal corporation may be annexed to a city which is not within such metropolitan municipal corporation in the manner provided by law and in such event either (1) such city may be annexed to such metropolitan municipal corporation by ordinance of the legislative body of the city concurred in by resolution of the metropolitan council, or (2) if such city shall not be so annexed such territory shall remain within the metropolitan municipal corporation unless such city shall by resolution of its legislative body request the withdrawal of such territory subject to any outstanding indebtedness of the metropolitan corporation and the metropolitan council shall by resolution consent to such withdrawal.

Any territory located within a component county that is contiguous to a metropolitan municipal corporation and lying wholly within an incorporated city or town may be annexed to such metropolitan municipal corporation by ordinance of the legislative body of such city or town requesting such annexation concurred in by resolution of the metropolitan council.

Any other territory located within a component county that is adjacent to a metropolitan

municipal corporation may be annexed thereto by vote of the qualified electors residing in the territory to be annexed, in the manner provided in this chapter. An election to annex such territory may be called pursuant to a petition or resolution in the following manner:

(1) A petition calling for such an election shall be signed by at least four percent of the qualified voters residing within the territory to be annexed and shall be filed with the auditor of the central county.

(2) A resolution calling for such an election may be adopted by the metropolitan council.

Any resolution or petition calling for such an election shall describe the boundaries of the territory to be annexed, and state that the annexation of such territory to the metropolitan municipal corporation will be conducive to the welfare and benefit of the persons or property within the metropolitan municipal corporation and within the territory proposed to be annexed.

Upon receipt of such a petition, the auditor shall examine the same and certify to the sufficiency of the signatures thereon. Within thirty days following the receipt of such petition, the auditor shall transmit the same to the metropolitan council, together with his certificate as to the sufficiency thereof.

[1993 c 240 § 18; 1969 ex.s. c 135 § 3; 1967 c 105 § 15; 1965 c 7 § 35.58.530. Prior: 1957 c 213 § 53.]

RCW 35.58.540 Annexation--Hearings--Inclusion, exclusion of territory--Boundaries--Calling election.

Upon receipt of a duly certified petition calling for an election on the annexation of territory to a metropolitan municipal corporation, or if the metropolitan council shall determine without a petition being filed, that an election on the annexation of any adjacent territory shall be held, the metropolitan council shall fix a date for a public hearing thereon which shall be not more than sixty nor less than forty days following the receipt of such petition or adoption of such resolution. Notice of such hearing shall be published once a week for at least four consecutive weeks in one or more newspapers of general circulation within the territory proposed to be annexed. The notice shall contain a description of the boundaries of the territory proposed to be annexed and shall state the time and place of the hearing thereon and the fact that any changes in the boundaries of such territory will be considered at such time and place. At such hearing or any continuation thereof, any interested person may appear and be heard on all matters relating to the proposed annexation. The metropolitan council may make such changes in the boundaries of the territory proposed to be annexed as it shall deem reasonable and proper, but may not delete any portion of the proposed area which will create an island of included or excluded lands and may not delete a portion of any city. If the metropolitan council shall determine that any additional territory should be included in the territory to be annexed, a second hearing shall be held and notice given in the same manner as for the original hearing. The metropolitan council may adjourn the hearing on the proposed annexation from time to time not exceeding thirty days in all. At the next regular meeting following the conclusion of such hearing, the metropolitan council shall, if it finds that the annexation of such territory will be conducive to the welfare and benefit of the persons and property therein and the welfare and benefit of the persons and property within the metropolitan municipal corporation, adopt a resolution fixing the boundaries

of the territory to be annexed and causing to be called a special election on such annexation to be held not more than one hundred twenty days nor less than sixty days following the adoption of such resolution.

[1965 c 7 § 35.58.540. Prior: 1957 c 213 § 54.]

Notes:
Notice of election: RCW 29.27.080.

RCW 35.58.550 Annexation--Election--Favorable vote.

An election on the annexation of territory to a metropolitan municipal corporation shall be conducted and canvassed in the same manner as provided for the conduct of an election on the formation of a metropolitan municipal corporation except that notice of such election shall be published in one or more newspapers of general circulation in the territory proposed to be annexed and the ballot proposition shall be in substantially the following form:

ANNEXATION TO (here insert name of metropolitan municipal corporation).

"Shall the territory described in a resolution of the metropolitan council of (here insert name of metropolitan municipal corporation) adopted on the . . . . . ., 19. . ., be annexed to such incorporation?

YES . . . . . ☐
NO . . . . . ☐"

If a majority of those voting on such proposition vote in favor thereof, the territory shall thereupon be annexed to the metropolitan municipal corporation.

[1965 c 7 § 35.58.550. Prior: 1957 c 213 § 55.]

Notes:
Canvassing returns, generally: Chapter 29.62 RCW.
Conduct of elections--Canvass: RCW 29.13.040.

RCW 35.58.560 Taxes--Counties or cities not to impose on certain operations--Credits or offsets against state taxes--Refund of motor vehicle fuel taxes paid.

No county or city shall have the right to impose a tax upon the gross revenues derived by a metropolitan municipal corporation from the operation of a metropolitan sewage disposal, water supply, garbage disposal or public transportation system.

A metropolitan municipal corporation may credit or offset against the amount of any tax which is levied by the state during any calendar year upon the gross revenues derived by such

metropolitan municipal corporation from the performance of any authorized function, the amount of any expenditures made from such gross revenues by such metropolitan municipal corporation during the same calendar year or any year prior to May 21, 1971 in planning for or performing the function of metropolitan public transportation and including interest on any moneys advanced for such purpose from other funds and to the extent of such credit a metropolitan municipal corporation may expend such revenues for such purposes.

A metropolitan municipal corporation authorized to perform the function of metropolitan public transportation and engaged in the operation of an urban passenger transportation system shall receive a refund of the amount of the motor vehicle fuel tax levied by the state and paid on each gallon of motor vehicle fuel used, whether such vehicle fuel tax has been paid either directly to the vendor from whom the motor vehicle fuel was purchased or indirectly by adding the amount of such tax to the price of such fuel: PROVIDED, That no refunds authorized by this section shall be granted on fuel used by any urban transportation vehicle on any trip where any portion of said trip is more than six road miles beyond the corporate limits of the metropolitan municipal corporation in which said trip originated.

[1971 ex.s. c 303 § 10; 1967 c 105 § 16.]

RCW 35.58.570 Sewage facilities--Capacity charge.

(1) A metropolitan municipal corporation that is engaged in the transmission, treatment, and disposal of sewage may impose a capacity charge on users of the metropolitan municipal corporation's sewage facilities when the user connects, reconnects, or establishes a new service to sewer facilities of a city, county, or special district that discharges into the metropolitan facilities. The capacity charge shall be based upon the cost of the sewage facilities' excess capacity that is necessary to provide sewerage treatment for new users to the system.

(2) The capacity charge is a monthly charge reviewed and approved annually by the metropolitan council. A metropolitan municipal corporation may charge property owners seeking to connect to the sewage facilities of the metropolitan municipal corporation as a condition to granting the right to so connect, in addition to the cost of such connection, such reasonable capacity charge as the legislative body of the metropolitan municipal corporation shall determine proper in order that such property owners shall bear their equitable share of the cost of such system. The equitable share may include interest charges applied from the date of construction of the sewage facilities until the connection, or for a period not to exceed ten years, at a rate commensurate with the rate of interest applicable to the metropolitan municipal corporation at the time of construction or major rehabilitation of the sewage facilities, or at the time of installation of the sewer lines to which the property owner is seeking to connect but not to exceed ten percent per year: PROVIDED, That the aggregate amount of interest shall not exceed the equitable share of the cost of the sewage facilities allocated to such property owners. Capacity charges collected shall be considered revenue of the sewage facilities.

(3) The council of the metropolitan municipal corporation shall enforce the collection of the capacity charge in the same manner provided for the collection, enforcement, and payment of rates and charges for water-sewer districts provided in RCW 57.08.081. At least thirty days

before commencement of an action to foreclose a lien for a capacity charge, the metropolitan municipal corporation shall send written notice of delinquency in payment of the capacity charge to any first mortgage or deed of trust holder of record at the address of record.

[2000 c 161 § 1; 1996 c 230 § 1602; 1989 c 389 § 1.]

Notes:

Part headings not law--Effective date--1996 c 230: See notes following RCW 57.02.001.

RCW 35.58.900 Liberal construction.

The rule of strict construction shall have no application to this chapter, but the same shall be liberally construed in all respects in order to carry out the purposes and objects for which this chapter is intended.

[1965 c 7 § 35.58.900. Prior: 1957 c 213 § 56.]

RCW 35.58.911 Prior proceedings validated, ratified, approved and confirmed.

All proceedings which have been taken prior to the date *this 1967 amendatory act takes effect for the purpose of financing or aiding in the financing of any work, undertaking or project by any metropolitan municipal corporation, including all proceedings for the authorization and issuance of bonds and for the sale, execution, and delivery thereof, are hereby validated, ratified, approved, and confirmed, notwithstanding any lack of power (other than constitutional) of such metropolitan municipal corporation or the governing body or officers thereof, to authorize and issue such bonds, or to sell, execute, or deliver the same and notwithstanding any defects or irregularities (other than constitutional) in such proceedings.

[1967 c 105 § 17.]

Notes:

***Reviser's note:** The effective date of "this 1967 amendatory act" [1967 c 105] is March 21, 1967; see preface to 1967 session laws. For codification of 1967 c 105, see Codification Tables, Volume 0.

RCW 35.58.920 Severability--1967 c 105.

If any provision of this 1967 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1967 amendatory act, or the application of the provision to other persons or circumstances is not affected.

[1967 c 105 § 18.]

RCW 35.58.930 Severability--1971 ex.s. c 303.

If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1971 ex.s. c 303 § 11.]

RCW 35.58.931 Severability--1974 ex.s. c 70.

If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1974 ex.s. c 70 § 9.]

Chapter 35.59 RCW
MULTI-PURPOSE COMMUNITY CENTERS

Sections

35.59.010 Definitions.
35.59.020 Legislative finding--Purposes for which authority granted may be exercised.
35.59.030 Acquisition, construction, operation, etc., of community centers authorized.
35.59.040 Conveyance or lease of lands or facilities to other municipality for community center development--Participation in financing.
35.59.050 Powers of condemnation.
35.59.060 Appropriation and expenditure of public moneys, issuance of general obligation bonds authorized--Procedure.
35.59.070 Revenue bonds.
35.59.080 Lease or contract for use or operation of facilities.
35.59.090 Counties authorized to establish community centers.
35.59.100 Prior proceedings validated and ratified.
35.59.110 Powers and authority conferred deemed additional and supplemental.
35.59.900 Severability--1967 c 110.

RCW 35.59.010 Definitions.

"Municipality" as used in this chapter means any county, city or town of the state of Washington.

"Government agency" as used in this chapter means the federal government or any agency thereof, or the state or any agency, subdivision, taxing district or municipal corporation thereof other than a county, city or town.

"Person" as used in this chapter means any private corporation, partnership, association or individual.

"Multi-purpose community center" as used in this chapter means the lands, interests in lands, property, property rights, equipment, buildings, structures and other improvements developed as an integrated, multi-purpose, public facility on a single site or immediately adjacent sites for the housing and furnishing of any combination of the following community or public services or facilities: Administrative, legislative or judicial offices and chambers of any municipality, public health facilities, public safety facilities including without limitation, adult

and juvenile detention facilities, fire and police stations, public halls, auditoria, libraries and museums, public facilities for the teaching, practice or exhibition of arts and crafts, educational facilities, playfields, playgrounds, parks, indoor and outdoor sports and recreation facilities. The term multi-purpose community center shall also mean and include walks, ramps, bridges, terminal and parking facilities for private vehicles and public transportation vehicles and systems, utilities, accessories, landscaping, and appurtenances incident to and necessary for such centers.

[1967 c 110 § 1.]

Notes:

Effective date--1967 c 110: "This act shall take effect on June 9, 1967." [1967 c 110 § 13.]

RCW 35.59.020 Legislative finding--Purposes for which authority granted may be exercised.

The legislature finds that in many areas of the state local services and facilities can be more effectively and economically provided by combining two or more services and/or facilities in a single multi-purpose community center or a system of such centers. Any municipality shall have and exercise the authority and powers granted by this chapter whenever it appears to the legislative body of such municipality that the acquisition, construction, development and operation of a multi-purpose community center or a system of such centers will accomplish one or more of the following: Reduce costs of land acquisition, construction, maintenance or operation for affected public services or facilities; avoid duplication of structures, facilities or personnel; improve communication and coordination between departments of a municipality or governmental agency or between municipalities and governmental agencies; make local public services or facilities more convenient or useful to the residents and citizens of such municipality.

[1967 c 110 § 2.]

RCW 35.59.030 Acquisition, construction, operation, etc., of community centers authorized.

Any municipality is authorized either individually or jointly with any other municipality or municipalities or any governmental agency or agencies, or any combination thereof, to acquire by purchase, condemnation, gift or grant, to lease as lessee, and to construct, install, add to, improve, replace, repair, maintain, operate and regulate the use of multi-purpose community centers located within such municipality, and to pay for any investigations and any engineering, planning, financial, legal and professional services incident to the development and operation of such multi-purpose community centers.

[1967 c 110 § 3.]

RCW 35.59.040 Conveyance or lease of lands or facilities to other municipality for community center development--Participation in financing.

Any municipality, and any agency, subdivision, taxing district or municipal corporation of the state is authorized to convey or lease any lands, properties or facilities to any other municipality for the development by such other municipality of a multi-purpose community center or a system of such centers or to provide for the joint use of such lands, properties or facilities or any other facilities of a multi-purpose community center, and is authorized to participate in the financing of all or any part of such multi-purpose community center or system of such centers on such terms as may be fixed by agreement between the respective legislative bodies without submitting the matter to a vote of the electors thereof, unless the provisions of the Constitution or laws of this state applicable to the incurring of indebtedness shall require such submission.

[1967 c 110 § 4.]

Notes:
Joint operations by municipal corporations, deposit and control of funds: RCW 43.09.285.

RCW 35.59.050 Powers of condemnation.

The accomplishment of the objectives authorized by this chapter is declared to be a strictly public purpose of the municipality or municipalities authorized to perform the same. Any such municipality shall have the power to acquire by condemnation and purchase any lands and property rights within its boundaries which are necessary to carry out the purposes authorized by this chapter. Such right of eminent domain shall be exercised by the legislative body of each such municipality in the manner provided by applicable general law.

[1967 c 110 § 5.]

RCW 35.59.060 Appropriation and expenditure of public moneys, issuance of general obligation bonds authorized--Procedure.

To carry out the purposes of this chapter any municipality shall have the power to appropriate and/or expend any public moneys available therefor and to issue general obligation bonds within the limitations now or hereafter prescribed by the Constitution and laws of this state. Such general obligation bonds shall be issued and sold as provided in chapter 39.46 RCW. If the governing body of any municipality shall submit a proposition for the approval of general obligation bonds at any general or special election and shall declare in the ordinance or resolution setting forth such proposition that its purpose is the creation of a single integrated multi-purpose community center or a city-wide or county-wide system of such centers, all pursuant to this chapter, and that the creation of such center or system of centers constitutes a single purpose, such declaration shall be presumed to be correct and, upon the issuance of the bonds, such presumption shall become conclusive. Any such election shall be held pursuant to RCW 39.36.050.

[1984 c 186 § 19; 1983 c 167 § 49; 1967 c 110 § 6.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 35.59.070 Revenue bonds.

(1) To carry out the purposes authorized by this chapter the legislative body of any municipality shall have the power to issue revenue bonds, and to create a special fund or funds for the sole purpose of paying the principal of and interest on such bonds into which fund or funds the legislative body may obligate the municipality to pay all or part of the revenues derived from any one or more facilities or properties which will form part of the multi-purpose community center. The provisions of chapter 35.41 RCW not inconsistent with this chapter shall apply to the issuance and retirement of any revenue bonds issued for the purposes authorized in this chapter and for such purposes any municipality shall have and may exercise the powers, duties, and functions incident thereto held by cities and towns under such chapter 35.41 RCW. Such bonds may be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030. The legislative body of any municipality may fix the denominations of such bonds in any amount and the manner of executing such bonds, and may take such action as may be necessary and incidental to the issuance of such bonds and the retirement thereof.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 50; 1967 c 110 § 7.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 35.59.080 Lease or contract for use or operation of facilities.

The legislative body of any municipality owning or operating a multi-purpose community center acquired or developed pursuant to this chapter shall have power to lease to any municipality, governmental agency or person, or to contract for the use or operation by any municipality, governmental agency or person, of all or any part of the multi-purpose community center facilities authorized by this chapter, for such period and under such terms and conditions and upon such rentals, fees and charges as such legislative body may determine, and may pledge all or any portion of such rentals, fees and charges and any other revenue derived from the ownership and/or operation of any facilities of a multi-purpose community center to pay and to secure the payment of general obligation bonds and/or revenue bonds of such municipality issued for multi-purpose community center purposes.

[1967 c 110 § 8.]

RCW 35.59.090 Counties authorized to establish community centers.

Counties may establish multi-purpose community centers, pursuant to this chapter, in unincorporated areas and/or within cities or towns: PROVIDED, That no such center shall be

located in any city or town without the prior consent of the legislative body of such city or town.

[1967 c 110 § 9.]

RCW 35.59.100 Prior proceedings validated and ratified.

All proceedings which have been taken prior to the date this chapter takes effect for the purpose of financing or aiding in the financing of any work, undertaking or project authorized in this chapter by any municipality, including all proceedings for the authorization and issuance of bonds and for the sale, execution and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such municipality or the legislative body or officers thereof to authorize and issue such bonds, or to sell, execute, or deliver the same and notwithstanding any defects or irregularities (other than constitutional) in such proceedings.

[1967 c 110 § 10.]

RCW 35.59.110 Powers and authority conferred deemed additional and supplemental.

The powers and authority conferred upon municipalities under the provisions of this chapter, shall be construed as in addition and supplemental to powers or authority conferred by any other law, and nothing contained herein shall be construed as limiting any other powers or authority of such municipalities.

[1967 c 110 § 11.]

RCW 35.59.900 Severability--1967 c 110.

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

[1967 c 110 § 12.]

Chapter 35.60 RCW
WORLD FAIRS OR EXPOSITIONS--PARTICIPATION BY MUNICIPALITIES

Sections

35.60.010 "Municipality" defined.
35.60.020 Participation, exercise of powers declared public purpose and necessity.
35.60.030 Participation authorized--Powers--Costs.
35.60.040 Bonds--Laws applicable to authorization and issuance.
35.60.050 Authorization to appropriate funds and levy taxes.
35.60.060 Cooperation between municipalities--Use of facilities after conclusion of fair or exposition--Intergovernmental disposition of property.
35.60.070 Chapter supplemental to other laws.

RCW 35.60.010 "Municipality" defined.

"Municipality" as used in this chapter, means any political subdivision or municipal corporation of the state.

[1965 c 7 § 35.60.010. Prior: 1961 c 149 § 1; prior: 1961 c 39 § 1.]

Notes:

State participation in world fair and state international trade fairs: RCW 43.31.800 through 43.31.850.

RCW 35.60.020 Participation, exercise of powers declared public purpose and necessity.

The participation of any municipality in any world fair or exposition, whether held within the boundaries of such municipality or within the boundaries of another municipality; the purchase, lease, or other acquisition of necessary lands therefor; the acquisition, lease, construction, improvements, maintenance, and equipping of buildings or other structures upon such lands or other lands; the operation and maintenance necessary for such participation, and the exercise of any other powers herein granted to such municipalities, are hereby declared to be public, governmental, county and municipal functions, exercised for a public purpose, and matters of public necessity, and such lands and other property acquired, constructed, improved, maintained, equipped, used, and disposed of by such municipalities in the manner and for the purposes enumerated in this chapter shall and are hereby declared to be acquired, constructed, improved, maintained, equipped, used, and disposed of for public, governmental, county, and municipal purposes and as a matter of public necessity.

[1965 c 7 § 35.60.020. Prior: 1961 c 149 § 2; prior: 1961 c 39 § 2.]

RCW 35.60.030 Participation authorized--Powers--Costs.

Municipalities are authorized to participate in any world fair or exposition to be held within the state by the state or any political subdivision or municipal corporation thereof, whether held within the boundaries of such municipality or within the boundaries of another municipality. Any municipality so participating is authorized, through its governing authorities, to purchase, lease, or otherwise acquire property, real or personal; to construct, improve, maintain and equip buildings or other structures; and expend moneys for investigations, planning, operations, and maintenance necessary for such participation.

The cost of any such acquisition, construction, improvement, maintenance, equipping, investigations, planning, operation, or maintenance necessary for such participation may be paid for by appropriation of moneys available therefor, gifts, or wholly or partly from the proceeds of bonds of the municipality, as the governing authority of the municipality may determine.

[1965 c 7 § 35.60.030. Prior: 1961 c 149 § 3; prior: 1961 c 39 § 3.]

RCW 35.60.040 Bonds--Laws applicable to authorization and issuance.

Any bonds to be issued by any municipality pursuant to the provisions of RCW 35.60.030, shall be authorized and issued in the manner and within the limitations prescribed by the Constitution and laws of this state or charter of the municipality for the issuance and authorization of bonds thereof for public purposes generally and secured by a general tax levy as provided by law. Such bonds shall be issued and sold in accordance with chapter 39.46 RCW.

[1984 c 186 § 20; 1983 c 167 § 51; 1965 c 7 § 35.60.040. Prior: 1961 c 149 § 4; prior: 1961 c 39 § 4.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 35.60.050 Authorization to appropriate funds and levy taxes.

The governing bodies having power to appropriate moneys within such municipalities for the purpose of purchasing, leasing or otherwise acquiring property, constructing, improving, maintaining, and equipping buildings or other structures, and the investigations, planning, operation or maintenance necessary to participation in any such world fair or exposition, are hereby authorized to appropriate and cause to be raised by taxation or otherwise in such municipalities, moneys sufficient to carry out such purpose.

[1965 c 7 § 35.60.050. Prior: 1961 c 149 § 5; prior: 1961 c 39 § 5.]

RCW 35.60.060 Cooperation between municipalities--Use of facilities after conclusion of fair or exposition--Intergovernmental disposition of property.

In any case where the participation of a municipality includes the construction of buildings or other structures on lands of another municipality, the governing authorities constructing such buildings or structures shall endeavor to cooperate with such other municipality for the construction and maintenance of such buildings or structures to a standard of health and safety common in the county where the world fair or exposition is being or will be held; and shall cooperate with such other municipality in any comprehensive plans it may promulgate for the general construction and maintenance of said world fair or exposition and utilization of the grounds and buildings or structures after the conclusion of such world fair or exposition to the end that a reasonable, economic use of said buildings or structures shall be returned for the life of said buildings or structures.

The governing authorities of any municipality are hereby authorized and empowered to sell, exchange, transfer, lease or otherwise dispose of any property, real or personal, acquired or constructed for the purpose of participation in such fair or exposition, in accordance with the provisions of RCW 39.33.010.

[1965 c 7 § 35.60.060. Prior: 1961 c 149 § 6; prior: 1961 c 39 § 6.]

RCW 35.60.070 Chapter supplemental to other laws.

The powers and authority conferred upon municipalities under the provisions of this chapter, shall be construed as in addition and supplemental to powers or authority conferred by any other law, and nothing contained herein shall be construed as limiting any other powers or authority of such municipalities.

[1965 c 7 § 35.60.070. Prior: 1961 c 149 § 7; prior: 1961 c 39 § 7.]

Chapter 35.61 RCW
METROPOLITAN PARK DISTRICTS

Sections

35.61.001 Actions subject to review by boundary review board.
35.61.010 Authority to create.
35.61.020 Election--Petition--Area.
35.61.030 Election--Declaration of intention--Question stated.
35.61.040 Election--Creation of district.
35.61.050 Election of commissioners--Terms--Vacancies.
35.61.090 Elections--Laws governing.
35.61.100 Indebtedness limit--Without popular vote.
35.61.110 Indebtedness limit--With popular vote.
35.61.115 Revenue bonds.
35.61.120 Park commissioners as officers of district--Organization.
35.61.130 Park commissioners--Authority generally.
35.61.132 Disposition of surplus property.
35.61.133 Executory conditional sales contracts for purchase of property--Limit on indebtedness--Election, when.
35.61.135 Contracts--Competitive bidding--Small works roster--Exemption.
35.61.137 Community revitalization financing--Public improvements.
35.61.140 Park commissioners--Civil service for employees.
35.61.150 Park commissioners--Compensation.
35.61.180 Designation of district treasurer.
35.61.190 Park district bonds--Retirement.
35.61.200 Park district bonds--Payment of interest.
35.61.210 Park district tax levy--"Park district fund."
35.61.220 Petition for improvements on assessment plan.
35.61.230 Objections--Appeal.
35.61.240 Assessment lien--Collection.
35.61.250 Territorial annexation--Authority--Petition.
35.61.260 Territorial annexation--Hearing on petition.
35.61.270 Territorial annexation--Election--Method.
35.61.275 Territorial annexation--Park district containing city with population over one hundred thousand--Assumption of indebtedness.
35.61.280 Territorial annexation--Election--Result.
35.61.290 Transfer of city or county property--Authority--Emergency grant, loan, of funds by city.
35.61.300 Transfer of city or county property--Assumption of indebtedness.
35.61.310 Dissolution.

35.61.315 Disincorporation of district located in county with a population of two hundred ten thousand or more and inactive for five years.
35.61.350 Moorage facilities--Regulations authorized--Port charges, delinquency--Abandoned vessels, public sale.
35.61.360 Withdrawal or reannexation of areas.
35.61.370 Park district containing city with population over one hundred thousand--May commission police officers.

NOTES:
Acquisition of
land for and operation of public parks, beaches or camps: RCW 67.20.010.
real or personal property for park purposes, conditional sales contracts: RCW 39.30.010.
Appeal of assessments and reassessments: RCW 35.44.200 through 35.44.270.
Contracts with community service organizations for public improvements: RCW 35.21.278.
Limitations upon indebtedness: State Constitution Art. 7 § 2 (Amendments 55, 59), Art. 8 § 6 (Amendment 27), chapter 39.36 RCW, RCW 84.52.050.
Local governmental organizations, actions affecting boundaries, etc., review by boundary review board: Chapter 36.93 RCW.
Metropolitan park district property subject to assessment: RCW 35.44.170.
Park and recreation districts: Chapter 36.69 RCW.
Public bonds, form, terms of sale, payment, etc.: Chapter 39.44 RCW.
Shorelands, parks or playgrounds, application, grant or exchange: RCW 79.08.080, 79.08.090.

RCW 35.61.001 Actions subject to review by boundary review board.

The creation of a metropolitan park district, and an annexation by, or dissolution or disincorporation of, a metropolitan park district may be subject to potential review by a boundary review board under chapter 36.93 RCW.

[1989 c 84 § 31.]

RCW 35.61.010 Authority to create.

Cities of five thousand or more population and such contiguous property the residents of which may decide in favor thereof in the manner set forth in this chapter may create a metropolitan park district for the management, control, improvement, maintenance, and acquisition of parks, parkways, and boulevards.

[1994 c 81 § 60; 1985 c 416 § 1; 1965 c 7 § 35.61.010. Prior: 1959 c 45 § 1; 1943 c 264 § 1; Rem. Supp. 1943 § 6741-1; prior: 1907 c 98 § 1; RRS § 6720.]

Notes:

Validating--1943 c 264: "Acts of Metropolitan Park District Commissioners, and of the officers, employees and agents of Metropolitan Park Districts heretofore performed in good faith in accordance with the statutes which are hereby re-enacted, are hereby validated, and all assessments, levies and collections and all proceedings to assess, levy and collect as well as all debts, contracts and obligations heretofore made or incurred by or in favor of any Metropolitan Park District heretofore at any time existing and all bonds or other obligations thereof are hereby declared to be legal and valid and of full force and effect." [1943 c 264 § 23.]

RCW 35.61.020 Election--Petition--Area.

At any general election, or at any special election which may be called for that purpose, or at any city election held in the city in all of the various voting precincts thereof, the city council or commission may, or on petition of fifteen percent of the qualified electors of the city based upon the registration for the last preceding general city election, shall by ordinance, submit to the voters of the city the proposition of creating a metropolitan park district, the limits of which shall be coextensive with the limits of the city as now or hereafter established, inclusive of territory annexed to and forming a part of the city.

Territory by virtue of its annexation to any city having heretofore created a park district shall be deemed to be within the limits of the metropolitan park district.

The city council or commission shall submit the proposition at a special election to be called therefor when the petition so requests.

[1965 c 7 § 35.61.020. Prior: 1943 c 264 § 2, part; Rem. Supp. 1943 § 6741-2, part; prior: 1909 c 131 § 1; 1907 c 98 § 2, part; RRS § 6721, part.]

RCW 35.61.030 Election--Declaration of intention--Question stated.

In submitting the question to the voters for their approval or rejection, the city council or commission shall pass an ordinance declaring its intention to submit the proposition of creating a metropolitan park district to the qualified voters of the city. The ordinance shall be published once a week for two consecutive weeks in the official newspaper of the city, and the city council or commission shall cause to be placed upon the ballot for the election, at the proper place, the proposition which shall be expressed in the following terms:

☐ "For the formation of a metropolitan park district."
☐ "Against the formation of a metropolitan park district."

[1985 c 469 § 32; 1965 c 7 § 35.61.030. Prior: 1943 c 264 § 2, part; Rem. Supp. 1943 § 6741-2, part; prior: 1909 c 131 § 1; 1907 c 98 § 2, part; RRS § 6721, part.]

RCW 35.61.040 Election--Creation of district.

If at an election a majority of the voters voting thereon vote in favor of the formation of a metropolitan park district, the park district shall then be and become a municipal corporation and its name shall be "Metropolitan Park District of . . . . . (inserting the name of the city)."

[1965 c 7 § 35.61.040. Prior: 1943 c 264 § 3, part; Rem. Supp. 1943 § 6741-3, part; prior: 1909 c 131 § 2; 1907 c 98 § 3, part; RRS § 6722, part.]

RCW 35.61.050 Election of commissioners--Terms--Vacancies.

At the same election at which the proposition is submitted to the voters as to whether a metropolitan park district is to be formed, five park commissioners shall be elected. The election of park commissioners shall be null and void if the metropolitan park district is not created.

Candidates shall run for specific commission positions. No primary shall be held to nominate candidates. The person receiving the greatest number of votes for each position shall be elected as a commissioner. The staggering of the terms of office shall occur as follows: (1) The two persons who are elected receiving the two greatest numbers of votes shall be elected to six-year terms of office if the election is held in an odd-numbered year or five-year terms of office if the election is held in an even-numbered year; (2) the two persons who are elected receiving the next two greatest numbers of votes shall be elected to four-year terms of office if the election is held in an odd-numbered year or three-year terms of office if the election is held in an even-numbered year; and (3) the other person who is elected shall be elected to a two-year term of office if the election is held in an odd-numbered year or a one-year term of office if the election is held in an even-numbered year. The initial commissioners shall take office immediately when they are elected and qualified, and for purposes of computing their terms of office the terms shall be assumed to commence on the first day of January in the year after they are elected. Thereafter, all commissioners shall be elected to six-year terms of office. All commissioners shall serve until their respective successors are elected and qualified and assume office in accordance with RCW 29.04.170. Vacancies shall occur and shall be filled as provided in chapter 42.12 RCW.

[1994 c 223 § 23; 1979 ex.s. c 126 § 24; 1965 c 7 § 35.61.050. Prior: 1943 c 264 § 3, part; Rem. Supp. 1943 § 6741-3, part; prior: 1909 c 131 § 2; 1907 c 98 § 3, part; RRS § 6722, part.]

Notes:

Purpose--1979 ex.s. c 126: See RCW 29.04.170(1).

RCW 35.61.090 Elections--Laws governing.

The manner of holding any general or special election in a metropolitan park district shall be in accordance with the general election laws of this state insofar as they are not inconsistent with the provisions of this chapter.

[1985 c 416 § 3; 1965 c 7 § 35.61.090. Prior: 1943 c 264 § 3, part; Rem. Supp. 1943 § 6741-3, part; prior: 1909 c 131 § 2; 1907 c 98 § 3, part; RRS § 6722, part.]

Notes:

Elections: Title 29 RCW.

RCW 35.61.100 Indebtedness limit--Without popular vote.

Every metropolitan park district through its board of commissioners may contract indebtedness and evidence such indebtedness by the issuance and sale of warrants, short-term obligations as provided by chapter 39.50 RCW, or general obligation bonds, for park, boulevard, aviation landings, playgrounds, and parkway purposes, and the extension and maintenance thereof, not exceeding, together with all other outstanding nonvoter approved general indebtedness, one-quarter of one percent of the value of the taxable property in such metropolitan park district, as the term "value of the taxable property" is defined in RCW 39.36.015. General obligation bonds shall not be issued with a maximum term in excess of

twenty years. Such general obligation bonds shall be issued and sold in accordance with chapter 39.46 RCW.

[1993 c 247 § 1; 1989 c 319 § 2; 1984 c 186 § 21; 1983 c 61 § 1; 1970 ex.s. c 42 § 14; 1965 c 7 § 35.61.100. Prior: 1943 c 264 § 6; Rem. Supp. 1943 § 6741-6; prior: 1927 c 268 § 1; 1907 c 98 § 6; RRS § 6725.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Severability--Effective date--1970 ex.s. c 42: See notes following RCW 39.36.015.

RCW 35.61.110 Indebtedness limit--With popular vote.

Every metropolitan park district may contract indebtedness not exceeding in amount, together with existing voter-approved indebtedness and nonvoter-approved indebtedness, equal to two and one-half percent of the value of the taxable property in said district, as the term "value of the taxable property" is defined in RCW 39.36.015, whenever three-fifths of the voters voting at an election held in the metropolitan park district assent thereto; the election may be either a special or a general election, and the park commissioners of the metropolitan park district may cause the question of incurring such indebtedness, and issuing negotiable bonds of such metropolitan park district, to be submitted to the qualified voters of the district at any time.

[1989 c 319 § 3; 1970 ex.s. c 42 § 15; 1965 c 7 § 35.61.110. Prior: 1943 c 264 § 7; Rem. Supp. 1943 § 6741-7; prior: 1907 c 98 § 7; RRS § 6726.]

Notes:

Severability--Effective date--1970 ex.s. c 42: See notes following RCW 39.36.015.

Limitations upon indebtedness: State Constitution Art. 7 § 2 (Amendments 55, 59), Art. 8 § 6 (Amendment 27), chapter 39.36 RCW, RCW 84.52.050.

Validation requirement: RCW 39.40.010.

RCW 35.61.115 Revenue bonds.

A metropolitan park district may issue and sell revenue bonds as provided in chapter 39.46 RCW to be made payable from the operating revenues of the metropolitan park district.

[1989 c 319 § 1.]

RCW 35.61.120 Park commissioners as officers of district--Organization.

The officers of a metropolitan park district shall be a board of park commissioners consisting of five members. The board shall annually elect one of their number as president and another of their number as clerk of the board.

[1965 c 7 § 35.61.120. Prior: 1943 c 264 § 4, part; Rem. Supp. 1943 § 6741-4, part; prior: 1919 c 135 § 1, part; 1907 c 98 § 4; RRS § 6723, part.]

RCW 35.61.130 Park commissioners--Authority generally.

A metropolitan park district has the right of eminent domain, and may purchase, acquire and condemn lands lying within or without the boundaries of said park district, for public parks, parkways, boulevards, aviation landings and playgrounds, and may condemn such lands to widen, alter and extend streets, avenues, boulevards, parkways, aviation landings and playgrounds, to enlarge and extend existing parks, and to acquire lands for the establishment of new parks, boulevards, parkways, aviation landings and playgrounds. The right of eminent domain shall be exercised and instituted pursuant to resolution of the board of park commissioners and conducted in the same manner and under the same procedure as is or may be provided by law for the exercise of the power of eminent domain by incorporated cities and towns of the state of Washington in the acquisition of property rights: PROVIDED, HOWEVER, Funds to pay for condemnation allowed by this section shall be raised only as specified in this chapter. The board of park commissioners shall have power to employ counsel, and to regulate, manage and control the parks, parkways, boulevards, streets, avenues, aviation landings and playgrounds under its control, and to provide for park policemen, for a secretary of the board of park commissioners and for all necessary employees, to fix their salaries and duties. The board of park commissioners shall have power to improve, acquire, extend and maintain, open and lay out, parks, parkways, boulevards, avenues, aviation landings and playgrounds, within or without the park district, and to authorize, conduct and manage the letting of boats, or other amusement apparatus, the operation of bath houses, the purchase and sale of foodstuffs or other merchandise, the giving of vocal or instrumental concerts or other entertainments, the establishment and maintenance of aviation landings and playgrounds, and generally the management and conduct of such forms of recreation or business as it shall judge desirable or beneficial for the public, or for the production of revenue for expenditure for park purposes; and may pay out moneys for the maintenance and improvement of any such parks, parkways, boulevards, avenues, aviation landings and playgrounds as now exist, or may hereafter be acquired, within or without the limits of said city and for the purchase of lands within or without the limits of said city, whenever it deems the purchase to be for the benefit of the public and for the interest of the park district, and for the maintenance and improvement thereof and for all expenses incidental to its duties: PROVIDED, That all parks, boulevards, parkways, aviation landings and playgrounds shall be subject to the police regulations of the city within whose limits they lie.

[1969 c 54 § 1; 1965 c 7 § 35.61.130. Prior: (i) 1943 c 264 § 4, part; Rem. Supp. 1943 § 6741-4, part; prior: 1919 c 135 § 1, part; 1907 c 98 § 4; RRS § 6723, part. (ii) 1943 c 264 § 14; Rem. Supp. 1943 § 6741-14; prior: 1919 c 135 § 2; 1907 c 98 § 14; RRS § 6733.]

Notes:
Outdoor recreation land acquisition or improvement under marine recreation land act: Chapter 79A.25 RCW.

RCW 35.61.132 Disposition of surplus property.

Every metropolitan park district may, by unanimous decision of its board of park commissioners, sell, exchange, or otherwise dispose of any real or personal property acquired for park or recreational purposes when such property is declared surplus for park or other

recreational purposes: PROVIDED, That where the property is acquired by donation or dedication for park or recreational purposes, the consent of the donor or dedicator, his or her heirs, successors, or assigns is first obtained if the consent of the donor is required in the instrument conveying the property to the metropolitan park district. In the event the donor or dedicator, his or her heirs, successors, or assigns cannot be located after a reasonable search, the metropolitan park district may petition the superior court in the county where the property is located for approval of the sale. If sold, all sales shall be by public bids and sale made only to the highest and best bidder.

[1989 c 319 § 4; 1965 c 7 § 35.61.132. Prior: 1959 c 93 § 1.]

RCW 35.61.133 Executory conditional sales contracts for purchase of property--Limit on indebtedness--Election, when.

See RCW 39.30.010.

RCW 35.61.135 Contracts--Competitive bidding--Small works roster--Exemption.

(1) All work ordered, the estimated cost of which is in excess of five thousand dollars, shall be let by contract and competitive bidding. Before awarding any such contract the board of park commissioners shall publish a notice in a newspaper of general circulation where the district is located at least once thirteen days before the last date upon which bids will be received, inviting sealed proposals for such work, plans, and specifications which must at the time of publication of such notice be on file in the office of the board of park commissioners subject to the public inspection. The notice shall state generally the work to be done and shall call for proposals for doing the same to be sealed and filed with the board of park commissioners on or before the day and hour named therein.

Each bid shall be accompanied by a certified or cashier's check or postal money order payable to the order of the metropolitan park district for a sum not less than five percent of the amount of the bid, or accompanied by a bid bond in an amount not less than five percent of the bid with a corporate surety licensed to do business in the state, conditioned that the bidder will pay the metropolitan park district as liquidated damages the amount specified in the bond, unless the bidder enters into a contract in accordance with the bidder's bid, and no bid shall be considered unless accompanied by such check, cash, or bid bond. At the time and place named such bids shall be publicly opened and read and the board of park commissioners shall proceed to canvass the bids and may let such contract to the lowest responsible bidder upon plans and specifications on file or to the best bidder submitting the bidder's own plans and specifications. The board of park commissioners may reject all bids for good cause and readvertise and in such case all checks, cash, or bid bonds shall be returned to the bidders. If the contract is let, then all checks, cash, or bid bonds shall be returned to the bidders, except that of the successful bidder, which shall be retained until a contract is entered into for doing the work, and a bond to perform such work furnished with sureties satisfactory to the board of park commissioners in the full amount of the contract price between the bidder and the metropolitan park district in accordance

with the bid. If the bidder fails to enter into the contract in accordance with the bid and furnish the bond within ten days from the date at which the bidder is notified that the bidder is the successful bidder, the check, cash, or bid bonds and the amount thereof shall be forfeited to the metropolitan park district. If the bidder fails to enter into a contract in accordance with the bidder's bid, and the board of park commissioners deems it necessary to take legal action to collect on any bid bond required by this section, then the metropolitan park district is entitled to collect from the bidder any legal expenses, including reasonable attorneys' fees occasioned thereby. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

(2) As an alternative to requirements under subsection (1) of this section, a metropolitan park district may let contracts using the small works roster process under RCW 39.04.155.

(3) The park board may waive the competitive bidding requirements of this section pursuant to RCW 39.04.280 if an exemption contained within RCW 39.04.280 applies to the purchase or public work.

[2001 c 29 § 1.]

RCW 35.61.137 Community revitalization financing--Public improvements.

In addition to other authority that a metropolitan park district possesses, a metropolitan park district may provide any public improvement as defined under RCW 39.89.020, but this additional authority is limited to participating in the financing of the public improvements as provided under RCW 39.89.050.

This section does not limit the authority of a metropolitan park district to otherwise participate in the public improvements if that authority exists elsewhere.

[2001 c 212 § 12.]

NOTES:

Severability--2001 c 212: See RCW 39.89.902.

RCW 35.61.140 Park commissioners--Civil service for employees.

A metropolitan park district may establish civil service for its employees by resolution upon the following plan:

(1) It shall create a civil service commission with authority to appoint a personnel officer and to make rules and regulations for classification based upon suitable differences in pay for differences in work, and for like pay for like work, and for competitive entrance and promotional examinations; for certifications, appointments, probationary service periods and for dismissals therein; for demotions and promotions based upon merit and for reemployments, suspensions, transfers, sick leaves and vacations; for lay-offs when necessary according to seniority; for separations from the service by discharge for cause; for hearings and reinstatements, for establishing status for incumbent employees, and for prescribing penalties for violations.

(2) The civil service commission and personnel officer shall adopt rules to be known as civil service rules to govern the administration of personnel transactions and procedure. The rules so adopted shall have the force and effect of law, and, in any and all proceedings, the rules

shall be liberally interpreted and construed to the end that the purposes and basic requirements of the civil service system may be given the fullest force and effect.

[1965 c 7 § 35.61.140. Prior: 1943 c 264 § 4, part; Rem. Supp. 1943 § 6741-4, part; prior: 1919 c 135 § 1, part; 1907 c 98 § 4; RRS § 6723, part.]

Notes:
Public employment, civil service and pensions: Title 41 RCW.

RCW 35.61.150 Park commissioners--Compensation.

Metropolitan park commissioners shall perform their duties and may provide, by resolution passed by the commissioners, for the payment of compensation to each of its commissioners at a rate of up to seventy dollars for each day or portion of a day devoted to the business of the district. However, the compensation for each commissioner must not exceed six thousand seven hundred twenty dollars per year.

Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the clerk of the board. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

[1998 c 121 § 1; 1965 c 7 § 35.61.150. Prior: 1943 c 264 § 3, part; Rem. Supp. 1943 § 6741-3, part; prior: 1909 c 131 § 2; 1907 c 98 § 3, part; RRS § 6722, part.]

RCW 35.61.180 Designation of district treasurer.

The county treasurer of the county within which all, or the major portion, of the district lies shall be the ex officio treasurer of a metropolitan park district, but shall receive no compensation other than his or her regular salary for receiving and disbursing the funds of a metropolitan park district.

A metropolitan park district may designate someone other than the county treasurer who has experience in financial or fiscal affairs to act as the district treasurer if the board has received the approval of the county treasurer to designate this person. If the board designates someone other than the county treasurer to act as the district treasurer, the board shall purchase a bond from a surety company operating in the state that is sufficient to protect the district from loss.

[1987 c 203 § 1; 1983 c 167 § 55; 1965 c 7 § 35.61.180. Prior: 1943 c 264 § 13; Rem. Supp. 1943 § 6741-13; prior: 1907 c 98 § 13; RRS § 6732.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 35.61.190 Park district bonds--Retirement.

Whenever there is money in the metropolitan park district fund and the commissioners of the park district deem it advisable to apply any part thereof to the payment of bonded

indebtedness, they shall advertise in a newspaper of general circulation within the park district for the presentation to them for payment of as many bonds as they may desire to pay with the funds on hand, the bonds to be paid in numerical order, beginning with the lowest number outstanding and called by number.

Thirty days after the first publication of the notice by the board calling in bonds they shall cease to bear interest, and this shall be stated in the notice.

[1985 c 469 § 33; 1965 c 7 § 35.61.190. Prior: 1943 c 264 § 11; Rem. Supp. 1943 § 6741-11; prior: 1907 c 98 § 11; RRS § 6730.]

RCW 35.61.200 Park district bonds--Payment of interest.

Any coupons for the payment of interest on metropolitan park district bonds shall be considered for all purposes as warrants drawn upon the metropolitan park district fund against which the bonds were issued, and when presented after maturity to the treasurer of the county having custody of the fund. If there are no funds in the treasury to pay the coupons, the county treasurer shall endorse said coupons as presented for payment, in the same manner as county warrants are endorsed, and thereafter the coupon shall bear interest at the same rate as the bond to which it was attached. If there are no funds in the treasury to make payment on a bond not having coupons, the interest payment shall continue bearing interest at the bond rate until it is paid, unless otherwise provided in the proceedings authorizing the sale of the bonds.

[1983 c 167 § 56; 1965 c 7 § 35.61.200. Prior: 1943 c 264 § 12; Rem. Supp. 1943 § 6741-12; prior: 1907 c 98 § 12; RRS § 6731.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 35.61.210 Park district tax levy--"Park district fund."

The board of park commissioners may levy or cause to be levied a general tax on all the property located in said park district each year not to exceed fifty cents per thousand dollars of assessed value of the property in such park district. In addition, the board of park commissioners may levy or cause to be levied a general tax on all property located in said park district each year not to exceed twenty-five cents per thousand dollars of assessed valuation. Although park districts are authorized to impose two separate regular property tax levies, the levies shall be considered to be a single levy for purposes of the limitation provided for in chapter 84.55 RCW.

The board is hereby authorized to levy a general tax in excess of its regular property tax levy or levies when authorized so to do at a special election conducted in accordance with and subject to all the requirements of the Constitution and laws of the state now in force or hereafter enacted governing the limitation of tax levies. The board is hereby authorized to call a special election for the purpose of submitting to the qualified voters of the park district a proposition to levy a tax in excess of the seventy-five cents per thousand dollars of assessed value herein specifically authorized. The manner of submitting any such proposition, of certifying the same, and of giving or publishing notice thereof, shall be as provided by law for the submission of

propositions by cities or towns.

The board shall include in its general tax levy for each year a sufficient sum to pay the interest on all outstanding bonds and may include a sufficient amount to create a sinking fund for the redemption of all outstanding bonds. The levy shall be certified to the proper county officials for collection the same as other general taxes and when collected, the general tax shall be placed in a separate fund in the office of the county treasurer to be known as the "metropolitan park district fund" and paid out on warrants.

[1997 c 3 § 205 (Referendum Bill No. 47, approved November 4, 1997); 1990 c 234 § 3; 1973 1st ex.s. c 195 § 25; 1965 c 7 § 35.61.210. Prior: 1951 c 179 § 1; prior: (i) 1943 c 264 § 10, part; Rem. Supp. 1943 § 6741-10, part; prior: 1909 c 131 § 4; 1907 c 98 § 10; RRS § 6729. (ii) 1947 c 117 § 1; 1943 c 264 § 5; Rem. Supp. 1947 § 6741-5; prior: 1925 ex.s. c 97 § 1; 1907 c 98 § 5; RRS § 6724.]

Notes:

Intent--1997 c 3 §§ 201-207: See note following RCW 84.55.010.

Application--Severability--Part headings not law--Referral to electorate--1997 c 3: See notes following RCW 84.40.030.

Severability--Effective dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Limitation on levies: State Constitution Art. 7 § 2 (Amendments 55, 59), RCW 84.52.050.

RCW 35.61.220 Petition for improvements on assessment plan.

If at any time any proposed improvement of any parkway, avenue, street, or boulevard is deemed by the board of metropolitan park commissioners to be a special benefit to the lands adjoining, contiguous, approximate to or in the neighborhood of the proposed improvement, which lie within the city, the board may so declare, describing the property to be benefited. Thereupon they may petition the city council to cause the improvement contemplated by the commissioners to be done and made on the local assessment plan, and the portion of the cost of the improvement as fixed by such assessment roll to be assessed against the said property so benefited in the same manner and under the same procedure as of other local improvements, and the remainder of the cost of such improvement to be paid out of the metropolitan park district fund.

The board of park commissioners shall designate the kind, manner and style of the improvement to be made, and may designate the time within which it shall be made.

[1965 c 7 § 35.61.220. Prior: 1943 c 264 § 15; Rem. Supp. 1943 § 6741-15; prior: 1909 c 131 § 5; 1907 c 98 § 15; RRS § 6734.]

Notes:

Local improvements, supplemental authority: Chapter 35.51 RCW.

RCW 35.61.230 Objections--Appeal.

Any person, firm or corporation feeling aggrieved by the assessment against his or its property may file objections with the city council and may appeal from the order confirming the assessment roll in the same manner as objections and appeals are made in regard to local

improvements in cities of the first class.

[1965 c 7 § 35.61.230. Prior: 1943 c 264 § 16; Rem. Supp. 1943 § 6741-16; prior: 1907 c 98 § 17; RRS § 6736.]

Notes:
Appeal of assessments and reassessments: RCW 35.44.200 through 35.44.270.

RCW 35.61.240 Assessment lien--Collection.

The assessment for local improvements authorized by this chapter shall become a lien in the same manner, and be governed by the same law, as is provided for local assessments in cities of the first class and be collected as such assessments are collected.

[1965 c 7 § 35.61.240. Prior: 1943 c 264 § 17; Rem. Supp. 1943 § 6741-17; prior: 1907 c 98 § 18; RRS § 6737.]

Notes:
Collection and foreclosure of assessments: Chapters 35.49, 35.50 RCW.

RCW 35.61.250 Territorial annexation--Authority--Petition.

The territory adjoining a metropolitan park district may be annexed to and become a part thereof upon petition and an election held pursuant thereto. The petition shall define the territory proposed to be annexed and must be signed by twenty-five registered voters, resident within the territory proposed to be annexed, unless the territory is within the limits of another city when it must be signed by twenty percent of the registered voters residing within the territory proposed to be annexed. The petition must be addressed to the board of park commissioners requesting that the question be submitted to the legal voters of the territory proposed to be annexed, whether they will be annexed and become a part of the park district.

[1985 c 416 § 4; 1965 c 7 § 35.61.250. Prior: 1943 c 264 § 20, part; Rem. Supp. 1943 § 6741-20, part; prior: 1907 c 98 § 20, part; RRS § 6739, part.]

RCW 35.61.260 Territorial annexation--Hearing on petition.

Upon the filing of an annexation petition with the board of park commissioners, if the commissioners concur in the petition, they shall provide for a hearing to be held for the discussion of the proposed annexation at the office of the board of park commissioners, and shall give due notice thereof by publication at least once a week for two consecutive weeks before the hearing in a newspaper of general circulation in the park district.

[1985 c 469 § 34; 1965 c 7 § 35.61.260. Prior: 1943 c 264 § 20, part; Rem. Supp. 1943 § 6741-20, part; prior: 1907 c 98 § 20, part; RRS § 6739, part.]

RCW 35.61.270 Territorial annexation--Election--Method.

If the park commissioners concur in the petition, they shall cause the proposal to be submitted to the electors of the territory proposed to be annexed, at an election to be held in the

territory, which shall be called, canvassed and conducted in accordance with the general election laws. The board of park commissioners by resolution shall fix a time for the holding of the election to determine the question of annexation, and in addition to the notice required by RCW 29.27.080 shall give notice thereof by causing notice to be published once a week for two consecutive weeks in a newspaper of general circulation in the park district, and by posting notices in five public places within the territory proposed to be annexed in the district.

The ballot to be used at the election shall be in the following form:

☐ "For annexation to metropolitan park district."
☐ "Against annexation to metropolitan park district."

[1985 c 469 § 35; 1965 c 7 § 35.61.270. Prior: 1943 c 264 § 20, part; Rem. Supp. 1943 § 6741-20, part; prior: 1907 c 98 § 20, part; RRS § 6739, part.]

Notes:
Canvassing returns, generally: Chapter 29.62 RCW.
Conduct of elections--Canvass: RCW 29.13.040.
Times for holding elections: Chapter 29.13 RCW.

RCW 35.61.275 Territorial annexation--Park district containing city with population over one hundred thousand--Assumption of indebtedness.

The board of park commissioners of any metropolitan park district which includes a city with a population greater than one hundred thousand may submit to the electorate of the territory sought to be annexed a proposition that all property within the area annexed shall, upon annexation, be assessed and taxed at the same rate and on the same basis as the property of such annexing metropolitan park district to pay for all or any portion of the then outstanding indebtedness of the metropolitan park district.

[1989 c 319 § 6.]

RCW 35.61.280 Territorial annexation--Election--Result.

The canvassing authority shall cause a statement of the result of such election to be forwarded to the board of park commissioners for entry on the record of the board. If the majority of the votes cast upon that question at the election shall favor annexation, the territory shall immediately become annexed to the park district, and shall thenceforth be a part of the park district, the same as though originally included in the district. The expense of such election shall be paid out of park district funds.

[1965 c 7 § 35.61.280. Prior: (i) 1943 c 264 § 20, part; Rem. Supp. 1943 § 6741-20, part; prior: 1907 c 98 § 20, part; RRS § 6739, part. (ii) 1943 c 264 § 21; Rem. Supp. 1943 § 6741-21; prior: 1907 c 98 § 21; RRS § 6740.]

RCW 35.61.290 Transfer of city or county property--Authority--Emergency grant, loan, of funds by city.

(1) Any city within or comprising any metropolitan park district may turn over to the park district any lands which it may own, or any street, avenue, or public place within the city for playground, park or parkway purposes, and thereafter its control and management shall vest in the board of park commissioners: PROVIDED, That the police regulations of such city shall apply to all such premises.

At any time that any such metropolitan park district is unable, through lack of sufficient funds, to provide for the continuous operation, maintenance and improvement of the parks and playgrounds and other properties or facilities owned by it or under its control, and the legislative body of any city within or comprising such metropolitan park district shall determine that an emergency exists requiring the financial aid of such city to be extended in order to provide for such continuous operation, maintenance and/or improvement of parks, playgrounds facilities, other properties, and programs of such park district within its limits, such city may grant or loan to such metropolitan park district such of its available funds, or such funds which it may lawfully procure and make available, as it shall find necessary to provide for such continuous operation and maintenance and, pursuant thereto, any such city and the board of park commissioners of such district are authorized and empowered to enter into an agreement embodying such terms and conditions of any such grant or loan as may be mutually agreed upon.

The board of metropolitan park commissioners may accept public streets of the city and grounds for public purposes when donated for park, playground, boulevard and park purposes.

(2) Counties may turn over to the park district any park and recreation lands and equipment that they own, and the board of metropolitan park commissioners may accept such lands and equipment.

[1985 c 416 § 5; 1965 c 7 § 35.61.290. Prior: 1953 c 194 § 1. Formerly: (i) 1943 c 264 § 18; Rem. Supp. 1943 § 6741-18; prior: 1907 c 98 § 16; RRS § 6735. (ii) 1943 c 264 § 19; Rem. Supp. 1943 § 6741-19; prior: 1907 c 98 § 19; RRS § 6738.]

RCW 35.61.300 Transfer of city or county property--Assumption of indebtedness.

When any metropolitan park district shall be formed pursuant to this chapter and shall assume control of the parks, parkways, boulevards, and park property of the city in which said park district is created, or the metropolitan park district accepts county park and recreation lands, such park district shall assume all existing indebtedness, bonded or otherwise, against such park property, and shall arrange by taxation or issuing bonds, as herein provided, for the payment of such indebtedness, and shall relieve such city or county from such payment. Said park district is hereby given authority to issue refunding bonds when necessary in order to enable it to comply with this section.

[1985 c 416 § 6; 1965 c 7 § 35.61.300. Prior: 1943 c 264 § 22; Rem. Supp. 1943 § 6741-22; prior: 1907 c 98 § 22; RRS § 6741.]

RCW 35.61.310 Dissolution.

A board of commissioners of a metropolitan park district may, upon a majority vote of all

its members, dissolve any metropolitan park district, prorate the liabilities thereof, and turn over to the city and/or county so much of the district as is respectively located therein, when:

(1) Such city and/or county, through its governing officials, agrees to, and petitions for, such dissolution and the assumption of such assets and liabilities, or;

(2) Ten percent of the voters of such city and/or county who voted at the last general election petition the governing officials for such a vote.

[1965 c 7 § 35.61.310. Prior: 1953 c 269 § 1.]

Notes:
Dissolution of special districts: Chapters 36.96 and 53.48 RCW.

RCW 35.61.315 Disincorporation of district located in county with a population of two hundred ten thousand or more and inactive for five years.

See chapter 57.90 RCW.

RCW 35.61.350 Moorage facilities--Regulations authorized--Port charges, delinquency--Abandoned vessels, public sale.

See RCW 53.08.310 and 53.08.320.

RCW 35.61.360 Withdrawal or reannexation of areas.

(1) As provided in this section, a metropolitan park district may withdraw areas from its boundaries, or reannex areas into the metropolitan park district that previously had been withdrawn from the metropolitan park district under this section.

(2) The withdrawal of an area shall be authorized upon: (a) Adoption of a resolution by the park district commissioners requesting the withdrawal and finding that, in the opinion of the commissioners, inclusion of this area within the metropolitan park district will result in a reduction of the district's tax levy rate under the provisions of RCW 84.52.010; and (b) adoption of a resolution by the city or town council approving the withdrawal, if the area is located within the city or town, or adoption of a resolution by the county legislative authority of the county within which the area is located approving the withdrawal, if the area is located outside of a city or town. A withdrawal shall be effective at the end of the day on the thirty-first day of December in the year in which the resolutions are adopted, but for purposes of establishing boundaries for property tax purposes, the boundaries shall be established immediately upon the adoption of the second resolution.

The withdrawal of an area from the boundaries of a metropolitan park district shall not exempt any property therein from taxation for the purpose of paying the costs of redeeming any indebtedness of the metropolitan park district existing at the time of the withdrawal.

(3) An area that has been withdrawn from the boundaries of a metropolitan park district under this section may be reannexed into the metropolitan park district upon: (a) Adoption of a resolution by the park district commissioners proposing the reannexation; and (b) adoption of a

resolution by the city or town council approving the reannexation, if the area is located within the city or town, or adoption of a resolution by the county legislative authority of the county within which the area is located approving the reannexation, if the area is located outside of a city or town. The reannexation shall be effective at the end of the day on the thirty-first day of December in the year in which the adoption of the second resolution occurs, but for purposes of establishing boundaries for property tax purposes, the boundaries shall be established immediately upon the adoption of the second resolution. Referendum action on the proposed reannexation may be taken by the voters of the area proposed to be reannexed if a petition calling for a referendum is filed with the city or town council, or county legislative authority, within a thirty-day period after the adoption of the second resolution, which petition has been signed by registered voters of the area proposed to be reannexed equal in number to ten percent of the total number of the registered voters residing in that area.

If a valid petition signed by the requisite number of registered voters has been so filed, the effect of the resolutions shall be held in abeyance and a ballot proposition to authorize the reannexation shall be submitted to the voters of the area at the next special election date specified in *RCW 29.13.020 that occurs forty-five or more days after the petitions have been validated. Approval of the ballot proposition authorizing the reannexation by a simple majority vote shall authorize the reannexation.

[1987 c 138 § 2.]

Notes:

***Reviser's note:** As enacted by 1987 c 138 § 2, this section contained an apparently erroneous reference to RCW 29.13.030, a section repealed in 1965. Pursuant to RCW 1.08.015, this reference has been changed to RCW 29.13.020, a later enactment of the section repealed.

RCW 35.61.370 Park district containing city with population over one hundred thousand--May commission police officers.

A metropolitan park district which contains a city with a population greater than one hundred thousand may commission its own police officers with full police powers to enforce the laws and regulations of the city or county on metropolitan park district property. Police officers initially employed after June 30, 1989, pursuant to this section shall be required to successfully complete basic law enforcement training in accordance with chapter 43.101 RCW.

[1989 c 319 § 5.]

Chapter 35.62 RCW
NAME--CHANGE OF

Sections

35.62.010 Authority for.
35.62.021 Election--Petition or resolution.
35.62.031 Ballot--One name proposed.
35.62.041 Ballot--More than one name proposed--Votes necessary.

35.62.060 Results--Certification.

RCW 35.62.010 Authority for.

Any city or town may change its name in accordance with the procedure provided in this chapter.

[1965 c 7 § 35.62.010. Prior: 1925 ex.s. c 146 § 1; RRS § 8891-1.]

RCW 35.62.021 Election--Petition or resolution.

The question of whether the name of a city or town shall be changed shall be presented to the voters of the city or town upon either: (1) The adoption of a resolution by the city or town council proposing a specific name change; or (2) the submission of a petition proposing a specific name change that has been signed by voters of the city or town equal in number to at least ten percent of the total number of voters of the city or town who voted at the last municipal general election. However, for any newly incorporated city or town that has not had city officials elected at a normal general municipal election, the election that is used as the base for determining the number of required signatures shall be the election at which the initial elected officials were elected.

The election on changing the name of the city or town shall be held at the next general election occurring sixty or more days after the resolution was adopted, or the resolution [petition] was submitted that has been certified by the county auditor as having sufficient valid signatures.

[1990 c 193 § 1.]

RCW 35.62.031 Ballot--One name proposed.

Where only one new name has been proposed by petition or resolution such question shall be in substantially the following form:

"Shall the name of the city (or town) of __(insert name)__ be changed to the city (or town) of (insert the proposed new name) ?

Yes . . .
No . . ."

If a majority of the votes cast favor the name change, the city or town shall have its name changed effective thirty days after the certification of the election results.

[1990 c 193 § 2.]

RCW 35.62.041 Ballot--More than one name proposed--Votes necessary.

Where more than one name is proposed by either petition or resolution, the question shall be separated into two separate parts and shall be in substantially the following form:

"Shall the name of the city (or town) of __(insert name)__ be changed?

Yes . . .
No . . ."

"If a name change is approved, which of the following should be the new name?

__(insert name)__
__(insert name)__
Vote for one."

Voters may select a name change whether or not they vote in favor of changing the name of the city or town. If a majority of the votes cast on the first proposition favor changing the name, the name that receives at least a majority of the total number of votes cast for an alternative name shall become the new name of the city or town effective thirty days after the certification of the election results.

If no alternative name receives a simple majority vote, then an election shall be held at the next November special election date, at which voters shall be given the option of choosing which of the two alternative names that received the most votes shall become the new name of the city or town. This ballot proposition shall be worded substantially as follows:

"Which of the following names shall become the new name of the city (or town) of __(insert name)__?

__(insert name)__
__(insert name)__
Vote for one."

The name that receives the majority vote shall become the new name of the city or town effective thirty days after the certification of the election results.

[1990 c 193 § 3.]

RCW 35.62.060 Results--Certification.

Whenever any city or town has changed its name, the clerk shall certify the new name to the secretary of state prior to the date when the change takes effect.

[1965 c 7 § 35.62.060. Prior: 1925 ex.s. c 146 § 6; RRS § 8891-6.]

Chapter 35.63 RCW
PLANNING COMMISSIONS

Sections

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Municipal revenue bond act: Chapter 35.41 RCW.
Police and sanitary regulations: State Constitution Art. 11 § 11.
Recording of plats: Chapter 58.08 RCW.

RCW 35.63.010 Definitions.

As used in this chapter the following terms shall have the meaning herein given them:

"Appointive members" means all members of a commission other than ex officio members;

"Board" means the board of county commissioners;

"City" includes every incorporated city and town;

"Commission" means a city or county planning commission;

"Council" means the chief legislative body of a city;

"Ex officio members" means the members of a commission chosen from among city or county officials;

"Highways" include streets, roads, boulevards, lanes, alleys, viaducts and other traveled ways;

"Mayor" means the chief executive of a city;

"Municipality" includes every county and city.

[1965 c 7 § 35.63.010. Prior: 1935 c 44 § 1; RRS § 9322-1.]

RCW 35.63.015 "Solar energy system" defined.

As used in this chapter, "solar energy system" means any device or combination of devices or elements which rely upon direct sunlight as an energy source, including but not limited to any substance or device which collects sunlight for use in:

(1) The heating or cooling of a structure or building;

(2) The heating or pumping of water;

(3) Industrial, commercial, or agricultural processes; or

(4) The generation of electricity.

A solar energy system may be used for purposes in addition to the collection of solar energy. These uses include, but are not limited to, serving as a structural member or part of a roof of a building or structure and serving as a window or wall.

[1979 ex.s. c 170 § 2.]

Notes:

Severability--1979 ex.s. c 170: See note following RCW 64.04.140.

Local governments authorized to encourage and protect solar energy systems: RCW 64.04.140.

RCW 35.63.020 Commissioners--Manner of appointment.

If any council or board desires to avail itself of the powers conferred by this chapter it shall create a city or county planning commission consisting of from three to twelve members to be appointed by the mayor or chairman of the municipality and confirmed by the council or board: PROVIDED, That in cities of the first class having a commission form of government consisting of three or more members, the commissioner of public works shall appoint the planning commission, which appointment shall be confirmed by a majority of the city commissioners. Cities of the first class operating under self-government charters may extend the membership and the duties and powers of its commission beyond those prescribed in this chapter.

[1965 c 7 § 35.63.020. Prior: (i) 1935 c 44 § 2, part; RRS § 9322-2, part. (ii) 1935 c 44 § 12; RRS § 9322-12.]

RCW 35.63.030 Commissioners--Number--Tenure--Compensation.

The ordinance, resolution or act creating the commission shall set forth the number of members to be appointed, not more than one-third of which number may be ex officio members by virtue of office held in any municipality. The term of office for ex officio members shall correspond to their respective tenures. The term of office for the first appointive members appointed to such commission shall be designated from one to six years in such manner as to provide that the fewest possible terms will expire in any one year. Thereafter the term of office for each appointive member shall be six years.

Vacancies occurring otherwise than through the expiration of terms shall be filled for the unexpired term. Members may be removed, after public hearing, by the appointing official, with the approval of his council or board, for inefficiency, neglect of duty or malfeasance in office.

The members shall be selected without respect to political affiliations and they shall serve without compensation.

[1965 c 7 § 35.63.030. Prior: 1935 c 44 § 2, part; RRS § 9322-2, part.]

RCW 35.63.040 Commissions--Organization--Meeting--Rules.

The commission shall elect its own chairman and create and fill such other offices as it may determine it requires. The commission shall hold at least one regular meeting in each month for not less than nine months in each year. It shall adopt rules for transaction of business and shall keep a written record of its meetings, resolutions, transactions, findings and determinations which record shall be a public record.

[1965 c 7 § 35.63.040. Prior: 1935 c 44 § 3; RRS § 9322-3.]

RCW 35.63.050 Expenditures.

The expenditures of any commission or regional commission authorized and established under this chapter, exclusive of gifts, shall be within the amounts appropriated for the purpose by the council or board. Within such limits, any commission may employ such employees and expert consultants as are deemed necessary for its work.

[1965 c 7 § 35.63.050. Prior: 1935 c 44 § 4; RRS § 9322-4.]

RCW 35.63.060 Powers of commissions.

The commission may act as the research and fact finding agency of the municipality. To that end it may make such surveys, analyses, researches and reports as are generally authorized or requested by its council or board, or by the state with the approval of its council or board. The commission, upon such request or authority may also:

(1) Make inquiries, investigations, and surveys concerning the resources of the county, including but not limited to the potential for solar energy development and alternative means to encourage and protect access to direct sunlight for solar energy systems;

(2) Assemble and analyze the data thus obtained and formulate plans for the conservation of such resources and the systematic utilization and development thereof;

(3) Make recommendations from time to time as to the best methods of such conservation, utilization, and development;

(4) Cooperate with other commissions and with other public agencies of the municipality, state and United States in such planning, conservation, and development; and

(5) In particular cooperate with and aid the state within its territorial limits in the preparation of the state master plan provided for in RCW 43.21A.350 and in advance planning of public works programs.

[1988 c 127 § 1; 1979 ex.s. c 170 § 3; 1965 c 7 § 35.63.060. Prior: 1935 c 44 § 10; RRS § 9322-10.]

Notes:

Severability--1979 ex.s. c 170: See note following RCW 64.04.140.

RCW 35.63.065 Public notice--Identification of affected property.

Any notice made under chapter 35.63 RCW that identifies affected property may identify this affected property without using a legal description of the property including, but not limited to, identification by an address, written description, vicinity sketch, or other reasonable means.

[1988 c 168 § 9.]

RCW 35.63.070 Regional commissions--Appointment--Powers.

The commissions of two or more adjoining counties, of two or more adjacent cities and towns, of one or more cities and towns and/or one or more counties, together with the boards of

such counties and the councils of such cities and towns may cooperate to form, organize and administer a regional planning commission for the making of a regional plan for the region defined as may be agreed upon by the commissions, boards and councils. The regional commission when requested by the commissions of its region, may further perform any of the other duties for its region that are specified in RCW 35.63.060 for city and county commissions. The number of members of a regional commission, their method of appointment and the proportion of the cost of regional planning, surveys and studies to be borne respectively by the various counties and cities in the region, shall be such as may be agreed upon by commissions, boards and councils.

Any regional planning commission, or the councils or boards respectively of any city, town, or county, are authorized to receive grants-in-aid from the government of the United States or of any of its agencies, and are authorized to enter into any reasonable agreement with any department or agency of the government of the United States to arrange for the receipt of federal funds for planning in the interest of furthering the planning program.

[1965 c 7 § 35.63.070. Prior: 1957 c 130 § 1; 1935 c 44 § 11; RRS § 9322-11.]

Notes:
Commission as employer for retirement system purposes: RCW 41.40.010.

RCW 35.63.080 Restrictions on buildings--Use of land.

The council or board may provide for the preparation by its commission and the adoption and enforcement of coordinated plans for the physical development of the municipality. For this purpose the council or board, in such measure as is deemed reasonably necessary or requisite in the interest of health, safety, morals and the general welfare, upon recommendation by its commission, by general ordinances of the city or general resolution of the board, may regulate and restrict the location and the use of buildings, structures and land for residence, trade, industrial and other purposes; the height, number of stories, size, construction and design of buildings and other structures; the size of yards, courts and other open spaces on the lot or tract; the density of population; the set-back of buildings along highways, parks or public water frontages; and the subdivision and development of land; and may encourage and protect access to direct sunlight for solar energy systems. A council where such ordinances are in effect, may, on the recommendation of its commission provide for the appointment of a board of adjustment, to make, in appropriate cases and subject to appropriate conditions and safeguards established by ordinance, special exceptions in harmony with the general purposes and intent and in accordance with general or specific rules therein contained.

[1979 ex.s. c 170 § 4; 1965 c 7 § 35.63.080. Prior: 1935 c 44 § 5; RRS § 9322-5.]

Notes:
Severability--1979 ex.s. c 170: See note following RCW 64.04.140.

RCW 35.63.090 Restrictions--Purposes of.

All regulations shall be worked out as parts of a comprehensive plan which each commission shall prepare for the physical and other generally advantageous development of the municipality and shall be designed, among other things, to encourage the most appropriate use of land throughout the municipality; to lessen traffic congestion and accidents; to secure safety from fire; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to promote a coordinated development of the unbuilt areas; to encourage the formation of neighborhood or community units; to secure an appropriate allotment of land area in new developments for all the requirements of community life; to conserve and restore natural beauty and other natural resources; to encourage and protect access to direct sunlight for solar energy systems; and to facilitate the adequate provision of transportation, water, sewerage and other public uses and requirements, including protection of the quality and quantity of ground water used for public water supplies. Each plan shall include a review of drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute Puget Sound or waters entering Puget Sound.

[1985 c 126 § 1; 1984 c 253 § 1; 1979 ex.s. c 170 § 5; 1965 c 7 § 35.63.090. Prior: 1935 c 44 § 7; RRS § 9322-7.]

Notes:

Severability--1979 ex.s. c 170: See note following RCW 64.04.140.

RCW 35.63.100 Restrictions--Recommendations of commission--Hearings--Adoption of comprehensive plan--Certifying--Filing or recording.

The commission may recommend to its council or board the plan prepared by it as a whole, or may recommend parts of the plan by successive recommendations; the parts corresponding with geographic or political sections, division or subdivisions of the municipality, or with functional subdivisions of the subject matter of the plan, or in the case of counties, with suburban settlement or arterial highway area. It may also prepare and recommend any amendment or extension thereof or addition thereto.

Before the recommendation of the initial plan to the municipality the commission shall hold at least one public hearing thereon, giving notice of the time and place by one publication in a newspaper of general circulation in the municipality and in the official gazette, if any, of the municipality.

The council may adopt by resolution or ordinance and the board may adopt by resolution the plan recommended to it by the commission, or any part of the plan, as the comprehensive plan.

A true copy of the resolution of the board adopting or embodying such plan or any part thereof or any amendment thereto shall be certified by the clerk of the board and filed with the county auditor. A like certified copy of any map or plat referred to or adopted by the county resolution shall likewise be filed with the county auditor. The auditor shall record the resolution and keep on file the map or plat.

The original resolution or ordinance of the council adopting or embodying such plan or

any part thereof or any amendment thereto shall be certified by the clerk of the city and filed by him. The original of any map or plat referred to or adopted by the resolution or ordinance of the council shall likewise be certified by the clerk of the city and filed by him. The clerk shall keep on file the resolution or ordinance and map or plat.

[1967 ex.s. c 144 § 8; 1965 c 7 § 35.63.100. Prior: 1935 c 44 § 8; RRS § 9322-8.]

Notes:

Effective date--1967 ex.s. c 144: The effective date of 1967 ex.s. c 144 is July 30, 1967.

Severability--1967 ex.s. c 144: See note following RCW 36.900.030.

Validation--1967 ex.s. c 144: "Any city comprehensive plan and all amendments thereto which have been filed or recorded with the county auditor prior to the effective date of this 1967 amendatory act shall be valid and need not be refiled with the clerk of the city to remain valid and in full force and effect." [1967 ex.s. c 144 § 10.]

RCW 35.63.105 Amendments to comprehensive plan to be adopted, certified, and recorded or filed in accordance with RCW 35.63.100.

All amendments to a comprehensive plan shall be adopted, certified, and recorded or filed in the same manner as authorized in RCW 35.63.100 for an initial comprehensive plan.

[1967 ex.s. c 144 § 9.]

Notes:

Severability--1967 ex.s. c 144: See note following RCW 36.900.030.

Validation--1967 ex.s. c 144: See note following RCW 35.63.100.

RCW 35.63.110 Restrictive zones.

For any or all of such purposes the council or board, on recommendation of its commission, may divide the municipality or any portion thereof into districts of such size, shape and area, or may establish such official maps, or development plans for the whole or any portion of the municipality as may be deemed best suited to carry out the purposes of this chapter and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land.

[1965 c 7 § 35.63.110. Prior: 1935 c 44 § 6; RRS § 9322-6.]

RCW 35.63.120 Supplemental restrictions--Hearing--Affirmance, disaffirmance, modification of commission's decision.

Any ordinance or resolution adopting any such plan or regulations, or any part thereof, may be amended, supplemented or modified by subsequent ordinance or resolution.

Proposed amendments, supplementations, or modifications shall first be heard by the commission and the decision shall be made and reported by the commission within ninety days of the time that the proposed amendments, supplementations, or modifications were made.

The council or board, pursuant to public hearing called by them upon application therefor by any interested party or upon their own order, may affirm, modify or disaffirm any decision of the commission.

[1965 c 7 § 35.63.120. Prior: 1957 c 194 § 1; 1935 c 44 § 9; RRS § 9322-9.]

RCW 35.63.125 Development regulations--Consistency with comprehensive plan.

Beginning July 1, 1992, the development regulations of each city and county that does not plan under RCW 36.70A.040 shall not be inconsistent with the city's or county's comprehensive plan. For the purposes of this section, "development regulations" has the same meaning as set forth in RCW 36.70A.030.

[1990 1st ex.s. c 17 § 22.]

Notes:

Severability--Part, section headings not law--1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

RCW 35.63.130 Hearing examiner system--Adoption authorized--Alternative--Functions--Procedures.

(1) As an alternative to those provisions of this chapter relating to powers or duties of the planning commission to hear and report on any proposal to amend a zoning ordinance, the legislative body of a city or county may adopt a hearing examiner system under which a hearing examiner or hearing examiners may hear and decide applications for amending the zoning ordinance when the amendment which is applied for is not of general applicability. In addition, the legislative body may vest in a hearing examiner the power to hear and decide those issues it believes should be reviewed and decided by a hearing examiner, including but not limited to:

(a) Applications for conditional uses, variances, subdivisions, shoreline permits, or any other class of applications for or pertaining to development of land or land use;

(b) Appeals of administrative decisions or determinations; and

(c) Appeals of administrative decisions or determinations pursuant to chapter 43.21C RCW.

The legislative body shall prescribe procedures to be followed by the hearing examiner.

(2) Each city or county legislative body electing to use a hearing examiner pursuant to this section shall by ordinance specify the legal effect of the decisions made by the examiner. The legal effect of such decisions may vary for the different classes of applications decided by the examiner but shall include one of the following:

(a) The decision may be given the effect of a recommendation to the legislative body;

(b) The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative body; or

(c) Except in the case of a rezone, the decision may be given the effect of a final decision of the legislative body.

(3) Each final decision of a hearing examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Such findings and conclusions shall also set forth the manner in which the decision would carry out and conform to

the city's or county's comprehensive plan and the city's or county's development regulations. Each final decision of a hearing examiner, unless a longer period is mutually agreed to in writing by the applicant and the hearing examiner, shall be rendered within ten working days following conclusion of all testimony and hearings.

[1995 c 347 § 423; 1994 c 257 § 8; 1977 ex.s. c 213 § 1.]

Notes:

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

Severability--1994 c 257: See note following RCW 36.70A.270.

Severability--1977 ex.s. c 213: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 213 § 5.]

RCW 35.63.140 Residential care facilities--Review of need and demand--Adoption of ordinances.

Each municipality that does not provide for the siting of residential care facilities in zones or areas that are designated for single family or other residential uses, shall conduct a review of the need and demand for the facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 31, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the *department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the *department of community development as to why such implementing ordinances were not adopted.

[1989 c 427 § 36.]

Notes:

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Severability--1989 c 427: See RCW 74.39.900.

RCW 35.63.150 Conformance with chapter 43.97 RCW required.

With respect to the National Scenic Area, as defined in the Columbia River Gorge National Scenic Area Act, P.L. 99-663, the exercise of any power or authority by a county or city pursuant to this chapter shall be subject to and in conformity with the requirements of chapter 43.97 RCW, including the Interstate Compact adopted by RCW 43.97.015, and with the management plan regulations and ordinances adopted by the Columbia River Gorge commission pursuant to the Compact.

[1987 c 499 § 6.]

RCW 35.63.160 Prohibitions on manufactured homes--Review required--"Designated manufactured home" defined.

(1) Each comprehensive plan which does not allow for the siting of manufactured homes on individual lots shall be subject to a review by the city of the need and demand for such homes. The review shall be completed by December 31, 1990.

(2) For the purpose of providing an optional reference for cities which choose to allow manufactured homes on individual lots, a "designated manufactured home" is a manufactured home constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes, which:

(a) Is comprised of at least two fully enclosed parallel sections each of not less than twelve feet wide by thirty-six feet long;

(b) Was originally constructed with and now has a composition or wood shake or shingle, coated metal, or similar roof of not less than 3:12 pitch; and

(c) Has exterior siding similar in appearance to siding materials commonly used on conventional site-built uniform building code single-family residences.

(3) Nothing in this section precludes cities from allowing any manufactured home from being sited on individual lots through local standards which differ from the designated manufactured home as described in this section, except that the term "designated manufactured home" shall not be used except as defined in subsection (2) of this section.

[1988 c 239 § 1.]

RCW 35.63.170 Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 35.22.660, 35.63.180, 35A.63.210, 36.32.520, and 36.70.675:

(1) "Family day care home" means a person regularly providing care during part of the twenty-four-hour day to six or fewer children in the family abode of the person or persons under whose direct care the children are placed.

(2) "Mini-day care center" means a person or agency providing care during part of the twenty-four-hour day to twelve or fewer children in a facility other than the family abode of the person or persons under whose direct care the children are placed, or for the care of seven through twelve children in the family abode of such person or persons.

(3) "Day care center" means a person or agency that provides care for thirteen or more children during part of the twenty-four-hour day.

(4) "Child care facility" means a family day care home, mini-day care center, and day care center.

[1989 c 335 § 3.]

Notes:

Findings--1989 c 335: "The legislature finds that:

(1) A majority of women with preschool and school age children in Washington state are working outside of the home and are in need of child care services for their children;

(2) The supply of licensed child care facilities in Washington state is insufficient to meet the growing demand for child care services;

(3) The most convenient location of child care facilities for many working families is near the family's home or workplace." [1989 c 335 § 1.]

Purpose--1989 c 335: "The purpose of this act is to encourage the dispersion of child care facilities throughout cities and counties in Washington state so that child care services are available at convenient locations to working parents." [1989 c 335 § 2.]

Severability--1989 c 335: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 335 § 10.]

RCW 35.63.180 Child care facilities--Review of need and demand--Adoption of ordinances.

Each municipality that does not provide for the siting of family day care homes in zones or areas that are designated for single family or other residential uses, and for the siting of mini-day care centers and day care centers in zones or areas that are designated for any residential or commercial uses, shall conduct a review of the need and demand for child care facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 31, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the *department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the *department of community development as to why such implementing ordinances were not adopted.

[1989 c 335 § 4.]

Notes:

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Findings--Purpose--Severability--1989 c 335: See notes following RCW 35.63.170.

Definitions for RCW 35.63.180: See RCW 35.63.170.

RCW 35.63.185 Family day-care provider's home facility--City may not prohibit in residential or commercial area.

No city may enact, enforce, or maintain an ordinance, development regulation, zoning regulation, or official control, policy, or administrative practice which prohibits the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family day-care provider's home facility.

A city may require that the facility: (1) Comply with all building, fire, safety, health code, and business licensing requirements; (2) conform to lot size, building size, setbacks, and lot coverage standards applicable to the zoning district except if the structure is a legal nonconforming structure; (3) is certified by the office of child care policy licensor as providing a safe passenger loading area; (4) include signage, if any, that conforms to applicable regulations; and (5) limit hours of operations to facilitate neighborhood compatibility, while also providing appropriate opportunity for persons who use family day-care and who work a nonstandard work shift.

A city may also require that the family day-care provider, before state licensing, require proof of written notification by the provider that the immediately adjoining property owners have been informed of the intent to locate and maintain such a facility. If a dispute arises between neighbors and the family day-care provider over licensing requirements, the licensor may provide a forum to resolve the dispute.

Nothing in this section shall be construed to prohibit a city from imposing zoning conditions on the establishment and maintenance of a family day-care provider's home in an area zoned for residential or commercial use, so long as such conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone and the establishment of such facilities is not precluded. As used in this section, "family day-care provider" is as defined in RCW 74.15.020.

[1995 c 49 § 1; 1994 c 273 § 14.]

RCW 35.63.200 Moratoria, interim zoning controls--Public hearing--Limitation on length.

A council or board that adopts a moratorium or interim zoning control, without holding a public hearing on the proposed moratorium or interim zoning control, shall hold a public hearing on the adopted moratorium or interim zoning control within at least sixty days of its adoption, whether or not the council or board received a recommendation on the matter from the commission. If the council or board does not adopt findings of fact justifying its action before this hearing, then the council or board shall do so immediately after this public hearing. A moratorium or interim zoning control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium or interim zoning control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

[1992 c 207 § 1.]

RCW 35.63.210 Accessory apartments.

Any local government, as defined in RCW 43.63A.215, that is planning under this chapter shall comply with RCW 43.63A.215(3).

[1993 c 478 § 8.]

RCW 35.63.220 Treatment of residential structures occupied by persons with handicaps.

No city may enact or maintain an ordinance, development regulation, zoning regulation or official control, policy, or administrative practice which treats a residential structure occupied by persons with handicaps differently than a similar residential structure occupied by a family or other unrelated individuals. As used in this section, "handicaps" are as defined in the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3602).

[1993 c 478 § 20.]

RCW 35.63.230 Watershed restoration projects--Permit processing--Fish habitat enhancement project.

A permit required under this chapter for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510. A fish habitat enhancement project meeting the criteria of *RCW 75.20.350(1) shall be reviewed and approved according to the provisions of *RCW 75.20.350.

[1998 c 249 § 5; 1995 c 378 § 8.]

Notes:

***Reviser's note:** RCW 75.20.350 was recodified as RCW 77.55.290 pursuant to 2000 c 107 § 129.

Findings--Purpose--Report--Effective date--1998 c 249: See notes following RCW 77.55.290.

RCW 35.63.240 Planning regulations--Copies provided to county assessor.

By July 31, 1997, a city planning under RCW 36.70A.040 shall provide to the county assessor a copy of the city's comprehensive plan and development regulations in effect on July 1st of that year and shall thereafter provide any amendments to the plan and regulations that were adopted before July 31st of each following year.

[1996 c 254 § 3.]

RCW 35.63.250 General aviation airports.

Adoption and amendment of comprehensive plan provisions and development regulations under this chapter affecting a general aviation airport are subject to RCW 36.70.547.

[1996 c 239 § 3.]

RCW 35.63.260 Conditional and special use permit applications by parties licensed or certified by the department of social and health services or the department of corrections--Mediation prior to appeal required.

(1) Prior to filing an appeal of a final decision by a hearing examiner involving a conditional or special use permit application requested by a party that is licensed or certified by the department of social and health services or the department of corrections, the aggrieved party must, within five days after the final decision, initiate formal mediation procedures in an attempt to resolve the parties' differences. If, after initial evaluation of the dispute, the parties agree to proceed with a mediation, the mediation shall be conducted by a trained mediator selected by agreement of the parties. The agreement to mediate shall be in writing and subject to RCW 5.60.070. If the parties are unable to agree on a mediator, each party shall nominate a mediator and the mediator shall be selected by lot from among the nominees. The mediator must be selected within five days after formal mediation procedures are initiated. The mediation process must be completed within fourteen days from the time the mediator is selected except that the mediation process may extend beyond fourteen days by agreement of the parties. The mediator shall, within the fourteen-day period or within the extension if an extension is agreed to, provide the parties with a written summary of the issues and any agreements reached. If the parties agree, the mediation report shall be made available to the governing jurisdiction. The cost of the mediation shall be shared by the parties.

(2) Any time limits for filing of appeals are tolled during the pendency of the mediation process.

(3) As used in this section, "party" does not include county, city, or town.

[1998 c 119 § 1.]

Chapter 35.64 RCW
ZOOS AND AQUARIUMS

Sections

35.64.010 Contracts for management and operation--Terms--Public hearing.
35.64.020 Construction--Collective bargaining agreement not affected.

RCW 35.64.010 Contracts for management and operation--Terms--Public hearing.

(1) If the legislative authority of a city with a population over one hundred fifty thousand that is not in a metropolitan park district contracts with one or more nonprofit corporations or other public organizations for the overall management and operation of a zoo, an aquarium, or both, that contract shall be subject to this section. No such contract for the overall management and operation of zoo or aquarium facilities by a nonprofit corporation or other public organization shall have an initial term or any renewal term longer than twenty years, but may be renewed by the legislative authority of the city upon the expiration of an initial term or any renewal term.

(2) Before approving each initial and any renewal contract with a nonprofit corporation or other public organization for the overall management and operation of any facilities, the city

legislative authority shall hold a public hearing on the proposed management and operation by the nonprofit corporation or other public organization. At least thirty days prior to the hearing, a public notice setting forth the date, time, and place of the hearing must be published at least once in a local newspaper of general circulation. Notice of the hearing shall also be mailed or otherwise delivered to all who would be entitled to notice of a special meeting of the city legislative authority under RCW 42.30.080. The notice shall identify the facilities involved and the nonprofit corporation or other public organization proposed for management and operation under the contract with the city. The terms and conditions under which the city proposes to contract with the nonprofit corporation or other public organization for management and operation shall be available upon request from and after the date of publication of the hearing notice and at the hearing, but after the public hearing the city legislative authority may amend the proposed terms and conditions at open public meetings.

(3) As part of the management and operation contract, the legislative authority of the city may authorize the managing and operating entity to grant to any nonprofit corporation or public or private organization franchises or concessions that further the public use and enjoyment of the zoo or aquarium, as the case may be, and may authorize the managing and operating entity to contract with any public or private organization for any specific services as are routinely so procured by the city.

(4) Notwithstanding any provision in the charter of the city so contracting for the overall management and operation of a zoo or an aquarium, or any other provision of law, the nonprofit corporation or other public organization with responsibility for overall management or operation of any such facilities pursuant to a contract under this section may, in carrying out that responsibility under such contract, manage, supervise, and control those employees of the city employed in connection with the zoo or aquarium and may hire, fire, and otherwise discipline those employees. Notwithstanding any provision in the charter of the city so contracting for the overall management and operation of a zoo or an aquarium, or any other provision of law, the civil service system of any such city shall provide for the nonprofit corporation or other public organization to manage, supervise, control, hire, fire, and otherwise discipline those employees of the city employed in connection with the zoo or aquarium.

(5) As part of the management and operation contract, the legislative authority of the city shall provide for oversight of the managing and operating entity to ensure public accountability of the entity and its performance in a manner consistent with the contract.

[2000 c 206 § 1.]

RCW 35.64.020 Construction--Collective bargaining agreement not affected.

Nothing in this chapter shall be construed to affect any terms, conditions, or practices contained in a collective bargaining agreement in effect on June 8, 2000.

[2000 c 206 § 2.]

Chapter 35.66 RCW
POLICE MATRONS

Sections

35.66.010 Authority to establish.
35.66.020 Appointment.
35.66.030 Assistance by police.
35.66.040 Compensation.
35.66.050 Persons under arrest--Separate quarters.

RCW 35.66.010 Authority to establish.

There shall be annexed to the police force of each city in this state having a population of not less than ten thousand inhabitants one or more police matrons who, subject to the control of the chief of police or other proper officer, shall have the immediate care of all females under arrest and while detained in the city prison until they are finally discharged therefrom.

[1965 c 7 § 35.66.010. Prior: 1893 c 15 § 1; RRS § 9282.]

RCW 35.66.020 Appointment.

The police matron or matrons employed or appointed in accordance with the provisions of this chapter shall be employed or appointed in the same manner as other regular members of the police departments in the city where the appointment is made.

[1965 c 7 § 35.66.020. Prior: 1939 c 115 § 1; 1893 c 15 § 4; RRS § 9285.] [SLC-RO-4]

RCW 35.66.030 Assistance by police.

Any person on the police force or, in their absence, any other person present, must aid and assist the matron when from necessity she may require it.

[1965 c 7 § 35.66.030. Prior: 1893 c 15 § 2; RRS § 9283.]

RCW 35.66.040 Compensation.

A police matron must be paid such compensation for her services as shall be fixed by the city council and at such time as may be appointed for the payment of policemen.

[1965 c 7 § 35.66.040. Prior: 1893 c 15 § 6; RRS § 9287.]

RCW 35.66.050 Persons under arrest--Separate quarters.

For the purpose of effecting the main object of this chapter, no member of one sex under arrest shall be confined in the same cell or apartment of the city jail or prison, with any member

of the other sex whatever.

[1973 1st ex.s. c 154 § 53; 1965 c 7 § 35.66.050. Prior: 1893 c 15 § 3; RRS § 9284.]

Notes:

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

Chapter 35.67 RCW
SEWERAGE SYSTEMS--REFUSE COLLECTION AND DISPOSAL

Sections

35.67.010 Definitions--"System of sewerage," "public utility."
35.67.020 Authority to construct system and fix rates and charges--Classification of services and facilities--Assistance for low-income persons.
35.67.022 Extension outside city subject to review by boundary review board.
35.67.025 Public property subject to rates and charges for storm water control facilities.
35.67.030 Adoption of plan--Ordinance.
35.67.065 General obligation bonds--Issuance.
35.67.110 General obligation bonds--Payment--Revenue from service charges.
35.67.120 Revenue bond fund--Authority to establish.
35.67.130 Revenue bond fund--Limitations upon creation.
35.67.140 Revenue bonds--Authority--Denominations--Terms.
35.67.150 Revenue bonds--Signatures--Form.
35.67.160 Revenue bonds--Obligation against fund, not city.
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35.67.200 Sewerage lien--Authority.
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35.67.230 Sewerage lien foreclosure--Limitation on time of commencement.
35.67.240 Sewerage lien foreclosure--Procedure.
35.67.250 Sewerage lien foreclosure--Trial.
35.67.260 Sewerage lien foreclosure--Redemption.
35.67.270 Sewerage sale acquired property--Disposition.
35.67.280 Sewerage sale acquired property--Payment of delinquent taxes.
35.67.290 Sewerage lien--Enforcement--Alternative method.
35.67.300 Water-sewer districts and municipalities--Joint agreements.
35.67.310 Sewers--Outside city connections.
35.67.331 Water, sewerage, garbage systems--Combined facilities.
35.67.340 Statutes governing combined facility.
35.67.350 Penalty for sewer connection without permission.
35.67.360 Conservation of storm water and sewer services--Use of public moneys.
35.67.370 Mobile home parks--Replacement of septic systems.

Notes:

Assessments and charges against state lands: Chapter 79.44 RCW.

Municipal water and sewer facilities act: Chapter 35.91 RCW.
Prepayment of taxes and assessments: RCW 35.21.650.
Sewer facilities act: Chapter 35.91 RCW.
Sewerage improvement districts: Chapter 85.08 RCW.

RCW 35.67.010 Definitions--"System of sewerage," "public utility."

A "system of sewerage" means and may include any or all of the following:

(1) Sanitary sewage collection, treatment, and/or disposal facilities and services, on-site or off-site sanitary sewerage facilities, inspection services and maintenance services for public or private on-site systems, or any other means of sewage treatment and disposal approved by the city;

(2) Combined sanitary sewage disposal and storm or surface water sewers;

(3) Storm or surface water sewers;

(4) Outfalls for storm drainage or sanitary sewage and works, plants, and facilities for storm drainage or sanitary sewage treatment and disposal, and rights and interests in property relating to the system;

(5) Combined water and sewerage systems;

(6) Point and nonpoint water pollution monitoring programs that are directly related to the sewerage facilities and programs operated by a city or town;

(7) Public restroom and sanitary facilities; and

(8) Any combination of or part of any or all of such facilities.

The words "public utility" when used in this chapter has the same meaning as the words "system of sewerage."

[1997 c 447 § 7; 1965 c 110 § 1; 1965 c 7 § 35.67.010. Prior: 1955 c 266 § 2; prior: 1941 c 193 § 1, part; Rem. Supp. 1941 § 9354-4, part.]

Notes:

Finding--Purpose--1997 c 447: See note following RCW 70.05.074.

RCW 35.67.020 Authority to construct system and fix rates and charges--Classification of services and facilities--Assistance for low-income persons.

Every city and town may construct, condemn and purchase, acquire, add to, maintain, conduct, and operate systems of sewerage and systems and plants for refuse collection and disposal together with additions, extensions, and betterments thereto, within and without its limits, with full jurisdiction and authority to manage, regulate, and control them and to fix, alter, regulate, and control the rates and charges for their use. The rates charged must be uniform for the same class of customers or service and facilities furnished.

In classifying customers served or service and facilities furnished by such system of sewerage, the city or town legislative body may in its discretion consider any or all of the following factors: (1) The difference in cost of service and facilities to the various customers;

(2) the location of the various customers within and without the city or town; (3) the difference in cost of maintenance, operation, repair, and replacement of the various parts of the system; (4) the different character of the service and facilities furnished various customers; (5) the quantity and quality of the sewage delivered and the time of its delivery; (6) the achievement of water conservation goals and the discouragement of wasteful water use practices; (7) capital contributions made to the system, including but not limited to, assessments; (8) the nonprofit public benefit status, as defined in RCW 24.03.490, of the land user; and (9) any other matters which present a reasonable difference as a ground for distinction. Rates or charges for on-site inspection and maintenance services may not be imposed under this chapter on the development, construction, or reconstruction of property.

A city or town may provide assistance to aid low-income persons in connection with services provided under this chapter.

Under this chapter, after July 1, 1998, any requirements for pumping the septic tank of an on-site sewage system should be based, among other things, on actual measurement of accumulation of sludge and scum by a trained inspector, trained owner's agent, or trained owner. Training must occur in a program approved by the state board of health or by a local health officer.

Before adopting on-site inspection and maintenance utility services, or incorporating residences into an on-site inspection and maintenance or sewer utility under this chapter, notification must be provided, prior to the applicable public hearing, to all residences within the proposed service area that have on-site systems permitted by the local health officer. The notice must clearly state that the residence is within the proposed service area and must provide information on estimated rates or charges that may be imposed for the service.

A city or town shall not provide on-site sewage system inspection, pumping services, or other maintenance or repair services under this section using city or town employees unless the on-site system is connected by a publicly owned collection system to the city or town's sewerage system, and the on-site system represents the first step in the sewage disposal process. Nothing in this section shall affect the authority of state or local health officers to carry out their responsibilities under any other applicable law.

[1997 c 447 § 8; 1995 c 124 § 3; 1991 c 347 § 17; 1965 c 7 § 35.67.020. Prior: 1959 c 90 § 1; 1955 c 266 § 3; prior: 1941 c 193 § 1, part; Rem. Supp. 1941 § 9354-4, part.]

Notes:

Finding--Purpose--1997 c 447: See note following RCW 70.05.074.

Purposes--1991 c 347: See note following RCW 90.42.005.

Severability--1991 c 347: See RCW 90.42.900.

RCW 35.67.022 Extension outside city subject to review by boundary review board.

The extension of sewer facilities outside of the boundaries of a city or town may be subject to potential review by a boundary review board under chapter 36.93 RCW.

[1989 c 84 § 32.]

RCW 35.67.025 Public property subject to rates and charges for storm water control facilities.

Except as otherwise provided in RCW 90.03.525, any public entity and public property, including the state of Washington and state property, shall be subject to rates and charges for storm water control facilities to the same extent private persons and private property are subject to such rates and charges that are imposed by cities and towns pursuant to RCW 35.67.020. In setting these rates and charges, consideration may be made of in-kind services, such as stream improvements or donation of property.

[1986 c 278 § 55; 1983 c 315 § 1.]

Notes:

Severability--1986 c 278: See note following RCW 36.01.010.

Severability--1983 c 315: See note following RCW 90.03.500.

Flood control zone districts--Storm water control improvements: Chapter 86.15 RCW.

Rates and charges for storm water control facilities--Limitations--Definitions: RCW 90.03.500 through 90.03.525. See also RCW 35.92.021, 36.89.085, and 36.94.145.

RCW 35.67.030 Adoption of plan--Ordinance.

Whenever the legislative body of any city or town, shall deem it advisable that such city or town shall purchase, acquire or construct any public utility mentioned in RCW 35.67.020, or make any additions, betterments, or alterations thereto, or extensions thereof, such legislative body shall provide therefor by ordinance, which shall specify and adopt the system or plan proposed, and declare the estimated cost thereof as near as may be.

[1985 c 445 § 1; 1965 c 7 § 35.67.030. Prior: 1941 c 193 § 2; Rem. Supp. 1941 § 9354-5.]

Notes:

Elections: Title 29 RCW.

Limitations upon indebtedness, how exceeded: State Constitution Art. 7 § 2 (Amendments 55, 59), Art. 8 § 6 (Amendment 27), chapter 39.36 RCW, RCW 84.52.050.

RCW 35.67.065 General obligation bonds--Issuance.

General obligation bonds issued by a city or town to pay for all or part of the costs of purchasing, acquiring, or constructing any public utility mentioned in RCW 35.67.020, or the costs of making any additions, betterments, or alterations thereto, or extensions thereof, shall be issued and sold in accordance with chapter 39.46 RCW.

[1985 c 445 § 2.]

RCW 35.67.110 General obligation bonds--Payment--Revenue from service charges.

In addition to taxes pledged to pay the principal of and interest on general obligation

bonds issued to pay for costs of purchasing, acquiring, or constructing any public utility mentioned in RCW 35.67.020, or to make any additions, betterments, or alterations thereto, or extensions thereof, the city or town legislative body, may set aside into a special fund and pledge to the payment of such principal and interest any sums or amounts which may accrue from the collection of service rates and charges for the private and public use of said sewerage system or systems for the collection and disposal of refuse, in excess of the cost of operation and maintenance thereof as constructed or added to, and the same shall be applied solely to the payment of such interest and bonds. Such pledge of revenue shall constitute a binding obligation, according to its terms, to continue the collection of such revenue so long as such bonds or any of them are outstanding. If the rates and charges are sufficient to meet the debt service requirements on such bonds no general tax need be levied.

[1985 c 445 § 3; 1965 c 118 § 1; 1965 c 7 § 35.67.110. Prior: 1941 c 193 § 3, part; Rem. Supp. 1941 § 9354-6, part.]

RCW 35.67.120 Revenue bond fund--Authority to establish.

After the city or town legislative body adopts a proposition for any such public utility, and either (1) no general indebtedness has been authorized, or (2) the city or town legislative body does not desire to incur a general indebtedness, and the legislative body can lawfully proceed without submitting the proposition to a vote of the people, it may create a special fund or funds for the sole purpose of defraying the cost of the proposed system, or additions, betterments or extensions thereto.

The city or town legislative body may obligate the city or town to set aside and pay into this special fund: (1) A fixed proportion of the gross revenues of the system, or (2) a fixed amount out of and not exceeding a fixed proportion of the gross revenues, or (3) a fixed amount without regard to any fixed proportion, and (4) amounts received from any utility local improvement district assessments pledged to secure such bonds.

[1967 c 52 § 24; 1965 c 7 § 35.67.120. Prior: 1941 c 193 § 4, part; Rem. Supp. 1941 § 9354-7, part.]

Notes:
Alternative authority to issue revenue bonds: RCW 39.46.150, 39.46.160.
Funds for reserve purposes may be included in issue amount: RCW 39.44.140.

RCW 35.67.130 Revenue bond fund--Limitations upon creation.

In creating the special fund, the city or town legislative body shall have due regard to the cost of operation and maintenance of the system as constructed or added to, and to any proportion or part of the revenue previously pledged as a fund for the payment of bonds, warrants and other indebtedness. It shall not set aside into the special fund a greater amount or proportion of the revenue and proceeds than in its judgment will be available over and above the cost of maintenance and operation and the amount or proportion of the revenue so previously pledged.

[1965 c 7 § 35.67.130. Prior: 1941 c 193 § 4, part; Rem. Supp. 1941 § 9354-7, part.]

RCW 35.67.140 Revenue bonds--Authority--Denominations--Terms.

A city or town may issue revenue bonds against the special fund or funds created solely from revenues. The revenue bonds so issued shall: (1) Be registered bonds as provided in RCW 39.46.030 or coupon bonds, (2) be issued in denominations of not less than one hundred dollars nor more than one thousand dollars, (3) be numbered from one upwards consecutively, (4) bear the date of their issue, (5) be serial in form finally maturing not more than thirty years from their date, (6) bear interest at the rate or rates as authorized by the legislative body of the city or town, payable annually or semiannually, (7) be payable as to principal and interest at such place as may be designated therein, and (8) shall state upon their face that they are payable from a special fund, naming it and the ordinance creating it: PROVIDED, That such bonds may also be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 59; 1970 ex.s. c 56 § 43; 1969 ex.s. c 232 § 71; 1965 c 7 § 35.67.140. Prior: 1941 c 193 § 4, part; Rem. Supp. 1941 § 9354-7, part.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.
Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.
Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 35.67.150 Revenue bonds--Signatures--Form.

Every revenue bond and any coupon shall be signed by the mayor and attested by the clerk. The seal of the city or town shall be attached to all bonds but not to any coupons. Signatures on any coupons may be printed or may be the lithographic facsimile of the signatures. The bonds shall be printed, engraved or lithographed upon good bond paper.

[1983 c 167 § 60; 1965 c 7 § 35.67.150. Prior: 1941 c 193 § 4, part; Rem. Supp. 1941 § 9354-7, part.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 35.67.160 Revenue bonds--Obligation against fund, not city.

Revenue bonds or warrants and interest shall be payable only out of the special fund. Every bond or warrant and interest thereon issued against the special fund shall be a valid claim of the holder thereof only as against that fund and its fixed proportion of the amount of revenue pledged to the fund, and shall not constitute an indebtedness of the city or town. Every warrant as well as every bond shall state on its face that it is payable from a special fund, naming it and the ordinance creating it.

[1965 c 7 § 35.67.160. Prior: 1941 c 193 § 4, part; Rem. Supp. 1941 § 9354-7, part.]

RCW 35.67.170 Revenue bonds--Sale of--Other disposition.

Revenue bonds and warrants may be sold in any manner the city or town legislative body deems for the best interests of the city or town. The legislative body may provide in any contract for the construction or acquisition of a proposed utility that payment therefor shall be made only in revenue bonds and warrants at their par value.

[1965 c 7 § 35.67.170. Prior: 1941 c 193 § 4, part; Rem. Supp. 1941 § 9354-7, part.]

RCW 35.67.180 Revenue bonds--Remedy of owners.

If a city or town fails to set aside and pay into the special fund created for the payment of revenue bonds and warrants the amount which it has obligated itself in the ordinance creating the fund to set aside and pay therein, the owner of any bond or warrant issued against the fund may bring suit against the city or town to compel it to do so.

[1983 c 167 § 61; 1965 c 7 § 35.67.180. Prior: 1941 c 193 § 4, part; Rem. Supp. 1941 c 9354-7, part.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 35.67.190 Revenues from system--Classification of services--Minimum rates--Compulsory use.

The legislative body of such city or town may provide by ordinance for revenues by fixing rates and charges for the furnishing of service to those served by its system of sewerage or system for refuse collection and disposal, which rates and charges shall be uniform for the same class of customer or service. In classifying customers served or service furnished by such system of sewerage, the city or town legislative body may in its discretion consider any or all of the following factors: (1) The difference in cost of service to the various customers; (2) the location of the various customers within and without the city or town; (3) the difference in cost of maintenance, operation, repair, and replacement of the various parts of the system; (4) the different character of the service furnished various customers; (5) the quantity and quality of the sewage delivered and the time of its delivery; (6) capital contributions made to the system, including but not limited to, assessments; (7) the nonprofit public benefit status, as defined in RCW 24.03.490, of the land user; and (8) any other matters which present a reasonable difference as a ground for distinction.

If special indebtedness bonds or warrants are issued against the revenues, the legislative body shall by ordinance fix charges at rates which will be sufficient to take care of the costs of maintenance and operation, bond and warrant principal and interest, sinking fund requirements, and all other expenses necessary for efficient and proper operation of the system.

All property owners within the area served by such sewerage system shall be compelled to connect their private drains and sewers with such city or town system, under such penalty as the legislative body of such city or town may by ordinance direct. Such penalty may in the discretion of such legislative body be an amount equal to the charge that would be made for sewer service if the property was connected to such system. All penalties collected shall be considered revenue of the system.

[1995 c 124 § 4; 1965 c 7 § 35.67.190. Prior: 1959 c 90 § 2; 1941 c 193 § 5; Rem. Supp. 1941 § 9354-8.]

RCW 35.67.194 Revenue bonds validated.

Any and all water, sewer, or water and sewer revenue bonds part or all of which may have been heretofore (prior to June 8, 1955) issued by any city or town for the purpose of providing funds to pay part or all of the cost of acquiring, constructing, or installing a system of storm or surface water sewers or any part thereof necessary for the proper and efficient operation of a system of sanitary sewage disposal sewers or a sanitary sewage treatment plant, the proceedings for the issuance of which were valid in all other respects, are approved, ratified and validated, and are declared to be legal and binding obligations of such city or town, both principal of and interest on which are payable only out of the revenues of the utility or utilities pledged for such payment.

[1965 c 7 § 35.67.194. Prior: 1955 c 266 § 5.]

RCW 35.67.200 Sewerage lien--Authority.

Cities and towns owning their own sewer systems shall have a lien for delinquent and unpaid rates and charges for sewer service, penalties levied pursuant to RCW 35.67.190, and connection charges, including interest thereon, against the premises to which such service has been furnished or is available, which lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments. The city or town by ordinance may provide that delinquent charges shall bear interest at not exceeding eight percent per annum computed on a monthly basis: PROVIDED, That a city or town using the property tax system for utility billing may, by resolution or ordinance, adopt the alternative lien procedure as set forth in RCW 35.67.215.

[1991 c 36 § 2; 1965 c 7 § 35.67.200. Prior: 1959 c 90 § 4; prior: 1941 c 193 § 6, part; Rem. Supp. 1941 § 9354-9, part.]

RCW 35.67.210 Sewerage lien--Extent--Notice.

The sewerage lien shall be effective for a total of not to exceed six months' delinquent charges without the necessity of any writing or recording. In order to make such lien effective for more than six months' charges the city or town treasurer, clerk, or official charged with the administration of the affairs of the utility shall cause to be filed for record in the office of the county auditor of the county in which such city or town is located, a notice in substantially the following form:

"Sewerage lien notice

City (or town) of . . . . . .

vs.

. . . . . reputed owner.

Notice is hereby given that the city (or town) of . . . . . has and claims a lien for sewer charges against the following described premises situated in . . . . . county, Washington, to wit:

(here insert legal description of premises)

Said lien is claimed for not exceeding six months such charges and interest now delinquent, amount to $. . . . . ., and is also claimed for future sewerage charges against said premises.

Dated . . . . . .
City (or town) of . . . . . .
By . . . . . ."

The lien notice may be signed by the city or town treasurer or clerk or other official in charge of the administration of the utility. The lien notice shall be recorded as prescribed by law for the recording of mechanics' liens.

[1965 c 7 § 35.67.210. Prior: 1959 c 90 § 5; prior: 1941 c 193 § 6, part; Rem. Supp. 1941 § 9354-9, part.]

RCW 35.67.215 Sewerage lien--Extension of coverage.

Any city or town may, by resolution or ordinance, provide that the sewerage lien shall be effective for a total not to exceed one year's delinquent service charges without the necessity of any writing or recording of the lien with the county auditor, in lieu of the provisions provided for in RCW 35.67.210.

[1991 c 36 § 3.]

RCW 35.67.220 Sewerage lien foreclosure--Parts--Tracts.

The city or town may foreclose its sewerage lien in an action in the superior court. All or any of the tracts subject to the lien may be proceeded against in the same action, and all parties appearing of record as owning or claiming to own, having or claiming to have any interest in or lien upon the tracts involved in the action shall be impleaded in the action as parties defendant.

[1965 c 7 § 35.67.220. Prior: 1941 c 193 § 7, part; Rem. Supp. 1941 § 9354-10, part.]

RCW 35.67.230 Sewerage lien foreclosure--Limitation on time of commencement.

An action to foreclose a sewerage lien pursuant to a lien notice filed as required by law must be commenced within two years from the date of the filing thereof.

An action to foreclose a six months' lien may be commenced at any time after six months subsequent to the furnishing of the sewerage service for which payment has not been made.

[1965 c 7 § 35.67.230. Prior: 1941 c 193 § 7, part; Rem. Supp. 1941 § 9354-10, part.]

RCW 35.67.240 Sewerage lien foreclosure--Procedure.

The service of summons, and all other proceedings except as herein otherwise prescribed including appeal, order of sale, sale, redemption, and issuance of deed, shall be governed by the statutes now or hereafter in force relating to the foreclosure of mortgages on real property. The terms "judgment debtor" or "successor in interest" in the statutes governing redemption when applied herein shall include an owner or a vendee.

[1965 c 7 § 35.67.240. Prior: 1941 c 193 § 7, part; Rem. Supp. 1941 § 9354-10, part.]

RCW 35.67.250 Sewerage lien foreclosure--Trial.

A sewerage lien foreclosure action shall be tried before the court without a jury. The court may allow in addition to interest on the service charges at a rate not exceeding eight percent per year from date of delinquency, costs and disbursements as provided by statute and such attorneys' fees as the court may adjudge reasonable.

If the owners and parties interested in any particular tract default, the court may enter judgment of foreclosure and sale as to such parties and tracts and the action may proceed as to the remaining defendants and tracts. The judgment shall specify separately the amount of the sewerage charges, with interest, penalty and costs chargeable to each tract. The judgment shall have the effect of a separate judgment as to each tract described in the judgment, and any appeal shall not invalidate or delay the judgment except as to the property concerning which the appeal is taken. In the judgment the court shall order the tracts therein described sold at one general sale, and an order of sale shall issue pursuant thereto for the enforcement of the judgment. Judgment may be entered as to any one or more separate tracts involved in the action, and the court shall retain jurisdiction of other properties.

[1965 c 7 § 35.67.250. Prior: 1941 c 193 § 7, part; Rem. Supp. 1941 § 9354-10, part.]

RCW 35.67.260 Sewerage lien foreclosure--Redemption.

All sales shall be subject to the right of redemption within one year from date of sale.

[1965 c 7 § 35.67.260. Prior: 1941 c 193 § 7, part; Rem. Supp. 1941 § 9354-10, part.]

RCW 35.67.270 Sewerage sale acquired property--Disposition.

At any time after deed is issued to it pursuant to lien, a city or town may lease or sell or convey any property at public or private sale for such price and on such terms as may be determined by resolution of the city or town legislative body, any provision of law, charter or ordinance to the contrary notwithstanding.

[1965 c 7 § 35.67.270. Prior: 1941 c 193 § 8; Rem. Supp. 1941 § 9354-11.]

RCW 35.67.280 Sewerage sale acquired property--Payment of delinquent taxes.

After the entry of judgment of foreclosure against any tract, the city or town may pay delinquent general taxes or purchase certificates of delinquency for general taxes on the tract or purchase the tract at county tax foreclosure or from the county after foreclosure.

After entry of judgment of foreclosure against any premises the city or town may pay local or special assessments which are delinquent or are about to become delinquent and if the tract has been foreclosed upon for local or special assessments and the time for redemption has not expired, it may redeem it.

No moneys shall be expended for the purposes enumerated in this section except upon enactment by the city or town legislative body of a resolution determining the desirability or necessity of making the expenditure.

[1965 c 7 § 35.67.280. Prior: 1941 c 193 § 9; Rem. Supp. 1941 § 9354-12.]

RCW 35.67.290 Sewerage lien--Enforcement--Alternative method.

As an additional and concurrent method of enforcing the lien authorized in this chapter any city or town operating its own municipal water system may provide by ordinance for the enforcement of the lien by cutting off the water service from the premises to which such sewer service was furnished after the charges become delinquent and unpaid, until the charges are paid.

The right to enforce the lien by cutting off and refusing water service shall not be exercised after two years from the date of the recording of sewerage lien notice except to enforce payment of six months' charges for which no lien notice is required to be recorded.

[1965 c 7 § 35.67.290. Prior: 1941 c 193 § 10; Rem. Supp. 1941 § 9354-13.]

RCW 35.67.300 Water-sewer districts and municipalities--Joint agreements.

Any city, town, or organized and established water-sewer district owning or operating its own sewer system, whenever topographic conditions shall make it feasible and whenever such existing sewer system shall be adequate therefor in view of the sewerage and drainage requirements of the property in such city, town, or water-sewer district, served or to be served by such system, may contract with any other city, town, or organized and established water-sewer district for the discharge into its sewer system of sewage from all or any part or parts of such other city, town, or water-sewer district upon such terms and conditions and for such periods of time as may be deemed reasonable.

Any city, town, or organized and established water-sewer district may contract with any other city, town, or organized and established water-sewer district for the construction and/or operation of any sewer or sewage disposal facilities for the joint use and benefit of the contracting parties upon such terms and conditions and for such period of time as the governing bodies of the contracting parties may determine. Any such contract may provide that the responsibility for the management of the construction and/or maintenance and operation of any

sewer disposal facilities or part thereof covered by such contract shall be vested solely in one of the contracting parties, with the other party or parties thereto paying to the managing party such portion of the expenses thereof as shall be agreed upon.

[1999 c 153 § 37; 1965 c 7 § 35.67.300. Prior: 1947 c 212 § 3; 1941 c 193 § 11; Rem. Supp. 1947 § 9354-14.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

RCW 35.67.310 Sewers--Outside city connections.

Every city or town may permit connections with any of its sewers, either directly or indirectly, from property beyond its limits, upon such terms, conditions and payments as may be prescribed by ordinance, which may be required by the city or town to be evidenced by a written agreement between the city or town and the owner of the property to be served by the connecting sewer.

If any such agreement is made and filed with the county auditor of the county in which said property is located, it shall constitute a covenant running with the land and the agreements and covenants therein shall be binding on the owner and all persons subsequently acquiring any right, title or interest in or to said property.

If the terms and conditions of the ordinance or of the agreement are not kept and performed, or the payments made, as required, the city or town may disconnect the sewer and for that purpose may at any time enter upon any public street or road or upon said property.

[1965 c 7 § 35.67.310. Prior: 1941 c 75 § 1; Rem. Supp. 1941 § 9354-19.]

RCW 35.67.331 Water, sewerage, garbage systems--Combined facilities.

A city or town may by ordinance provide that its water system, sewerage system, and garbage and refuse collection and disposal system may be acquired, constructed, maintained and operated jointly, either by combining any two of such systems or all three. All powers granted to cities and towns to acquire, construct, maintain and operate such systems may be exercised in the joint acquisition, construction, maintenance and operation of such combined systems: PROVIDED, That if a general indebtedness is to be incurred to pay a part or all of the cost of construction, maintenance, or operation of such a combined system, no such indebtedness shall be incurred without such indebtedness first being authorized by a vote of the people at a special or general election conducted in the manner prescribed by law: PROVIDED FURTHER, That nothing in chapter 51, Laws of 1969 ex. sess. shall be construed to supersede charter provisions to the contrary.

[1969 ex.s. c 51 § 1.]

RCW 35.67.340 Statutes governing combined facility.

The operation by a city or town of a combined facility as provided for in RCW 35.67.331 shall be governed by the statutes relating to the establishment and maintenance of a city or town

water system if the water system is one of the systems included in the combined acquisition, construction, or operation; otherwise the combined system shall be governed by the statutes relating to the establishment and maintenance of a city or town sewerage system.

[1969 ex.s. c 51 § 2; 1965 c 7 § 35.67.340. Prior: 1941 c 193 § 12, part; Rem. Supp. 1941 § 9354-15, part.]

RCW 35.67.350 Penalty for sewer connection without permission.

It is unlawful and a misdemeanor to make or cause to be made or to maintain any sewer connection with any sewer of any city or town, or with any sewer which is connected directly or indirectly with any sewer of any city or town without having permission from the city or town.

[1965 c 7 § 35.67.350. Prior: 1943 c 100 § 1; Rem. Supp. 1943 § 9354-20.]

RCW 35.67.360 Conservation of storm water and sewer services--Use of public moneys.

Any city, code city, town, county, special purpose district, municipal corporation, or quasi-municipal corporation that is engaged in the sale or distribution of storm water or sewer services may use public moneys or credit derived from operating revenues from the sale of storm water or sewer services to assist the owners of structures or equipment in financing the acquisition and installation of materials and equipment, for compensation or otherwise, for the conservation or more efficient use of storm water or sewer services in such structures or equipment. Except for the necessary support of the poor and infirm, an appropriate charge-back shall be made for the extension of public moneys or credit. The charge-back shall be a lien against the structure benefited or a security interest in the equipment benefited.

[1998 c 31 § 2.]

Notes:

Findings--Intent--1998 c 31: "The legislature finds that the voters approved an amendment to Article VIII, section 10 of the state Constitution in 1997. The legislature finds that this amendment to the state Constitution will allow necessary improvements to be made to storm water and sewer services so that less pollution is discharged into the waters of the state, less treatment will be needed, and capacity for existing treatment systems will be saved. It is the intent of the legislature to enact legislation that grants specific authority to units of local government that provide storm water and sewer services to operate programs that are consistent with the authority granted in House Joint Resolution No. 4209." [1998 c 31 § 1.]

Effective date--1998 c 31 § 2: "Section 2 of this act takes effect July 1, 1998." [1998 c 31 § 3.]

RCW 35.67.370 Mobile home parks--Replacement of septic systems.

Cities, towns, or counties may not require existing mobile home parks to replace existing, functional septic systems with a sewer system within the community unless the local board of health determines that the septic system is failing.

[1998 c 61 § 1.]

Chapter 35.68 RCW
SIDEWALKS, GUTTERS, CURBS, AND DRIVEWAYS--ALL CITIES AND TOWNS

Sections

35.68.010 Authority conferred.
35.68.020 Resolution--Contents.
35.68.030 Resolution--Publication--Notice--Hearing.
35.68.040 "Sidewalk construction fund."
35.68.050 Assessment roll--Hearing--Notice--Confirmation--Appeal.
35.68.060 Method of payment of assessments.
35.68.070 Collection of assessments.
35.68.075 Curb ramps for physically handicapped--Required--Standards and requirements.
35.68.076 Curb ramps for physically handicapped--Model standards.
35.68.080 Construction of chapter.

Notes:
Assessments and charges against state lands: Chapter 79.44 RCW.

RCW 35.68.010 Authority conferred.

Any city or town, hereinafter referred to as city, is authorized to construct, reconstruct, and repair sidewalks, gutters and curbs along and driveways across sidewalks, which work is hereafter referred to as the improvement, and to pay the costs thereof from any available funds, or to require the abutting property owner to construct the improvement at the owner's own cost or expense, or, subject to the limitations in RCW 35.69.020 (2) and (3), to assess all or any portion of the costs thereof against the abutting property owner.

[1996 c 19 § 1; 1965 c 7 § 35.68.010. Prior: 1949 c 177 § 1; Rem. Supp. 1949 § 9332a.]

RCW 35.68.020 Resolution--Contents.

No such improvement shall be undertaken or required except pursuant to a resolution of the council or commission of the city or town, hereinafter referred to as the city council. The resolution shall state whether the cost of the improvement shall be borne by the city or whether all or a specified portion shall be borne by the city or whether all or a specified portion shall be borne by the abutting property owner; or whether the abutting owner is required to construct the improvement at his own cost and expense. If the abutting owner is required to construct the improvement the resolution shall specify the time within which the construction shall be commenced and completed; and further that if the improvement or construction is not undertaken and completed within the time specified that the city will perform or complete the improvement and assess the cost against the abutting owner.

[1965 c 7 § 35.68.020. Prior: 1949 c 177 § 2; Rem. Supp. 1949 § 9332b.]

RCW 35.68.030 Resolution--Publication--Notice--Hearing.

If all or any portion of the cost is to be assessed against the abutting property owner, or if the abutting property owner is required to construct the improvement, the resolution shall fix a time from and after its passage, and a place, for hearing on the resolution. The resolution shall be published for two consecutive weeks before the time of hearing in the official newspaper or regularly published official publication of the city or town and a notice of the date of the hearing shall be given each owner or reputed owner of the abutting property by mailing to the owner or reputed owner of the property as shown on the tax rolls of the county treasurer, at the address shown thereon a notice of the date of hearing, the mailing to be at least ten days before the date fixed for the hearing. If the publication and mailing is made as herein required, proof thereof by affidavit shall be filed with the city clerk, comptroller or auditor of the city before the hearing. The hearing may be postponed from time to time to a definite date until the hearing is held. At the time of hearing the council shall hear persons who appear for or against the improvement, and determine whether it will or will not proceed with the improvement and whether it will make any changes in the original plan, and what the changes shall be. This action may be taken by motion adopted in the usual manner.

[1985 c 469 § 37; 1965 c 7 § 35.68.030. Prior: 1949 c 177 § 3; Rem. Supp. 1949 § 9332c.]

RCW 35.68.040 "Sidewalk construction fund."

When all or any portion of the cost is to be assessed against the abutting property owner, the city council may create a "sidewalk construction fund No. . . . ." to be numbered differently for each improvement; and with warrants drawn on this fund the cost of the respective improvements may be paid. The city may advance as a loan to the sidewalk construction fund from any available funds the amounts necessary to pay any costs of the improvement. When any assessments are made for the improvement, payments therefor shall be paid into the particular sidewalk improvement fund; and whenever any funds are available over the amounts necessary to pay outstanding warrants any advances or loans made to the fund shall be repaid. Whenever warrants are drawn on any such fund which are not paid for want of sufficient funds, they shall be so stamped and shall bear interest until called and paid at a rate established by the city council by resolution.

[1965 c 7 § 35.68.040. Prior: 1949 c 177 § 4; Rem. Supp. 1949 § 9332d.]

RCW 35.68.050 Assessment roll--Hearing--Notice--Confirmation--Appeal.

Where all or any portion of the costs are to be assessed against the abutting property, an assessment roll shall be prepared by the proper city official or by the city council which shall to the extent necessary be based on benefits and which shall describe the property assessed, the name of the owner, if known, otherwise stating that the owner is unknown and fixing the amount of the assessment. The assessment roll shall be filed with the city clerk, and when so filed the council shall by resolution fix a date for hearing thereon and direct the clerk to give notice of the

hearing and the time and place thereof. The notice of hearing shall be mailed to the person whose name appears on the county treasurer's tax roll as the owner or reputed owner of the property, at the address shown thereon, and shall be published before the date fixed for the hearing for two consecutive weeks in the official newspaper or regular official publication of the city. The notice shall be mailed and first publication made at least ten days before the hearing date. Proof of mailing and publication shall be made by affidavit and shall be filed with the city clerk before the date fixed for the hearing. Following the hearing the city council shall by ordinance affirm, modify, or reject or order recasting of the assessment roll. An appeal may be taken to the superior court from the ordinance confirming the assessment roll in the same manner as is provided for appeals from the assessment roll by chapters 35.43 to 35.54 RCW, inclusive, as now or hereafter amended.

[1985 c 469 § 38; 1965 c 7 § 35.68.050. Prior: 1949 c 177 § 5; Rem. Supp. 1949 § 9332e.]

RCW 35.68.060 Method of payment of assessments.

The city council shall by resolution provide whether the full amount of the assessment shall be paid in one payment or whether it may be paid in installments and shall prescribe the time and amount of such payments; and if more than one payment is provided for, the city council may by resolution provide for interest on unpaid installments and fix the rate thereof.

[1965 c 7 § 35.68.060. Prior: 1949 c 177 § 6; Rem. Supp. 1949 § 9332f.]

RCW 35.68.070 Collection of assessments.

The assessment roll as affirmed or modified by the city council shall be filed with the city treasurer for collection, and the amount thereof including interest, if any, shall become a lien against the property described therein from the date of such filing. Whenever any payment on any assessment or installment is delinquent and unpaid for a period of thirty days or more the lien may be foreclosed in the same manner and with the same effect as is provided by chapters 35.43 to 35.54 RCW, inclusive; as now or hereafter amended. Whenever the deed is issued after the sale therein provided, the regularity, validity and correctness of the proceedings relating to such improvement and the assessment therefor shall be final and conclusive and no action shall thereafter be brought by or in behalf of any person to set aside said deed.

[1965 c 7 § 35.68.070. Prior: 1949 c 177 § 7; Rem. Supp. 1949 § 9332g.]

RCW 35.68.075 Curb ramps for physically handicapped--Required--Standards and requirements.

(1) The standard for construction on any county road, or city or town street, for which curbs in combination with sidewalks, paths, or other pedestrian access ways are to be constructed, shall be not less than two ramps per lineal block on or near the crosswalks at intersections. Such ramps shall be at least thirty-six inches wide and so constructed as to allow

reasonable access to the crosswalk for physically handicapped persons, without uniquely endangering blind persons.

(2) Standards set for curb ramping under subsection (1) of this section shall not apply to any curb existing upon enactment of this section but shall apply to all new curb construction and to all replacement curbs constructed at any point in a block which gives reasonable access to a crosswalk.

(3) Upon September 21, 1977, every ramp thereafter constructed under subsection (1) of this section, which serves one end of a crosswalk, shall be matched by another ramp at the other end of the crosswalk. However, no ramp shall be required at the other end of the crosswalk if there is no curb nor sidewalk at the other end of the crosswalk. Nor shall any matching ramp constructed pursuant to this subsection require a subsequent matching ramp.

[1989 c 173 § 1; 1977 ex.s. c 137 § 1; 1973 c 83 § 1.]

RCW 35.68.076 Curb ramps for physically handicapped--Model standards.

The department of general administration shall, pursuant to chapter 34.05 RCW, the Administrative Procedure Act, adopt several suggested model design, construction, or location standards to aid counties, cities, and towns in constructing curb ramps to allow reasonable access to the crosswalk for physically handicapped persons without uniquely endangering blind persons. The department of general administration shall consult with handicapped persons, blind persons, counties, cities, and the state building code council in adopting the suggested standards.

[1989 c 175 § 84; 1977 ex.s. c 137 § 2.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 35.68.080 Construction of chapter.

This chapter is supplemental and additional to any and all other laws relating to construction, reconstruction, and repair of sidewalks, gutters, and curbs along driveways across sidewalks in cities and towns.

[1965 c 7 § 35.68.080. Prior: 1949 c 177 § 8; Rem. Supp. 1949 § 9332h.]

Chapter 35.69 RCW
SIDEWALKS--CONSTRUCTION, RECONSTRUCTION IN FIRST AND SECOND CLASS CITIES

Sections

35.69.010 Definitions.
35.69.020 Resolution of necessity--Liability of abutting property--Reconstruction.
35.69.030 Notice to owners--Service--Contents--Assessment--Collection.
35.69.040 Abutting property defined.
35.69.050 Construction of chapter.

Notes:
Assessments and charges against state lands: Chapter 79.44 RCW.

RCW 35.69.010 Definitions.

The term "street" as used herein includes boulevard, avenue, street, alley, way, lane, square or place.

The term "city" includes any city of the first or second class or any other city of equal population working under a special charter.

The term "sidewalk" includes any and all pedestrian structures or forms of improvement for pedestrians included in the space between the street margin, as defined by a curb or the edge of the traveled road surface, and the line where the public right of way meets the abutting property.

[1996 c 19 § 2; 1994 c 81 § 61; 1965 c 7 § 35.69.010. Prior: 1927 c 203 § 1; RRS § 9332-1.]

RCW 35.69.020 Resolution of necessity--Liability of abutting property--Reconstruction.

(1) Whenever a portion, not longer than one block in length, of any street in any city is not improved by the construction of a sidewalk thereon, or the sidewalk thereon has become unfit or unsafe for purposes of public travel, and such street adjacent to both ends of said portion is so improved and in good repair, and the city council of such city by resolution finds that the improvement of such portion of such street by the construction or reconstruction of a sidewalk thereon is necessary for the public safety and convenience, the duty, burden, and expense of constructing or reconstructing such sidewalk shall devolve upon the property directly abutting upon such portion except as provided in subsections (2) and (3) of this section.

(2) An abutting property shall not be charged with any costs of construction or reconstruction under this chapter, or under chapter 35.68 or 35.70 RCW, in excess of fifty percent of the valuation of such abutting property, exclusive of improvements thereon, according to the valuation last placed upon it for purposes of general taxation.

(3) An abutting property shall not be charged with any costs of reconstruction under this chapter, or under chapter 35.68 or 35.70 RCW, if the reconstruction is required to correct deterioration of or damage to the sidewalk that is the direct result of actions by the city or its agents or to correct deterioration of or damage to the sidewalk that is the direct result of the failure of the city to enforce its ordinances.

[1996 c 19 § 3; 1965 c 7 § 35.69.020. Prior: 1927 c 203 § 2; RRS § 9332-2.]

RCW 35.69.030 Notice to owners--Service--Contents--Assessment--Collection.

Whenever the city council of any such city has adopted such resolution it shall cause a

notice to be served on the owner of the property directly abutting on such portion of such street, instructing him to construct or reconstruct a sidewalk on such portion in accordance with the plans and specifications which shall be attached to such notice. The notice shall be deemed sufficiently served if delivered in person to the owner or if left at the home of such owner with a person of suitable age and discretion then resident therein, or with an agent of such owner, authorized to collect rentals on such property, or, if the owner is a nonresident of the state of Washington, by mailing a copy to his last known address, or if he is unknown or if his address is unknown, then by posting a copy in a conspicuous place at such portion of the street where the improvement is to be made. The notice shall specify a reasonable time within which such construction or reconstruction shall be made, and shall state that in case the owner fails to make the same within such time, the city will proceed to make it through the officer or department thereof charged with the inspection of sidewalks and that such officer or department will report to the city council, at a subsequent date, to be definitely stated in the notice, an assessment roll showing the lot or parcel of land directly abutting on such portion of the street so improved, the cost of the improvement, and the name of the owner, if known, and that the city council at the time stated in the notice or at the time or times to which the same may be adjourned, will hear any and all protests against the proposed assessment. Upon the expiration of the time fixed within which the owner is required to construct or reconstruct such sidewalk, if the owner has failed to perform such work, the city may proceed to perform it, and the officer or department of the city performing the work shall, within the time fixed in the notice, report to the city council an assessment roll showing the lot or parcel of land directly abutting on that portion of the street so improved, the cost of the work, and the name of the owner, if known. The city council shall, at the time in such notice designated, or at an adjourned time or times, assess the cost of such improvement against said property and shall fix the time and manner for payment thereof, which said assessment shall become a lien upon said property and shall be collected in the manner as is provided by law for collection of local improvements assessments under this title.

[1965 c 7 § 35.69.030. Prior: 1927 c 203 § 3; RRS § 9332-3.]

RCW 35.69.040 Abutting property defined.

For the purposes of this chapter all property having a frontage upon the sides or margins of any street shall be deemed to be abutting property, and such property shall be chargeable, as provided herein, for all costs of construction or reconstruction or any form of sidewalk improvement between the margin of said street and the roadway lying in front of and adjacent to said property.

[1965 c 7 § 35.69.040. Prior: 1927 c 203 § 4; RRS § 9332-4.]

RCW 35.69.050 Construction of chapter.

Nothing in this chapter shall be construed to limit or repeal any existing powers of cities with reference to the construction or reconstruction of sidewalks or the improvement or maintenance of streets, but the power and authority herein granted is to be exercised concurrent

with or in extension of powers and authority now existing. The legislative authority of any city before exercising the powers and authority herein granted shall, by proper ordinance, provide for the application and enforcement of the same within the limitations herein specified.

[1965 c 7 § 35.69.050. Prior: 1927 c 203 § 5; RRS § 9332-5.]

Chapter 35.70 RCW
SIDEWALKS--CONSTRUCTION IN SECOND CLASS CITIES AND TOWNS

Sections

35.70.010 Definitions.
35.70.020 Owners' responsibility.
35.70.030 Convenience and necessity reported by superintendent.
35.70.040 Council's resolution and notice--Adoption.
35.70.050 Council's resolution and notice--Contents.
35.70.060 Notice of resolution and order--Service.
35.70.070 Superintendent to construct and prepare assessment roll.
35.70.080 Hearing on assessment roll--Notice.
35.70.090 Lien of assessments and foreclosure.
35.70.100 Provisions of chapter not exclusive.

Notes:
Assessments and charges against state lands: Chapter 79.44 RCW.

RCW 35.70.010 Definitions.

For the purposes of this chapter all property having a frontage on the side or margin of any street shall be deemed abutting property, and such property shall be chargeable, as provided in this chapter, with all costs of construction of any form of sidewalk improvement, between the margin of the street, as defined by a curb or the edge of the traveled road surface, and the line where the public right of way meets the abutting property, and the term sidewalk as used in this chapter shall be construed to mean and include any and all pedestrian structures or forms of improvement for pedestrians included in the space between the street margin, as defined by a curb or the edge of the traveled road surface, and the line where the public right of way meets the abutting property.

[1996 c 19 § 4; 1965 c 7 § 35.70.010. Prior: 1915 c 149 § 7; RRS § 9161.]

RCW 35.70.020 Owners' responsibility.

In all cities of the second class and towns the burden and expense of constructing sidewalks along the side of any street or other public place shall devolve upon and be borne by the property directly abutting thereon. The cost of reconstructing or repairing existing sidewalks may devolve upon the abutting property subject to the limitations in RCW 35.69.020 (2) and (3).

[1996 c 19 § 5; 1994 c 81 § 62; 1965 c 7 § 35.70.020. Prior: 1915 c 149 § 1; RRS § 9155.]

RCW 35.70.030 Convenience and necessity reported by superintendent.

If in the judgment of the officer or department having superintendence of streets and public places, public convenience or safety requires that a sidewalk be constructed along either side of any street, he shall report the fact to the city or town council immediately.

[1965 c 7 § 35.70.030. Prior: 1915 c 149 § 2, part; RRS § 9156, part.]

RCW 35.70.040 Council's resolution and notice--Adoption.

If upon receiving a report from the proper officer, the city or town council deems the construction of the proposed sidewalk necessary or convenient for the public it shall by an appropriate resolution order the sidewalk constructed and shall cause a written notice to be served upon the owner of each parcel of land abutting upon that portion and side of the street where the sidewalk is constructed requiring him to construct the sidewalk in accordance with the resolution.

[1965 c 7 § 35.70.040. Prior: 1915 c 149 § 2, part; RRS § 9156, part.]

RCW 35.70.050 Council's resolution and notice--Contents.

The resolution and notice and order to construct a sidewalk shall:

(1) Describe each parcel of land abutting upon that portion and side of the street where the sidewalk is ordered to be constructed,

(2) Specify the kind of sidewalk required, its size and dimensions, the method and material to be used in construction,

(3) Contain an estimate of the cost thereof, and

(4) State that unless the sidewalk is constructed in compliance with the notice, and within a reasonable time therein specified, the city or town will construct the sidewalk and assess the cost and expense thereof against the abutting property described in the notice.

[1965 c 7 § 35.70.050. Prior: 1915 c 149 § 3; RRS § 9157.]

RCW 35.70.060 Notice of resolution and order--Service.

The notice shall be served:

(1) By delivering a copy to the owner or reputed owner of each parcel of land affected, or to the authorized agent of the owners, or

(2) By leaving a copy thereof at the usual place of abode of the owner in the city or town with a person of suitable age and discretion residing therein, or

(3) If the owner is a nonresident of the city or town and his place of residence is known by mailing a copy to the owner addressed to his last known place of residence, or

(4) If the place of residence of the owner is unknown or if the owner of any parcel of land affected is unknown, by publication in the official newspaper of the city or town once a week for two consecutive weeks. The notice shall specify a reasonable time within which the sidewalk shall be constructed which in the case of publication of the notice shall not be less than sixty days from the date of the first publication of such notice.

[1985 c 469 § 36; 1965 c 7 § 35.70.060. Prior: 1915 c 149 § 4; RRS § 9158.]

RCW 35.70.070 Superintendent to construct and prepare assessment roll.

If the notice and order to construct a sidewalk is not complied with within the time therein specified, the officer or department having the superintendence of streets shall proceed to construct said sidewalk forthwith and shall report to the city or town council at its next regular meeting or as soon thereafter as is practicable an assessment roll showing each parcel of land abutting upon the sidewalk, the name of the owner thereof if known, and apportion the cost of said improvement to be assessed against each parcel of such land.

[1965 c 7 § 35.70.070. Prior: 1915 c 149 § 5, part; RRS § 9159, part.]

RCW 35.70.080 Hearing on assessment roll--Notice.

Thereupon the city or town council shall set a date for hearing any protests against the proposed assessment roll and shall cause a notice of the time and place of the hearing to be published once a week for two successive weeks in the official newspaper of the city or town, the date of the hearing to be not less than thirty days from the date of the first publication of the notice. At the hearing or at any adjournment thereof the council by ordinance shall assess the cost of constructing the sidewalk against the abutting property in accordance with the benefits thereto.

[1985 c 469 § 39; 1965 c 7 § 35.70.080. Prior: (i) 1915 c 149 § 5, part; RRS § 9159, part. (ii) 1915 c 149 § 6, part; RRS § 9160, part.]

RCW 35.70.090 Lien of assessments and foreclosure.

The assessments shall become a lien upon the respective parcels of land and shall be collected in the manner provided by law for the collection of local improvement assessments and shall bear interest at the rate of six percent per annum from the date of the approval of said assessment thereon.

[1965 c 7 § 35.70.090. Prior: 1915 c 149 § 6, part; RRS § 9160, part.]

Notes:
Collection and foreclosure of local improvement assessments: Chapters 35.49, 35.50 RCW.

RCW 35.70.100 Provisions of chapter not exclusive.

This chapter shall not be construed as repealing or amending any provision relating to the improvement of streets or public places by special assessments commonly known as local improvement laws, but shall be considered as additional legislation and auxiliary thereto and the city or town council, of any city of the second class or town before exercising the authority herein granted may by ordinance provide for the application and enforcement of the provisions of this chapter within the limitations herein specified.

[1994 c 81 § 63; 1965 c 7 § 35.70.100. Prior: 1915 c 149 § 8; RRS § 9162.]

Chapter 35.71 RCW
PEDESTRIAN MALLS

Sections

35.71.010 Definitions.
35.71.020 Establishment declared public purpose--Authority to establish--General powers.
35.71.030 Resolution of intention--Traffic limitation--Property owner's right of ingress and egress.
35.71.040 Plan--Alternate vehicle routes--Off-street parking--Hearing, notice.
35.71.050 Real estate appraisers--Report.
35.71.060 Financing methods.
35.71.070 Waivers and quitclaim deeds--Rights in right of way.
35.71.080 Vacating, replatting right of way for mall purposes.
35.71.090 "Mall organization"--Powers in general--Directors--Officers.
35.71.100 Special assessment.
35.71.110 Claims for damages.
35.71.120 Contracts with mall organization for administration--Conflicting charter provisions.
35.71.130 Election to discontinue mall--Ordinance--Outstanding obligations--Restoration to former status.
35.71.910 Chapter controls inconsistent laws.

RCW 35.71.010 Definitions.

As used in this chapter, the following terms shall have the meaning herein given to each of them:

"City" means any city or town.

"Chief executive" means the mayor in a mayor-council or commission city and city manager in a council-manager city.

"Corporate authority" means the legislative body of any city.

"Project" means a pedestrian mall project.

"Right of way" means that area of land dedicated for public use or secured by the public for purposes of ingress and egress to abutting property and other public purposes.

"Mall" means an area of land, part of which may be surfaced, landscaped, and used entirely for pedestrian movements, except with respect to governmental functions, utilities, and loading and unloading of goods.

"Mall organization" means a group of property owners, lessors, or lessees in an area that

has been organized to consider the establishment, maintenance, and operation of a mall in a given area and persons owning or having any legal or equitable interest in the real property affected by the establishment of the mall.

[1965 c 7 § 35.71.010. Prior: 1961 c 111 § 1.]

RCW 35.71.020 Establishment declared public purpose--Authority to establish--General powers.

The establishment of pedestrian malls is declared to be for a public purpose. Any corporate authority, by ordinance, may establish and regulate any street right of way as a mall, may prohibit, in whole or in part, vehicular traffic on a mall, and may provide for the acquisition of any interest in the right of way necessary to its establishment, and may provide for the determination of legal damages, if any, to abutting property.

[1965 c 7 § 35.71.020. Prior: 1961 c 111 § 2.]

RCW 35.71.030 Resolution of intention--Traffic limitation--Property owner's right of ingress and egress.

When the corporate authority determines that the public interest, safety, and convenience is best served by the establishment of a mall and that vehicular traffic will not be unduly inconvenienced thereby, it may adopt a resolution declaring its intention to do so, and announcing the intended extent of traffic limitation. Any corporate authority is authorized to limit the utilization of any right of way, except for utilities and governmental functions, provided adequate alternative routes for vehicular movement, and the loading and unloading of goods are established or are available. The abutting property owner's right of ingress and egress shall be considered to have been satisfied whenever the corporate authority has planned and constructed, or there is available, an alternate route, alleyway, and service driveway.

[1965 c 7 § 35.71.030. Prior: 1961 c 111 § 3.]

RCW 35.71.040 Plan--Alternate vehicle routes--Off-street parking--Hearing, notice.

Before a mall is established, a plan shall be formulated consistent with the city's comprehensive plan, including at least the area of the right of way between two intersecting streets and showing alternate routes outside the mall area upon which any vehicles excluded from using the mall may be accommodated; it may include a provision for on and off-street parking. After the plans have been prepared, the corporate authority shall hold a public hearing thereon, giving notice of time and place at least two weeks in advance of the hearing in a newspaper of general circulation in the city and as required by chapter 42.32 RCW.

[1965 c 7 § 35.71.040. Prior: 1961 c 111 § 4.]

RCW 35.71.050 Real estate appraisers--Report.

The corporate authority is authorized to engage duly qualified real estate appraisers, for the purpose of determining the value, or legal damages, if any, to any person, owning or having any legal or equitable interest in any real property who contends that he would suffer damage if a projected mall were established; in connection therewith the city shall take into account any increment in value that may result from the establishment of the mall. The appraisers shall submit their findings in writing to the chief executive of the city.

[1965 c 7 § 35.71.050. Prior: 1961 c 111 § 5.]

RCW 35.71.060 Financing methods.

The corporate authority may finance the establishment of a mall, including, but not limited to, right of way improvements, traffic control devices, and off-street parking facilities in the vicinity of the mall, by one or more of the following methods or by a combination of any two or more of them:

(1) By creating local improvement districts under the laws applicable thereto in Title 35 RCW.

(2) By issuing revenue bonds pursuant to chapter 35.41 RCW, *RCW 35.24.305, chapter 35.92 RCW, RCW 35.81.100, and by such other statutes that may authorize such bonds.

(3) By issuing general obligation bonds pursuant to chapter 39.52 RCW, RCW 35.81.115, and by such other statutes and applicable provisions of the state Constitution that may authorize such bonds.

(4) By use of gifts and donations.

(5) General fund and other available moneys: PROVIDED, That if any general fund moneys are expended for a mall, provision may be made for repayment thereof to the general fund from money received from the financing of the mall.

The corporate authority may include within the cost of any mall project the expense of moving utilities, or any facility located within a right of way.

[1965 c 7 § 35.71.060. Prior: 1961 c 111 § 6.]

Notes:

***Reviser's note:** RCW 35.24.305 was recodified as RCW 35.23.454 pursuant to 1994 c 81 § 90.

RCW 35.71.070 Waivers and quitclaim deeds--Rights in right of way.

The corporate authority may formulate, solicit, finance and acquire, purchase, or negotiate the acquisition of waivers and the execution of quitclaim deeds by persons owning or having any legal or equitable interest in the real property affected by the establishment of a mall, conveying the necessary rights to the city to prohibit through vehicular traffic and otherwise limit vehicular access to, and from, such right of way: PROVIDED, That the execution of such waivers and quitclaim deeds shall not operate to extinguish the rights of the abutting owner, lessor, or lessee in the right of way, not included in such waiver or quitclaim deed.

[1965 c 7 § 35.71.070. Prior: 1961 c 111 § 7.]

RCW 35.71.080 Vacating, replatting right of way for mall purposes.

The corporate authority, as an alternate to the preceding methods, may find that the right of way no longer is needed as a right of way. When persons owning or having any legal or equitable interest in the real property affected by a proposed mall, present a petition to the corporate authority for vacating the right of way pursuant to chapter 35.79 RCW, or the corporate authority initiates by resolution such a vacation proceeding, a right of way may be vacated and replatted for mall purposes, and closed to vehicular traffic except as provided in RCW 35.71.030, consistent with the subdivision standards allowed by Title 58 RCW, and chapter 35.63 RCW.

[1965 c 7 § 35.71.080. Prior: 1961 c 111 § 8.]

RCW 35.71.090 "Mall organization"--Powers in general--Directors--Officers.

The corporate authority may cause an organization of persons to be known as a "Mall organization" interested in creating a mall in a given area to be formed to provide for consultative assistance to the city with respect to the establishment and administration of a mall. This organization may elect a board of directors of not less than three nor more than twelve members. The board shall elect a president, a vice president, and a secretary from its membership.

[1965 c 7 § 35.71.090. Prior: 1961 c 111 § 9.]

RCW 35.71.100 Special assessment.

After the establishment of the mall, the corporate authority may levy a special assessment on the real property within the area specially benefited by the improvement. Such special levy, if any, shall be for operation and maintenance of the mall and appurtenances thereto, which may not exceed one percent of the aggregate actual valuation of the real property (including twenty-five percent of the actual valuation of the improvements thereon) according to the valuation last placed upon it for purposes of general taxation: PROVIDED, That if a mall organization board of directors exists as authorized by RCW 35.71.090, the corporate authority may entertain a recommendation from this organization with respect to such a levy by the corporate authority.

[1965 c 7 § 35.71.100. Prior: 1961 c 111 § 10.]

RCW 35.71.110 Claims for damages.

Following the public hearing on the ordinance to establish a mall any person owning or having any legal or equitable interest in property which might be affected by reason of the

establishment of the proposed mall or the board of directors of a mall organization shall, within twenty days of such hearing, file with the city clerk a statement describing the real property as to which the claim is made, the nature of the claimant's interest therein, the nature of the alleged damage thereto and the amount of damages claimed. After the receipt thereof, the corporate authority may negotiate with the affected parties concerning them or deny them.

[1965 c 7 § 35.71.110. Prior: 1961 c 111 § 11.]

RCW 35.71.120 Contracts with mall organization for administration--Conflicting charter provisions.

If the corporate authority desires to have the mall administered by a mall organization rather than by one of its departments, the corporate authority may execute a contract with such an organization for the administration of the mall upon mutually satisfactory terms and conditions: PROVIDED, That if any provision of a city charter conflicts with this section, such provision of the city charter shall prevail.

[1965 c 7 § 35.71.120. Prior: 1961 c 111 § 12.]

RCW 35.71.130 Election to discontinue mall--Ordinance--Outstanding obligations--Restoration to former status.

The board of directors of a mall organization may call for an election, after the mall has been in operation for two years, at which the voting shall be by secret ballot, on the question: "Shall the mall be continued in operation?" If sixty percent of the membership of the organization vote to discontinue the mall, the results of the election shall be submitted to the corporate authority. The corporate authority may initiate proceedings by ordinance for the discontinuation of the mall, allocate the proportionate amount of the outstanding obligations of the mall to the abutting property of the mall or property specially benefited if a local improvement district is established, subject to the provisions of any applicable statutes and bond ordinances, resolutions, or agreements, and thereafter, at a time set by the corporate authority, the mall may be restored to its former right of way status.

[1965 c 7 § 35.71.130. Prior: 1961 c 111 § 13.]

RCW 35.71.910 Chapter controls inconsistent laws.

Insofar as the provisions of this chapter are inconsistent with a provision of any other law, the provisions of this chapter shall be controlling.

[1965 c 7 § 35.71.910. Prior: 1961 c 111 § 15.]

Chapter 35.72 RCW

CONTRACTS FOR STREET, ROAD, AND HIGHWAY PROJECTS

Sections

35.72.010 Contracts authorized for street projects.
35.72.020 Reimbursement by other property owners.
35.72.030 Reimbursement by other property owners--Reimbursement share.
35.72.040 Assessment reimbursement contracts.
35.72.050 Alternative financing methods--Participation in or creation of assessment reimbursement area by county, city, town, or department of transportation--Eligibility for reimbursement.

RCW 35.72.010 Contracts authorized for street projects.

The legislative authority of any city, town, or county may contract with owners of real estate for the construction or improvement of street projects which the owners elect to install as a result of ordinances that require the projects as a prerequisite to further property development.

[1983 c 126 § 1.]

RCW 35.72.020 Reimbursement by other property owners.

The contract may provide for the partial reimbursement to the owner or the owner's assigns for a period not to exceed fifteen years of a portion of the costs of the project by other property owners who:

(1) Are determined to be within the assessment reimbursement area pursuant to RCW 35.72.040;

(2) Are determined to have a reimbursement share based upon a benefit to the property owner pursuant to RCW 35.72.030;

(3) Did not contribute to the original cost of the street project; and

(4) Subsequently develop their property within the fifteen-year period and at the time of development were not required to install similar street projects because they were already provided for by the contract.

Street projects subject to reimbursement may include design, grading, paving, installation of curbs, gutters, storm drainage, sidewalks, street lighting, traffic controls, and other similar improvements, as required by the street standards of the city, town, or county.

[1983 c 126 § 2.]

RCW 35.72.030 Reimbursement by other property owners--Reimbursement share.

The reimbursement shall be a pro rata share of construction and reimbursement of contract administration costs of the street project. A city, town, or county shall determine the reimbursement share by using a method of cost apportionment which is based on the benefit to the property owner from such project.

[1983 c 126 § 3.]

RCW 35.72.040 Assessment reimbursement contracts.

The procedures for assessment reimbursement contracts shall be governed by the following:

(1) An assessment reimbursement area shall be formulated by the city, town, or county based upon a determination by the city, town, or county of which parcels adjacent to the improvements would require similar street improvements upon development.

(2) The preliminary determination of area boundaries and assessments, along with a description of the property owners' rights and options, shall be forwarded by certified mail to the property owners of record within the proposed assessment area. If any property owner requests a hearing in writing within twenty days of the mailing of the preliminary determination, a hearing shall be held before the legislative body, notice of which shall be given to all affected property owners. The legislative body's ruling is determinative and final.

(3) The contract must be recorded in the appropriate county auditor's office within thirty days of the final execution of the agreement.

(4) If the contract is so filed, it shall be binding on owners of record within the assessment area who are not party to the contract.

[1988 c 179 § 16; 1983 c 126 § 4.]

Notes:

Severability--Prospective application--Section captions--1988 c 179: See RCW 39.92.900 and 39.92.901.

RCW 35.72.050 Alternative financing methods--Participation in or creation of assessment reimbursement area by county, city, town, or department of transportation--Eligibility for reimbursement.

(1) As an alternative to financing projects under this chapter solely by owners of real estate, a county, city, or town may join in the financing of improvement projects and may be reimbursed in the same manner as the owners of real estate who participate in the projects, if the county, city, or town has specified the conditions of its participation in an ordinance. As another alternative, a county, city, or town may create an assessment reimbursement area on its own initiative, without the participation of a private property owner, finance the costs of the road or street improvements, and become the sole beneficiary of the reimbursements that are contributed. A county, city, or town may be reimbursed only for the costs of improvements that benefit that portion of the public who will use the developments within the assessment reimbursement area established pursuant to RCW 35.72.040(1). No county, city, or town costs for improvements that benefit the general public may be reimbursed.

(2) The department of transportation may, for state highways, participate with the owners of real estate or may be the sole participant in the financing of improvement projects, in the same manner and subject to the same restrictions as provided for counties, cities, and towns, in subsection (1) of this section. The department shall enter into agreements whereby the

appropriate county, city, or town shall act as an agent of the department in administering this chapter.

[1997 c 158 § 1; 1987 c 261 § 1; 1986 c 252 § 1.]

Chapter 35.73 RCW
STREET GRADES--SANITARY FILLS

Sections

35.73.010 Authority--First and second class cities.
35.73.020 Estimates--Intention--Property included--Resolution.
35.73.030 Hearing--Time of--Publication of resolution.
35.73.040 Ordinance--Assessments.
35.73.050 Lien of assessments.
35.73.060 Improvement district bonds--Issuance.
35.73.070 Improvement district bonds--Payment--Remedies.
35.73.080 Provisions not exclusive.

RCW 35.73.010 Authority--First and second class cities.

If a city of the first or second class establishes the grade of any street or alley at a higher elevation than any private property abutting thereon, thereby rendering the drainage of such private property or any part thereof impracticable without the raising of the surface of such private property, or if the surface of any private property in any such city is so low as to make sanitary drainage thereof impracticable and it is determined by resolution of the city council of such city that a fill of such private property is necessary as a sanitary measure, the city may provide therefor, and by general or special ordinance or both make provision for the necessary surveys, estimates, bids, contract, bond and supervision of the work and for making and approving the assessment roll of the local improvement district and for the collection of the assessments made thereby, and for the doing of everything which in their discretion may be necessary or be incidental thereto: PROVIDED, That before the approval of the assessment roll, notice shall be given and an opportunity offered for the owners of the property affected by the assessment roll to be heard before such city council in the same manner as in case of assessments for drainage or sewerage in the city.

[1965 c 7 § 35.73.010. Prior: (i) 1907 c 243 § 1; RRS § 9426. (ii) 1907 c 243 § 4; RRS § 9429.]

RCW 35.73.020 Estimates--Intention--Property included--Resolution.

Before establishing a grade for property or providing for the fill of property, the city must adopt a resolution declaring its intention to do so.

The resolution shall:

(1) Describe the property proposed to be improved by the fill,

(2) State the estimated cost of making the improvement,

(3) State that the cost thereof is to be assessed against the property improved thereby, and

(4) Fix a time not less than thirty days after the first publication of the resolution within which protests against the proposed improvement may be filed with the city clerk.

The resolution may include as many separate parcels of property as may seem desirable whether or not they are contiguous so long as they lie in the same general neighborhood and may be included conveniently in one local improvement district.

[1965 c 7 § 35.73.020. Prior: 1907 c 243 § 2, part; RRS § 9427, part.]

RCW 35.73.030 Hearing--Time of--Publication of resolution.

Upon the passage of the resolution the city clerk shall cause it to be published in the official newspaper of the city in at least two successive issues before the time fixed in the resolution for filing protests. Proof of publication by affidavit shall be filed as part of the record of the proceedings.

[1965 c 7 § 35.73.030. Prior: 1907 c 243 § 2, part; RRS § 9427, part.]

RCW 35.73.040 Ordinance--Assessments.

If no protest is filed, or if protests are filed but the city council after full hearing determines that it is necessary to fill any portion of the private property it shall proceed to enact an ordinance for such improvement. By the provisions of the ordinance, a local improvement district shall be established to be called "local improvement district No. . . . .," which shall include all the property found by the said council to require the fill as a sanitary measure. The ordinance shall provide that such improvement shall be made and shall fix and establish the grades to which the said property and the different portions thereof shall be brought by such improvement, and that the cost and expense thereof shall be taxed and assessed upon all the property in such local improvement district, which cost shall be assessed in proportion to the number of cubic yards of earth and bulkheading required for the different portions of said property included in said improvement district and in proportion to the benefits derived by such improvement: PROVIDED, That the city council may expend from the general fund for such purposes such sums as in its judgment may seem fair and equitable in consideration of the benefits accruing to the general public by reason of such improvement.

[1965 c 7 § 35.73.040. Prior: 1907 c 243 § 3, part; RRS § 9428, part.]

RCW 35.73.050 Lien of assessments.

Whenever any expense or cost of work has been assessed the amount of such expense and cost shall become a lien upon said lands against which the same are so assessed and shall take precedence of all other liens, except general tax liens and special assessment liens theretofore assessed by the said city thereon and which may be foreclosed in accordance with

law in the name of such city as plaintiff. And in any such proceeding if the court trying the same shall be satisfied that the work has been done or material furnished for the fill of such property, a recovery shall be permitted or charge enforced to the extent of the proper proportion of the value of the work or material which would be chargeable on such lot or land notwithstanding any informality, irregularity or defects in any of the proceedings of such municipal corporation or its officers.

[1965 c 7 § 35.73.050. Prior: 1907 c 243 § 3, part; RRS § 9428, part.]

Notes:
Collection and foreclosure of local improvement district assessments: Chapters 35.49, 35.50 RCW.

RCW 35.73.060 Improvement district bonds--Issuance.

(1) The city may, in its discretion, by general or special ordinance, or both, instead of requiring immediate payment for the said work to be made by the owners of property included in the assessment roll, authorize the issuance of interest bearing bonds or warrants of the local improvement district, payable on or before a date not to exceed twelve years from and after their date. The bonds may be issued subject to call, the amount of the said assessment to be payable in installments or otherwise, and the bonds to be of such terms as may be provided in the ordinances and to bear interest at such rate or rates as may be prescribed in the ordinances. Such bonds or warrants may be of any form, including bearer bonds or bearer warrants, or registered bonds or registered warrants as provided in RCW 39.46.030.

(2) Notwithstanding subsection (1) of this section, such bonds or warrants may be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 62; 1981 c 156 § 9; 1979 ex.s. c 30 § 1; 1965 c 7 § 35.73.060. Prior: 1915 c 87 § 1, part; 1907 c 243 § 5, part; RRS § 9430, part.]

Notes:
Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 35.73.070 Improvement district bonds--Payment--Remedies.

The bonds or warrants shall be payable only from the fund created by the special assessments upon the property in the local improvement district, and the owner of any bond or warrant shall look only to this fund for the payment of the principal and interest thereof and shall have no claim or lien therefor against the city by which the same was issued except from that fund.

[1983 c 167 § 63; 1965 c 7 § 35.73.070. Prior: 1915 c 87 § 1, part; 1907 c 243 § 5, part; RRS § 9430, part.]

Notes:
Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 35.73.080 Provisions not exclusive.

The provisions and remedies provided by this chapter for filling lowlands in connection with establishing street grades or for sanitary reasons are cumulative.

[1965 c 7 § 35.73.080. Prior: 1907 c 243 § 6; RRS § 9431.]

Chapter 35.74 RCW
STREETS--DRAWBRIDGES

Sections

35.74.010 Authority to construct or grant franchise to construct.
35.74.020 Initiation of proceedings--Notice to county commissioners.
35.74.030 Determination of width of draw--Appeal.
35.74.040 Required specifications.
35.74.050 City may operate as toll bridges.
35.74.060 Prerequisites of grant of franchise--Approval of bridge--Tolls.
35.74.070 License fees--Renewal of license.

Notes:
Bridges across navigable waters: Chapter 79.01 RCW.
Counties may assist as to certain bridges on city streets: RCW 36.75.200.

RCW 35.74.010 Authority to construct or grant franchise to construct.

Every city and town may erect and maintain drawbridges across navigable streams that flow through or penetrate the boundaries thereof, when the public necessity requires it, or it may grant franchises to persons or corporations to erect them and charge toll thereon.

[1965 c 7 § 35.74.010. Prior: 1890 p 54 § 1; RRS § 9323.]

RCW 35.74.020 Initiation of proceedings--Notice to county commissioners.

If the city or town council desires to erect a drawbridge across any navigable stream on any street, or to grant the privilege so to do to any corporation or individual, it shall notify the board of county commissioners to that effect stating the precise point where such bridge is proposed to be located.

[1965 c 7 § 35.74.020. Prior: 1890 p 54 § 2, part; RRS § 9324, part.]

RCW 35.74.030 Determination of width of draw--Appeal.

The board of county commissioners within ten days from the receipt of the notice, if in session, and if not in session, within five days after the first day of the next regular or special session, shall designate the width of the draw to be made in such bridge, and the length of span necessary to permit the free flow of water: PROVIDED, That if any persons deem themselves aggrieved by the determination of the matter by the board, they may appeal to the superior court which may hear and determine the matter upon such further notice and on such testimony as it shall direct to be produced.

[1965 c 7 § 35.74.030. Prior: 1890 p 54 § 2, part; RRS § 9324, part.]

RCW 35.74.040 Required specifications.

All bridges constructed under the provisions of this chapter must be so constructed as not to obstruct navigation, and must have a draw or swing of sufficient space or span to permit the safe, convenient, and expeditious passage at all times of any steamer or vessel or raft which may navigate the stream or waters bridged.

[1965 c 7 § 35.74.040. Prior: 1890 p 55 § 5; RRS § 9327.]

RCW 35.74.050 City may operate as toll bridges.

A city or town may build and maintain toll bridges and charge and collect tolls thereon, and to that end may provide a system and elect or appoint persons to operate the same, or the said bridges may be made free, as it may elect.

[1965 c 7 § 35.74.050. Prior: 1890 p 55 § 6; RRS § 9328.]

RCW 35.74.060 Prerequisites of grant of franchise--Approval of bridge--Tolls.

Before any franchise to build any bridge across any such navigable stream is granted by any city or town council it shall fix a license tax, not to exceed ten percent of the tolls collected annually. Upon the completion of the bridge the city or town council shall cause it to be inspected and if it is found to comply in all respects with the specifications previously made, and to be safe and convenient for the public, the council shall declare it open as a toll bridge, and shall immediately fix the rates of toll thereof.

[1965 c 7 § 35.74.060. Prior: 1890 p 55 § 3; RRS § 9325.]

RCW 35.74.070 License fees--Renewal of license.

The owner or keeper of any toll bridges in any city or town shall, before the renewal of any license, report to the city or town council under oath, the actual cost of construction and equipment of the toll bridge, the repairs and cost of maintaining it during the preceding year, the amount of tax collected, and the estimated cash value of the bridge, exclusive of the franchise. All funds arising from the license tax shall be paid into the general fund of the city or town.

[1965 c 7 § 35.74.070. Prior: 1890 p 55 § 4; RRS § 9326.]

Chapter 35.75 RCW
STREETS--BICYCLES--PATHS

Sections

35.75.010 Authority to regulate and license bicycles--Penalties.
35.75.020 Use of bicycle paths for other purposes prohibited.
35.75.030 License fees authorized.
35.75.040 Rules regulating use of bicycle paths.
35.75.050 Bicycle road fund--Sources--Use.
35.75.060 Use of street and road funds for bicycle paths, lanes, routes and improvements authorized--Standards.

Notes:
Bicycle awareness program: RCW 43.43.390.
Bicycle transportation management program: RCW 47.04.190.
Pavement marking standards: RCW 47.36.280.
Rules of the road, bicycles: RCW 46.61.750 through 46.61.780.

RCW 35.75.010 Authority to regulate and license bicycles--Penalties.

Every city and town may by ordinance regulate and license the riding of bicycles and other similar vehicles upon or along the streets, alleys, highways, or other public grounds within its limits and may construct and maintain bicycle paths or roadways within or outside of and beyond its limits leading to or from the city or town. The city or town may provide by ordinance for reasonable fines and penalties for violation of the ordinance.

[1965 c 7 § 35.75.010. Prior: (i) 1899 c 31 § 1; RRS § 9204. (ii) 1899 c 31 § 2; RRS § 9205.]

RCW 35.75.020 Use of bicycle paths for other purposes prohibited.

It shall be unlawful for any person to lead, drive, ride or propel any team, wagon, animal, or vehicle other than a bicycle or similar vehicle upon and along any bicycle path constructed within or without the corporate limits of any city or town excepting at suitable crossings to be provided in the construction of such paths. Any person violating the provisions of this section shall be guilty of a misdemeanor.

[1965 c 7 § 35.75.020. Prior: 1899 c 31 § 3; RRS § 9206.]

RCW 35.75.030 License fees authorized.

Every city and town by ordinance may establish and collect reasonable license fees from all persons riding a bicycle or other similar vehicle within its respective corporate limits, and may enforce the payment thereof by reasonable fines and penalties.

[1965 c 7 § 35.75.030. Prior: 1899 c 31 § 4; RRS § 9207.]

RCW 35.75.040 Rules regulating use of bicycle paths.

The license fee to be paid and the rules regulating the riding of bicycles or other similar vehicles within any city or town shall be fixed by ordinance, and the rules regulating the use of

such bicycle paths or roadways constructed or maintained within its limits and the fines and penalties for the violation of such rules shall be fixed by ordinance.

[1965 c 7 § 35.75.040. Prior: 1899 c 31 § 5; RRS § 9208.]

RCW 35.75.050 Bicycle road fund--Sources--Use.

The city or town council shall by ordinance provide that the whole amount or any amount not less than seventy-five percent of all license fees, penalties or other moneys collected under the authority of this chapter shall be paid into and placed to the credit of a special fund to be known as the "bicycle road fund." The moneys in the bicycle road fund shall not be transferred to any other fund and shall be paid out for the sole purpose of building and maintaining bicycle paths and roadways authorized to be constructed and maintained by this chapter or for special policemen, bicycle tags, stationery and other expenses growing out of the regulating and licensing of the riding of bicycles and other vehicles and the construction, maintenance and regulation of the use of bicycle paths and roadways.

[1965 c 7 § 35.75.050. Prior: 1899 c 31 § 6; RRS § 9209.]

RCW 35.75.060 Use of street and road funds for bicycle paths, lanes, routes and improvements authorized--Standards.

Any city or town may use any funds available for street or road construction, maintenance, or improvement for building, improving, and maintaining bicycle paths, lanes, roadways, and routes, and for improvements to make existing streets and roads more suitable and safe for bicycle traffic: PROVIDED, That any such paths, lanes, roadways, routes, or streets for which any such street or road funds are expended shall be suitable for bicycle transportation purposes and not solely for recreation purposes. Bicycle facilities constructed or modified after June 10, 1982, shall meet or exceed the standards of the state department of transportation.

[1982 c 55 § 1; 1974 ex.s. c 141 § 10.]

Chapter 35.76 RCW
STREETS--BUDGET AND ACCOUNTING

Sections

35.76.010 Declaration of purpose--Budget and accounting by functional categories.
35.76.020 Cost accounting and reporting--Cities over eight thousand.
35.76.030 Cost accounting and reporting--Cities of eight thousand or less.
35.76.040 Manual of instructions.
35.76.050 Cost-audit examination and report.
35.76.060 Budgets.

RCW 35.76.010 Declaration of purpose--Budget and accounting by functional categories.

Records of city street expenditures are generally inadequate to meet the needs of cities for planning and administration of their street programs and the needs of the legislature in providing for city street financing. It is the intent of the legislature that each city and town shall budget and thereafter maintain records and accounts for all street expenditures by functional categories in a manner consistent with its size, administrative capabilities, and the amounts of money expended by it for street purposes.

[1965 c 7 § 35.76.010. Prior: 1963 c 115 § 1.]

RCW 35.76.020 Cost accounting and reporting--Cities over eight thousand.

The state auditor shall formulate, prescribe, and install a system of cost accounting and reporting for each city having a population of more than eight thousand, according to the last official census, which will correctly show all street expenditures by functional categories. The system shall also provide for reporting all revenues available for street purposes from whatever source including local improvement district assessments and state and federal aid.

[1995 c 301 § 48; 1965 c 7 § 35.76.020. Prior: 1963 c 115 § 2.]

Notes:

Cities over eight thousand, equipment rental fund in street department: RCW 35.21.088.

RCW 35.76.030 Cost accounting and reporting--Cities of eight thousand or less.

Consistent with the intent of this chapter as stated in RCW 35.76.010, the state auditor, from and after July 1, 1965, is authorized and directed to prescribe accounting and reporting procedures for street expenditures for cities and towns having a population of eight thousand or less, according to the last official census.

[1995 c 301 § 49; 1965 c 7 § 35.76.030. Prior: 1963 c 115 § 3.]

RCW 35.76.040 Manual of instructions.

The state auditor, after consultation with the association of Washington cities and the planning division of the state department of transportation shall prepare and distribute to the cities and towns a manual of instructions governing accounting and reporting procedures for all street expenditures.

[1984 c 7 § 21; 1965 c 7 § 35.76.040. Prior: 1963 c 115 § 4.]

Notes:

Severability--1984 c 7: See note following RCW 47.01.141.

RCW 35.76.050 Cost-audit examination and report.

The state auditor shall annually make a cost-audit examination of street records for each city and town and make a written report thereon to the legislative body of each city and town. The expense of the examination shall be paid out of that portion of the motor vehicle fund allocated to the cities and towns and withheld for use by the state department of transportation under the terms of RCW 46.68.110(1).

[1995 c 301 § 50; 1984 c 7 § 22; 1965 c 7 § 35.76.050. Prior: 1963 c 115 § 5.]

Notes:

Severability--1984 c 7: See note following RCW 47.01.141.

RCW 35.76.060 Budgets.

Expenditures for city and town streets shall be budgeted by each city and town according to the same functional categories prescribed by the state auditor for purposes of accounting and reporting as provided in RCW 35.76.020 and 35.76.030.

In the preparation of city and town budgets, including the preparation and filing of budget estimates, adoption of preliminary budgets and adoption of final budgets, all expenditures for street purposes shall be designated by such functional categories only.

[1965 c 7 § 35.76.060. Prior: 1963 c 115 § 6.]

Chapter 35.77 RCW
STREETS--PLANNING, ESTABLISHMENT, CONSTRUCTION, AND MAINTENANCE

Sections

35.77.010 Perpetual advanced six-year plans for coordinated transportation program expenditures--Nonmotorized transportation--Railroad right-of-way.
35.77.015 Provisions for bicycle paths, lanes, routes, roadways and improvements to be included in annual revision or extension of comprehensive street programs--Exception.
35.77.020 Agreements with county for planning, establishment, construction, and maintenance.
35.77.030 Agreements with county for planning, establishment, construction, and maintenance--County may use road fund--Payments by city--Contracts, bids.
35.77.040 Agreements with county for planning, establishment, construction, and maintenance--Act is additional and concurrent method.

Notes:

Bicycle awareness program: RCW 43.43.390.
Bicycle transportation management program: RCW 47.04.190.
Local adopt-a-highway programs: RCW 47.40.105.
Pavement marking standards: RCW 47.36.280.
Planning commissions: Chapter 35.63 RCW.
State highways in urban areas, allocation of funds, planning, bond issue, etc.: Chapter 47.26 RCW.
Urban arterials, planning, construction by cities and counties, transportation improvement board, bond issue, etc.: Chapter 47.26 RCW.

RCW 35.77.010 Perpetual advanced six-year plans for coordinated transportation program expenditures--Nonmotorized transportation--Railroad right-of-way.

(1) The legislative body of each city and town, pursuant to one or more public hearings thereon, shall prepare and adopt a comprehensive transportation program for the ensuing six calendar years. If the city or town has adopted a comprehensive plan pursuant to chapter 35.63 or 35A.63 RCW, the inherent authority of a first class city derived from its charter, or chapter 36.70A RCW, the program shall be consistent with this comprehensive plan.

The program shall be filed with the secretary of transportation not more than thirty days after its adoption. Annually thereafter the legislative body of each city and town shall review the work accomplished under the program and determine current city transportation needs. Based on these findings each such legislative body shall prepare and after public hearings thereon adopt a revised and extended comprehensive transportation program before July 1st of each year, and each one-year extension and revision shall be filed with the secretary of transportation not more than thirty days after its adoption. The purpose of this section is to assure that each city and town shall perpetually have available advanced plans looking to the future for not less than six years as a guide in carrying out a coordinated transportation program. The program may at any time be revised by a majority of the legislative body of a city or town, but only after a public hearing.

The six-year plan for each city or town shall specifically set forth those projects and programs of regional significance for inclusion in the transportation improvement program within that region.

(2) Each six-year transportation program forwarded to the secretary in compliance with subsection (1) of this section shall contain information as to how a city or town will expend its moneys, including funds made available pursuant to chapter 47.30 RCW, for nonmotorized transportation purposes.

(3) Each six-year transportation program forwarded to the secretary in compliance with subsection (1) of this section shall contain information as to how a city or town shall act to preserve railroad right-of-way in the event the railroad ceases to operate in the city's or town's jurisdiction.

[1994 c 179 § 1; 1994 c 158 § 7; 1990 1st ex.s. c 17 § 59; 1988 c 167 § 6; 1984 c 7 § 23; 1977 ex.s. c 317 § 7; 1975 1st ex.s. c 215 § 1; 1967 ex.s. c 83 § 27; 1965 c 7 § 35.77.010. Prior: 1961 c 195 § 2.]

Notes:

Reviser's note: This section was amended by 1994 c 158 § 7 and by 1994 c 179 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Captions not law--Severability--Effective date--1994 c 158: See RCW 47.80.902 through 47.80.904.

Severability--Part, section headings not law--1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

Savings--Severability--1988 c 167: See notes following RCW 47.26.121.

Severability--1984 c 7: See note following RCW 47.01.141.

Effective dates--Severability--1977 ex.s. c 317: See notes following RCW 82.36.010.

Severability--Effective dates--1967 ex.s. c 83: See RCW 47.26.900 and 47.26.910.

Highways, roads, streets in urban areas, urban arterials, development: Chapter 47.26 RCW.

Long-range arterial construction planning, counties and cities to prepare data: RCW 47.26.170.

Perpetual advanced six-year plans for coordinated transportation program: RCW 36.81.121.

Transportation improvement board: Chapter 47.26 RCW.

RCW 35.77.015 Provisions for bicycle paths, lanes, routes, roadways and improvements to be included in annual revision or extension of comprehensive street programs--Exception.

The annual revision and extension of comprehensive street programs pursuant to RCW 35.77.010 shall include consideration of and, wherever reasonably practicable, provisions for bicycle routes: PROVIDED, That no provision need be made for any such route where the cost of establishing it would be excessively disproportionate to the need or probable use.

[1974 ex.s. c 141 § 11.]

RCW 35.77.020 Agreements with county for planning, establishment, construction, and maintenance.

Any city or town may enter into an agreement with the county in which it is located authorizing the county to perform all or any part of the construction, repair, and maintenance of streets in such city or town at such cost as shall be mutually agreed upon. The agreement shall be approved by ordinance of the governing body of the city or town and by resolution of the board of county commissioners.

Any such agreement may include, but shall not be limited to the following:

(1) A provision that the county shall perform all or a specified part of the construction, repair, or maintenance of the city or town streets and bridges to the same standards provided by the county in unincorporated areas, or to increased standards as shall be specified which may include construction, repair, or maintenance of drainage facilities including storm sewers, sidewalks and curbings, street lighting, and traffic control devices.

(2) A provision that the county may provide engineering and administrative services necessary for the planning, establishment, construction, and maintenance of the streets of the city or town, including engineering and clerical services necessary for the establishment of local improvement districts. In providing such services the county engineer may exercise all the powers and perform all the duties vested by law or by ordinance in the city or town engineer or other officer or department charged with street administration.

(3) A provision that the city or town shall enact ordinances for the administration, establishment, construction, repair, maintenance, regulation, and protection of its streets as may be necessary to authorize the county to lawfully carry out the terms of the agreement.

[1965 c 7 § 35.77.020. Prior: 1961 c 245 § 1.]

RCW 35.77.030 Agreements with county for planning, establishment, construction, and maintenance--County may use road fund--Payments by city--Contracts, bids.

Pursuant to an agreement authorized by RCW 35.77.020, the board of county commissioners may expend funds from the county road fund for the construction, repair, and maintenance of the streets of such city or town and for engineering and administrative services. Payments by a city or town under such an agreement shall be made to the county treasurer and by him deposited in the county road fund. Such construction, repair, maintenance, and engineering service shall be ordered by resolution and proceedings conducted in respect thereto in the same manner as provided for the construction, repair, and maintenance of county roads by counties, and for the preparation of maps, plans and specifications, advertising and award of contracts therefor: PROVIDED, That except in case of emergency all construction work performed by a county on city streets pursuant to RCW 35.77.020 through 35.77.040, which exceeds ten thousand dollars, shall be done by contract, unless after advertisement and solicitation of competitive bids it appears that bids are unobtainable or that the lowest bid exceeds the amount for which such construction can be done by means other than contract. No street construction project shall be divided into lesser component parts for the purpose of avoiding the requirements for competitive bidding.

[1965 c 7 § 35.77.030. Prior: 1961 c 245 § 2.]

RCW 35.77.040 Agreements with county for planning, establishment, construction, and maintenance--Act is additional and concurrent method.

RCW 35.77.020 through 35.77.040 shall not repeal, amend, or modify any law providing for joint or cooperative agreements between cities and counties with respect to city streets, but shall be held to be an additional and concurrent method providing for such purpose.

[1965 c 7 § 35.77.040. Prior: 1961 c 245 § 3.]

Chapter 35.78 RCW
STREETS--CLASSIFICATION AND DESIGN STANDARDS

Sections

35.78.010 Classification of streets.
35.78.020 State design standards--Committee--Membership.
35.78.030 Committee to adopt uniform design standards.
35.78.040 Design standards must be followed by municipalities--Approval of deviations.

Notes:

City and town streets as part of state highways: Chapter 47.24 RCW.
Design standards committee for county roads: Chapter 43.32 RCW, RCW 36.86.070, 36.86.080.

RCW 35.78.010 Classification of streets.

The governing body of each municipal corporation shall classify and designate city streets as follows:

Major arterials, which are defined as transportation arteries which connect the focal points of traffic interest within a city; arteries which provide communications with other communities and the outlying areas; or arteries which have relatively high traffic volume compared with other streets within the city;

Secondary arterials, which are defined as routes which serve lesser points of traffic interest within a city; provide communication with outlying districts in the same degree or serve to collect and distribute traffic from the major arterials to the local streets;

Access streets, which are defined as land service streets and are generally limited to providing access to abutting property. They are tributary to the major and secondary thoroughfares and generally discourage through traffic.

[1965 c 7 § 35.78.010. Prior: 1949 c 164 § 1; Rem. Supp. 1949 § 9300-1.]

RCW 35.78.020 State design standards--Committee--Membership.

There is created a state design standards committee of seven members, six of whom shall be appointed by the executive committee of the Association of Washington Cities to hold office at its pleasure and the seventh to be the state aid engineer. The members to be appointed by the executive committee of the Association of Washington Cities shall be restricted to the membership of the association or to those holding office and/or performing the function of chief engineer in any of the several municipalities in the state.

[1984 c 7 § 24; 1965 c 7 § 35.78.020. Prior: 1949 c 164 § 2; Rem. Supp. 1949 § 9300-2.]

Notes:

Severability--1984 c 7: See note following RCW 47.01.141.

RCW 35.78.030 Committee to adopt uniform design standards.

The design standards committee shall from time to time adopt uniform design standards for major arterial and secondary arterial streets.

[1965 c 7 § 35.78.030. Prior: 1949 c 164 § 3; Rem. Supp. 1949 § 9300-3.]

RCW 35.78.040 Design standards must be followed by municipalities--Approval of deviations.

The governing body of the several municipalities shall apply the uniform design standards adopted under RCW 35.78.030 to all new construction on major arterial and secondary arterial streets and to reconstruction of old such streets as far as practicable. No deviation from the design standards as to such streets may be made without approval of the state aid engineer.

[1984 c 7 § 25; 1965 c 7 § 35.78.040. Prior: 1949 c 164 § 4; Rem. Supp. 1949 § 9300-4.]

Notes:

Severability--1984 c 7: See note following RCW 47.01.141.

Chapter 35.79 RCW
STREETS--VACATION

Sections

35.79.010 Petition by owners--Fixing time for hearing.
35.79.020 Notice of hearing--Objections prior to hearing.
35.79.030 Hearing--Ordinance of vacation.
35.79.035 Limitations on vacations of streets abutting bodies of water--Procedure.
35.79.040 Title to vacated street or alley.
35.79.050 Vested rights not affected.

RCW 35.79.010 Petition by owners--Fixing time for hearing.

The owners of an interest in any real estate abutting upon any street or alley who may desire to vacate the street or alley, or any part thereof, may petition the legislative authority to make vacation, giving a description of the property to be vacated, or the legislative authority may itself initiate by resolution such vacation procedure. The petition or resolution shall be filed with the city or town clerk, and, if the petition is signed by the owners of more than two-thirds of the property abutting upon the part of such street or alley sought to be vacated, legislative authority by resolution shall fix a time when the petition will be heard and determined by such authority or a committee thereof, which time shall not be more than sixty days nor less than twenty days after the date of the passage of such resolution.

[1965 c 7 § 35.79.010. Prior: 1957 c 156 § 2; 1901 c 84 § 1, part; RRS § 9297, part.]

RCW 35.79.020 Notice of hearing--Objections prior to hearing.

Upon the passage of the resolution the city or town clerk shall give twenty days' notice of the pendency of the petition by a written notice posted in three of the most public places in the city or town and a like notice in a conspicuous place on the street or alley sought to be vacated. The said notice shall contain a statement that a petition has been filed to vacate the street or alley described in the notice, together with a statement of the time and place fixed for the hearing of the petition. In all cases where the proceeding is initiated by resolution of the city or town council or similar legislative authority without a petition having been signed by the owners of more than two-thirds of the property abutting upon the part of the street or alley sought to be vacated, in addition to the notice hereinabove required, there shall be given by mail at least fifteen days before the date fixed for the hearing, a similar notice to the owners or reputed

owners of all lots, tracts or parcels of land or other property abutting upon any street or alley or any part thereof sought to be vacated, as shown on the rolls of the county treasurer, directed to the address thereon shown: PROVIDED, That if fifty percent of the abutting property owners file written objection to the proposed vacation with the clerk, prior to the time of hearing, the city shall be prohibited from proceeding with the resolution.

[1965 c 7 § 35.79.020. Prior: 1957 c 156 § 3; 1901 c 84 § 1, part; RRS § 9297, part.]

RCW 35.79.030 Hearing--Ordinance of vacation.

The hearing on such petition may be held before the legislative authority, or before a committee thereof upon the date fixed by resolution or at the time said hearing may be adjourned to. If the hearing is before such a committee the same shall, following the hearing, report its recommendation on the petition to the legislative authority which may adopt or reject the recommendation. If such hearing be held before such a committee it shall not be necessary to hold a hearing on the petition before such legislative authority. If the legislative authority determines to grant said petition or any part thereof, such city or town shall be authorized and have authority by ordinance to vacate such street, or alley, or any part thereof, and the ordinance may provide that it shall not become effective until the owners of property abutting upon the street or alley, or part thereof so vacated, shall compensate such city or town in an amount which does not exceed one-half the appraised value of the area so vacated. If the street or alley has been part of a dedicated public right-of-way for twenty-five years or more, the city or town may require the owners of the property abutting the street or alley to compensate the city or town in an amount that does not exceed the full appraised value of the area vacated. The ordinance may provide that the city retain an easement or the right to exercise and grant easements in respect to the vacated land for the construction, repair, and maintenance of public utilities and services. A certified copy of such ordinance shall be recorded by the clerk of the legislative authority and in the office of the auditor of the county in which the vacated land is located. One-half of the revenue received by the city or town as compensation for the area vacated must be dedicated to the acquisition, improvement, development, and related maintenance of public open space or transportation capital projects within the city or town.

[2001 c 202 § 1; 1987 c 228 § 1; 1985 c 254 § 1; 1969 c 28 § 4. Prior: 1967 ex.s. c 129 § 1; 1967 c 123 § 1; 1965 c 7 § 35.79.030; prior: 1957 c 156 § 4; 1949 c 14 § 1; 1901 c 84 § 2; Rem. Supp. 1949 § 9298.]

RCW 35.79.035 Limitations on vacations of streets abutting bodies of water--Procedure.

(1) A city or town shall not vacate a street or alley if any portion of the street or alley abuts a body of fresh or salt water unless:

(a) The vacation is sought to enable the city or town to acquire the property for port purposes, beach or water access purposes, boat moorage or launching sites, park, public view, recreation, or educational purposes, or other public uses;

(b) The city or town, by resolution of its legislative authority, declares that the street or alley is not presently being used as a street or alley and that the street or alley is not suitable for

any of the following purposes: Port, beach or water access, boat moorage, launching sites, park, public view, recreation, or education; or

(c) The vacation is sought to enable a city or town to implement a plan, adopted by resolution or ordinance, that provides comparable or improved public access to the same shoreline area to which the streets or alleys sought to be vacated abut, had the properties included in the plan not been vacated.

(2) Before adopting a resolution vacating a street or alley under subsection (1)(b) of this section, the city or town shall:

(a) Compile an inventory of all rights of way within the city or town that abut the same body of water that is abutted by the street or alley sought to be vacated;

(b) Conduct a study to determine if the street or alley to be vacated is suitable for use by the city or town for any of the following purposes: Port, boat moorage, launching sites, beach or water access, park, public view, recreation, or education;

(c) Hold a public hearing on the proposed vacation in the manner required by this chapter, where in addition to the normal requirements for publishing notice, notice of the public hearing is posted conspicuously on the street or alley sought to be vacated, which posted notice indicates that the area is public access, it is proposed to be vacated, and that anyone objecting to the proposed vacation should attend the public hearing or send a letter to a particular official indicating his or her objection; and

(d) Make a finding that the street or alley sought to be vacated is not suitable for any of the purposes listed under (b) of this subsection, and that the vacation is in the public interest.

(3) No vacation shall be effective until the fair market value has been paid for the street or alley that is vacated. Moneys received from the vacation may be used by the city or town only for acquiring additional beach or water access, acquiring additional public view sites to a body of water, or acquiring additional moorage or launching sites.

[1987 c 228 § 2.]

RCW 35.79.040 Title to vacated street or alley.

If any street or alley in any city or town is vacated by the city or town council, the property within the limits so vacated shall belong to the abutting property owners, one-half to each.

[1965 c 7 § 35.79.040. Prior: 1901 c 84 § 3; RRS § 9299.]

RCW 35.79.050 Vested rights not affected.

No vested rights shall be affected by the provisions of this chapter.

[1965 c 7 § 35.79.050. Prior: 1901 c 84 § 4; RRS § 9300.]

Chapter 35.80 RCW

UNFIT DWELLINGS, BUILDINGS, AND STRUCTURES

Sections

35.80.010 Declaration of purpose.
35.80.020 Definitions.
35.80.030 Permissible ordinances--Appeal.
35.80.040 Discrimination prohibited.

RCW 35.80.010 Declaration of purpose.

It is hereby found that there exist, in the various municipalities and counties of the state, dwellings which are unfit for human habitation, and buildings, structures, and premises or portions thereof which are unfit for other uses due to dilapidation, disrepair, structural defects, defects increasing the hazards of fire, accidents, or other calamities, inadequate ventilation and uncleanliness, inadequate light or sanitary facilities, inadequate drainage, overcrowding, or due to other conditions which are inimical to the health and welfare of the residents of such municipalities and counties.

It is further found and declared that the powers conferred by this chapter are for public uses and purposes for which public money may be expended, and that the necessity of the public interest for the enactment of this law is hereby declared to be a matter of local legislative determination.

[1989 c 133 § 1; 1969 ex.s. c 127 § 1; 1967 c 111 § 1; 1965 c 7 § 35.80.010. Prior: 1959 c 82 § 1.]

RCW 35.80.020 Definitions.

The following terms, however used or referred to in this chapter, shall have the following meanings, unless a different meaning is clearly indicated by the context:

(1) "Board" shall mean the improvement board as provided for in RCW 35.80.030(1)(a);

(2) "Local governing body" shall mean the council, board, commission, or other legislative body charged with governing the municipality or county;

(3) "Municipality" shall mean any city, town or county in the state;

(4) "Public officer" shall mean any officer who is in charge of any department or branch of the government of the municipality or county relating to health, fire, building regulation, or other activities concerning dwellings, buildings, structures, or premises in the municipality or county.

[1989 c 133 § 2; 1969 ex.s. c 127 § 2; 1967 c 111 § 2; 1965 c 7 § 35.80.020. Prior: 1959 c 82 § 2.]

RCW 35.80.030 Permissible ordinances--Appeal.

(1) Whenever the local governing body of a municipality finds that one or more conditions of the character described in RCW 35.80.010 exist within its territorial limits, said governing body may adopt ordinances relating to such dwellings, buildings, structures, or

premises. Such ordinances may provide for the following:

(a) That an "improvement board" or officer be designated or appointed to exercise the powers assigned to such board or officer by the ordinance as specified herein. Said board or officer may be an existing municipal board or officer in the municipality, or may be a separate board or officer appointed solely for the purpose of exercising the powers assigned by said ordinance.

If a board is created, the ordinance shall specify the terms, method of appointment, and type of membership of said board, which may be limited, if the local governing body chooses, to public officers as herein defined.

(b) If a board is created, a public officer, other than a member of the improvement board, may be designated to work with the board and carry out the duties and exercise the powers assigned to said public officer by the ordinance.

(c) That if, after a preliminary investigation of any dwelling, building, structure, or premises, the board or officer finds that it is unfit for human habitation or other use, he shall cause to be served either personally or by certified mail, with return receipt requested, upon all persons having any interest therein, as shown upon the records of the auditor's office of the county in which such property is located, and shall post in a conspicuous place on such property, a complaint stating in what respects such dwelling, building, structure, or premises is unfit for human habitation or other use. If the whereabouts of any of such persons is unknown and the same cannot be ascertained by the board or officer in the exercise of reasonable diligence, and the board or officer makes an affidavit to that effect, then the serving of such complaint or order upon such persons may be made either by personal service or by mailing a copy of the complaint and order by certified mail, postage prepaid, return receipt requested, to each such person at the address of the building involved in the proceedings, and mailing a copy of the complaint and order by first class mail to any address of each such person in the records of the county assessor or the county auditor for the county where the property is located. Such complaint shall contain a notice that a hearing will be held before the board or officer, at a place therein fixed, not less than ten days nor more than thirty days after the serving of said complaint; and that all parties in interest shall be given the right to file an answer to the complaint, to appear in person, or otherwise, and to give testimony at the time and place in the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the board or officer. A copy of such complaint shall also be filed with the auditor of the county in which the dwelling, building, structure, or premise [premises] is located, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law.

(d) That the board or officer may determine that a dwelling, building, structure, or premises is unfit for human habitation or other use if it finds that conditions exist in such dwelling, building, structure, or premises which are dangerous or injurious to the health or safety of the occupants of such dwelling, building, structure, or premises, the occupants of neighboring dwellings, or other residents of such municipality. Such conditions may include the following, without limitations: Defects therein increasing the hazards of fire or accident; inadequate ventilation, light, or sanitary facilities, dilapidation, disrepair, structural defects, uncleanliness, overcrowding, or inadequate drainage. The ordinance shall state reasonable and minimum

standards covering such conditions, including those contained in ordinances adopted in accordance with subdivision (7)(a) herein, to guide the board or the public officer and the agents and employees of either, in determining the fitness of a dwelling for human habitation, or building, structure, or premises for other use.

(e) That the determination of whether a dwelling, building, structure, or premises should be repaired or demolished, shall be based on specific stated standards on (i) the degree of structural deterioration of the dwelling, building, structure, or premises, or (ii) the relationship that the estimated cost of repair bears to the value of the dwelling, building, structure, or premises, with the method of determining this value to be specified in the ordinance.

(f) That if, after the required hearing, the board or officer determines that the dwelling is unfit for human habitation, or building or structure or premises is unfit for other use, it shall state in writing its findings of fact in support of such determination, and shall issue and cause to be served upon the owner or party in interest thereof, as is provided in subdivision (1)(c), and shall post in a conspicuous place on said property, an order which (i) requires the owner or party in interest, within the time specified in the order, to repair, alter, or improve such dwelling, building, structure, or premises to render it fit for human habitation, or for other use, or to vacate and close the dwelling, building, structure, or premises, if such course of action is deemed proper on the basis of the standards set forth as required in subdivision (1)(e); or (ii) requires the owner or party in interest, within the time specified in the order, to remove or demolish such dwelling, building, structure, or premises, if this course of action is deemed proper on the basis of said standards. If no appeal is filed, a copy of such order shall be filed with the auditor of the county in which the dwelling, building, structure, or premises is located.

(g) The owner or any party in interest, within thirty days from the date of service upon the owner and posting of an order issued by the board under the provisions of subdivision (c) of this subsection, may file an appeal with the appeals commission.

The local governing body of the municipality shall designate or establish a municipal agency to serve as the appeals commission. The local governing body shall also establish rules of procedure adequate to assure a prompt and thorough review of matters submitted to the appeals commission, and such rules of procedure shall include the following, without being limited thereto: (i) All matters submitted to the appeals commission must be resolved by the commission within sixty days from the date of filing therewith and (ii) a transcript of the findings of fact of the appeals commission shall be made available to the owner or other party in interest upon demand.

The findings and orders of the appeals commission shall be reported in the same manner and shall bear the same legal consequences as if issued by the board, and shall be subject to review only in the manner and to the extent provided in subdivision (2) of this section.

If the owner or party in interest, following exhaustion of his rights to appeal, fails to comply with the final order to repair, alter, improve, vacate, close, remove, or demolish the dwelling, building, structure, or premises, the board or officer may direct or cause such dwelling, building, structure, or premises to be repaired, altered, improved, vacated, and closed, removed, or demolished.

(h) That the amount of the cost of such repairs, alterations or improvements; or vacating

and closing; or removal or demolition by the board or officer, shall be assessed against the real property upon which such cost was incurred unless such amount is previously paid. Upon certification to him by the treasurer of the municipality in cases arising out of the city or town or by the county improvement board or officer, in cases arising out of the county, of the assessment amount being due and owing, the county treasurer shall enter the amount of such assessment upon the tax rolls against the property for the current year and the same shall become a part of the general taxes for that year to be collected at the same time and with interest at such rates and in such manner as provided for in RCW 84.56.020, as now or hereafter amended, for delinquent taxes, and when collected to be deposited to the credit of the general fund of the municipality. If the dwelling, building, structure, or premises is removed or demolished by the board or officer, the board or officer shall, if possible, sell the materials of such dwelling, building, structure, [or] premises in accordance with procedures set forth in said ordinance, and shall credit the proceeds of such sale against the cost of the removal or demolition and if there be any balance remaining, it shall be paid to the parties entitled thereto, as determined by the board or officer, after deducting the costs incident thereto.

The assessment shall constitute a lien against the property which shall be of equal rank with state, county and municipal taxes.

(2) Any person affected by an order issued by the appeals commission pursuant to subdivision (1)(f) hereof may, within thirty days after the posting and service of the order, petition to the superior court for an injunction restraining the public officer or members of the board from carrying out the provisions of the order. In all such proceedings the court is authorized to affirm, reverse, or modify the order and such trial shall be heard de novo.

(3) An ordinance adopted by the local governing body of the municipality may authorize the board or officer to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this section. These powers shall include the following in addition to others herein granted: (a)(i) To determine which dwellings within the municipality are unfit for human habitation; (ii) to determine which buildings, structures, or premises are unfit for other use; (b) to administer oaths and affirmations, examine witnesses and receive evidence; and (c) to investigate the dwelling and other property conditions in the municipality or county and to enter upon premises for the purpose of making examinations when the board or officer has reasonable ground for believing they are unfit for human habitation, or for other use: PROVIDED, That such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose after submitting evidence in support of an application which is adequate to justify such an order from a court of competent jurisdiction in the event entry is denied or resisted.

(4) The local governing body of any municipality adopting an ordinance pursuant to this chapter may appropriate the necessary funds to administer such ordinance.

(5) Nothing in this section shall be construed to abrogate or impair the powers of the courts or of any department of any municipality to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law.

(6) Nothing in this section shall be construed to impair or limit in any way the power of

the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

(7) Any municipality may (by ordinance adopted by its governing body) (a) prescribe minimum standards for the use and occupancy of dwellings throughout the municipality, or county, (b) prescribe minimum standards for the use or occupancy of any building, structure, or premises used for any other purpose, (c) prevent the use or occupancy of any dwelling, building, structure, or premises, which is injurious to the public health, safety, morals, or welfare, and (d) prescribe punishment for the violation of any provision of such ordinance.

[1989 c 133 § 3; 1984 c 213 § 1; 1973 1st ex.s. c 144 § 1; 1969 ex.s. c 127 § 3; 1967 c 111 § 3; 1965 c 7 § 35.80.030. Prior: 1959 c 82 § 3.]

RCW 35.80.040 Discrimination prohibited.

For all the purposes of this chapter and the ordinances adopted as provided herein, no person shall, because of race, creed, color, or national origin, be subjected to any discrimination.

[1965 c 7 § 35.80.040. Prior: 1959 c 82 § 4.]

Notes:
Discrimination--Human rights commission: Chapter 49.60 RCW.

Chapter 35.80A RCW
CONDEMNATION OF BLIGHTED PROPERTY

Sections

35.80A.010 Condemnation of blighted property.
35.80A.020 Transfer of blighted property acquired by condemnation.
35.80A.030 Disposition of blighted property--Procedures.
35.80A.040 Authority to enter blighted buildings or property--Acceptance of financial assistance.
35.80A.900 Severability--1989 c 271.

RCW 35.80A.010 Condemnation of blighted property.

Every county, city, and town may acquire by condemnation, in accordance with the notice requirements and other procedures for condemnation provided in Title 8 RCW, any property, dwelling, building, or structure which constitutes a blight on the surrounding neighborhood. A "blight on the surrounding neighborhood" is any property, dwelling, building, or structure that meets any two of the following factors: (1) If a dwelling, building, or structure exists on the property, the dwelling, building, or structure has not been lawfully occupied for a period of one year or more; (2) the property, dwelling, building, or structure constitutes a threat to the public health, safety, or welfare as determined by the executive authority of the county, city, or town, or the designee of the executive authority; or (3) the property, dwelling, building,

or structure is or has been associated with illegal drug activity during the previous twelve months. Prior to such condemnation, the local governing body shall adopt a resolution declaring that the acquisition of the real property described therein is necessary to eliminate neighborhood blight. Condemnation of property, dwellings, buildings, and structures for the purposes described in this chapter is declared to be for a public use.

[1994 c 175 § 1; 1989 c 271 § 239.]

RCW 35.80A.020 Transfer of blighted property acquired by condemnation.

Counties, cities, and towns may sell, lease, or otherwise transfer real property acquired pursuant to this chapter for residential, recreational, commercial, industrial, or other uses or for public use, subject to such covenants, conditions, and restrictions, including covenants running with the land, as the county, city, or town deems to be necessary or desirable to rehabilitate and preserve the dwelling, building, or structure in a habitable condition. The purchasers or lessees and their successors and assigns shall be obligated to comply with such other requirements as the county, city, or town may determine to be in the public interest, including the obligation to begin, within a reasonable time, any improvements on such property required to make the dwelling, building, or structure habitable. Such real property or interest shall be sold, leased, or otherwise transferred, at not less than its fair market value. In determining the fair market value of real property for uses in accordance with this section, a municipality shall take into account and give consideration to, the restrictions upon and the covenants, conditions, and obligations assumed by the purchaser or lessee.

[1989 c 271 § 240.]

RCW 35.80A.030 Disposition of blighted property--Procedures.

A county, city, or town may dispose of real property acquired pursuant to this section to private persons only under such reasonable, competitive procedures as it shall prescribe. The county, city, or town may accept such proposals as it deems to be in the public interest and in furtherance of the purposes of this chapter. Thereafter, the county, city, or town may execute and deliver contracts, deeds, leases, and other instruments of transfer.

[1989 c 271 § 241.]

RCW 35.80A.040 Authority to enter blighted buildings or property--Acceptance of financial assistance.

Every county, city, or town may, in addition to any other authority granted by this chapter: (1) Enter upon any building or property found to constitute a blight on the surrounding neighborhood in order to make surveys and appraisals, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted; and (2) borrow money, apply for, and accept, advances, loans, grants, contributions, and any other form of

financial assistance from the federal government, the state, a county, or other public body, or from any sources, public or private, for the purposes of this chapter, and enter into and carry out contracts in connection herewith.

[1989 c 271 § 242.]

RCW 35.80A.900 Severability--1989 c 271.

See note following RCW 9.94A.510.

Chapter 35.81 RCW
URBAN RENEWAL LAW

Sections

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35.81.100 Bonds--Issuance--Form, terms, payment, etc.
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RCW 35.81.010 Definitions.

The following terms wherever used or referred to in this chapter, shall have the following meanings, unless a different meaning is clearly indicated by the context:

(1) "Agency" or "urban renewal agency" shall mean a public agency created by RCW 35.81.160.

(2) "Blighted area" shall mean an area which, by reason of the substantial physical dilapidation, deterioration, defective construction, material, and arrangement and/or age or obsolescence of buildings or improvements, whether residential or nonresidential, inadequate

provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality; inappropriate or mixed uses of land or buildings; high density of population and overcrowding; defective or inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility or usefulness; excessive land coverage; insanitary or unsafe conditions; deterioration of site; diversity of ownership; tax or special assessment delinquency exceeding the fair value of the land; defective or unusual conditions of title; improper subdivision or obsolete platting; or the existence of conditions which endanger life or property by fire or other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime; substantially impairs or arrests the sound growth of the city or its environs, retards the provision of housing accommodations or constitutes an economic or social liability, and/or is detrimental, or constitutes a menace, to the public health, safety, welfare, and morals in its present condition and use.

(3) "Bonds" shall mean any bonds, notes, or debentures (including refunding obligations) herein authorized to be issued.

(4) "Clerk" shall mean the clerk or other official of the municipality who is the custodian of the official records of such municipality.

(5) "Federal government" shall include the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(6) "Local governing body" shall mean the council or other legislative body charged with governing the municipality.

(7) "Mayor" shall mean the chief executive of a city or town, or the elected executive, if any, of any county operating under a charter, or the county legislative authority of any other county.

(8) "Municipality" shall mean any incorporated city or town, or any county, in the state.

(9) "Obligee" shall include any bondholder, agent or trustees for any bondholders, or lessor demising to the municipality property used in connection with an urban renewal project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the municipality.

(10) "Person" shall mean any individual, firm, partnership, corporation, company, association, joint stock association, or school district; and shall include any trustee, receiver, assignee, or other person acting in a similar representative capacity.

(11) "Public body" shall mean the state or any municipality, township, board, commission, district, or any other subdivision or public body of the state.

(12) "Public officer" shall mean any officer who is in charge of any department or branch of the government of the municipality relating to health, fire, building regulations, or to other activities concerning dwellings in the municipality.

(13) "Real property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, right and use, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise.

(14) "Redevelopment" may include (a) acquisition of a blighted area or portion thereof;

(b) demolition and removal of buildings and improvements; (c) installation, construction or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions of this chapter in accordance with the urban renewal plan, and (d) making the land available for development or redevelopment by private enterprise or public agencies (including sale, initial leasing, or retention by the municipality itself) at its fair value for uses in accordance with the urban renewal plan.

(15) "Rehabilitation" may include the restoration and renewal of a blighted area or portion thereof, in accordance with an urban renewal plan, by (a) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements; (b) acquisition of real property and demolition or removal of buildings and improvements thereon where necessary to eliminate unhealthful, insanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities; (c) installation, construction or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban renewal provisions of this chapter; and (d) the disposition of any property acquired in such urban renewal area (including sale, initial leasing, or retention by the municipality itself) at its fair value for uses in accordance with such urban renewal plan.

(16) "Urban renewal area" means a blighted area which the local governing body designates as appropriate for an urban renewal project or projects.

(17) "Urban renewal plan" means a plan, as it exists from time to time, for an urban renewal project, which plan (a) shall conform to the comprehensive plan or parts thereof for the municipality as a whole; and (b) shall be sufficiently complete to indicate such land acquisition, demolition, and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban renewal area, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

(18) "Urban renewal project" may include undertakings or activities of a municipality in an urban renewal area for the elimination and for the prevention of the development or spread of blight, and may involve redevelopment in an urban renewal area, or rehabilitation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal plan.

[1991 c 363 § 41; 1975 c 3 § 1; 1971 ex.s. c 177 § 6; 1965 c 7 § 35.81.010. Prior: 1957 c 42 § 1.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 35.81.020 Declaration of purpose and necessity.

It is hereby found and declared that blighted areas which constitute a serious and growing menace, injurious to the public health, safety, morals and welfare of the residents of the state exist in municipalities of the state; that the existence of such areas contributes substantially and

increasingly to the spread of disease and crime and depreciation of property values, constitutes an economic and social liability, substantially impairs or arrests the sound growth of municipalities, retards the provision of housing accommodations, aggravates traffic problems and substantially impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities; and that the prevention and elimination of such areas is a matter of state policy and state concern in order that the state and its municipalities shall not continue to be endangered by areas which are focal centers of disease, promote juvenile delinquency, are conducive to fires, are difficult to police and to provide police protection for, and, while contributing little to the tax income of the state and its municipalities, consume an excessive proportion of its revenues because of the extra services required for police, fire, accident, hospitalization and other forms of public protection, services, and facilities.

It is further found and declared that certain of such areas, or portions thereof, may require acquisition, clearance, and disposition subject to use restrictions, as provided in this chapter, since the prevailing condition of decay may make impracticable the reclamation of the area by rehabilitation; that other areas or portions thereof may, through the means provided in this chapter, be susceptible of rehabilitation in such a manner that the conditions and evils hereinbefore enumerated may be eliminated, remedied or prevented; and that to the extent feasible salvable blighted areas should be rehabilitated through voluntary action and the regulatory process.

It is further found and declared that the powers conferred by this chapter are for public uses and purposes for which public money may be expended and the power of eminent domain exercised; and that the necessity in the public interest for the provisions herein enacted is hereby declared as a matter of legislative determination.

[1965 c 7 § 35.81.020. Prior: 1957 c 42 § 2.]

RCW 35.81.030 Encouragement of private enterprise.

A municipality, to the greatest extent it determines to be feasible in carrying out the provisions of this chapter, shall afford maximum opportunity, consistent with the sound needs of the municipality as a whole, to the rehabilitation or redevelopment of the urban renewal area by private enterprise. A municipality shall give consideration to this objective in exercising its powers under this chapter, including the formulation of a workable program, the approval of urban renewal plans (consistent with the comprehensive plan or parts thereof for the municipality), the exercise of its zoning powers, the enforcement of other laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements, the disposition of any property acquired, and the provision of necessary public improvements.

[1965 c 7 § 35.81.030. Prior: 1957 c 42 § 3.]

RCW 35.81.040 Formulation of workable program.

A municipality for the purposes of this chapter may formulate a workable program for utilizing appropriate private and public resources to eliminate, and prevent the development or

spread of, blighted areas, to encourage needed urban rehabilitation, to provide for the redevelopment of such areas, or to undertake such of the aforesaid activities, or other feasible municipal activities as may be suitably employed to achieve the objectives of such workable program. Such workable program may include, without limitation, provision for: The prevention of the spread of blight into areas of the municipality which are free from blight through diligent enforcement of housing, zoning, and occupancy controls and standards; the rehabilitation of blighted areas or portions thereof by replanning, removing congestion, providing parks, playgrounds and other public improvements, by encouraging voluntary rehabilitation and by compelling the repair and rehabilitation of deteriorated or deteriorating structures; and the clearance and redevelopment of blighted areas or portions thereof.

[1965 c 7 § 35.81.040. Prior: 1957 c 42 § 4.]

RCW 35.81.050 Findings by local governing body required.

No municipality shall exercise any of the powers hereafter conferred upon municipalities by this chapter until after its local governing body shall have adopted a resolution finding that: (1) One or more blighted areas exist in such municipality; and (2) the rehabilitation, redevelopment, or a combination thereof, of such area or areas is necessary in the interest of the public health, safety, morals, or welfare of the residents of such municipality.

[1965 c 7 § 35.81.050. Prior: 1957 c 42 § 5.]

RCW 35.81.060 Comprehensive plan--Preparation--Hearing--Approval--Modification--Effect.

(1) A municipality shall not approve an urban renewal project for an urban renewal area unless the local governing body has, by resolution, determined such area to be a blighted area and designated such area as appropriate for an urban renewal project. The local governing body shall not approve an urban renewal plan until a comprehensive plan or parts of such plan for an area which would include an urban renewal area for the municipality have been prepared as provided in chapter 35.63 RCW. For this purpose and other municipal purposes, authority is hereby vested in every municipality to prepare, to adopt, and to revise from time to time, a comprehensive plan or parts thereof for the physical development of the municipality as a whole (giving due regard to the environs and metropolitan surroundings), to establish and maintain a planning commission for such purpose and related municipal planning activities, and to make available and to appropriate necessary funds therefor. A municipality shall not acquire real property for an urban renewal project unless the local governing body has approved the urban renewal project plan in accordance with subsection (4) hereof.

(2) The municipality may itself prepare or cause to be prepared an urban renewal plan, or any person or agency, public or private, may submit such a plan to the municipality. Prior to its approval of an urban renewal project, the local governing body shall submit such plan to the planning commission of the municipality for review and recommendations as to its conformity with the comprehensive plan or parts thereof for the development of the municipality as a whole.

The planning commission shall submit its written recommendations with respect to the proposed urban renewal plan to the local governing body within sixty days after receipt of it. Upon receipt of the recommendations of the planning commission, or if no recommendations are received within sixty days, then without such recommendations, the local governing body may proceed with the hearing on the proposed urban renewal project plan prescribed by subsection (3) hereof.

(3) The local governing body shall hold a public hearing on an urban renewal plan after public notice thereof. Such notice shall be given by publication once each week for two consecutive weeks not less than ten nor more than thirty days prior to the date of the hearing in a newspaper having a general circulation in the urban renewal area of the municipality and by mailing a notice of such hearing not less than ten days prior to the date of the hearing to the persons whose names appear on the county treasurer's tax roll as the owner or reputed owner of the property, at the address shown on the tax roll. The notice shall describe the time, date, place, and purpose of the hearing, shall generally identify the urban renewal area affected, and shall outline the general scope of the urban renewal plan under consideration.

(4) Following such hearing, the local governing body may approve an urban renewal project if it finds that (a) a workable and feasible plan exists for making available adequate housing for the persons who may be displaced by the project; (b) the urban renewal plan conforms to the comprehensive plan or parts thereof for the municipality as a whole; (c) the urban renewal plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise; and (d) a sound and adequate financial program exists for the financing of said project; (e) the urban renewal project area is a blighted area as defined in RCW 35.81.010(2).

(5) An urban renewal project plan may be modified at any time by the local governing body: PROVIDED, That if modified after the lease or sale by the municipality of real property in the urban renewal project area, such modification shall be subject to such rights at law or in equity as a lessee or purchaser, or his successor or successors in interest may be entitled to assert.

(6) Upon the approval of an urban renewal project by a municipality, the provisions of the urban renewal plan with respect to the future use and building requirements applicable to the property covered by said plan shall be controlling with respect thereto.

[1965 c 7 § 35.81.060. Prior: 1957 c 42 § 6.]

RCW 35.81.070 Powers of municipality.

Every municipality shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein granted:

(1) To undertake and carry out urban renewal projects within the municipality, to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this chapter, and to disseminate blight clearance and urban renewal information.

(2) To provide or to arrange or contract for the furnishing or repair by any person or

agency, public or private, of services, privileges, works, streets, roads, public utilities or other facilities for, or in connection with, an urban renewal project; to install, construct, and reconstruct streets, utilities, parks, playgrounds, and other public improvements; and to agree to any conditions that it may deem reasonable and appropriate attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of an urban renewal project, and to include in any contract let in connection with such a project, provisions to fulfill such of said conditions as it may deem reasonable and appropriate.

(3) Within the municipality, to enter upon any building or property in any urban renewal area, in order to make surveys and appraisals, provided that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted; to acquire by purchase, lease, option, gift, grant, bequest, devise, eminent domain, or otherwise, any real property and such personal property as may be necessary for the administration of the provisions herein contained, together with any improvements thereon; to hold, improve, clear, or prepare for redevelopment any such property; to dispose of any real property; to insure or provide for the insurance of any real or personal property or operations of the municipality against any risks or hazards, including the power to pay premiums on any such insurance: PROVIDED, That no statutory provision with respect to the acquisition, clearance, or disposition of property by public bodies shall restrict a municipality in the exercise of such functions with respect to an urban renewal project.

(4) To invest any urban renewal project funds held in reserves or sinking funds or any such funds which are not required for immediate disbursement, in property or securities in which mutual savings banks may legally invest funds subject to their control; to redeem such bonds as have been issued pursuant to RCW 35.81.100 at the redemption price established therein or to purchase such bonds at less than redemption price, all such bonds so redeemed or purchased to be canceled.

(5) To borrow money and to apply for, and accept, advances, loans, grants, contributions and any other form of financial assistance from the federal government, the state, county, or other public body, or from any sources, public or private, for the purposes of this chapter, and to enter into and carry out contracts in connection therewith. A municipality may include in any application or contract for financial assistance with the federal government for an urban renewal project such conditions imposed pursuant to federal laws as the municipality may deem reasonable and appropriate and which are not inconsistent with the purposes of this chapter.

(6) Within the municipality, to make or have made all plans necessary to the carrying out of the purposes of this chapter and to contract with any person, public or private, in making and carrying out such plans and to adopt or approve, modify, and amend such plans. Such plans may include, without limitation: (a) A comprehensive plan or parts thereof for the locality as a whole, (b) urban renewal plans, (c) plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements, (d) plans for the enforcement of state and local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal

of buildings and improvements, and (e) appraisals, title searches, surveys, studies, and other preliminary plans and work necessary to prepare for the undertaking of urban renewal projects. The municipality is authorized to develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of urban blight and to apply for, accept, and utilize grants of, funds from the federal government for such purposes.

(7) To prepare plans for the relocation of families displaced from an urban renewal area, and to coordinate public and private agencies in such relocation, including requesting such assistance for this purpose as is available from other private and governmental agencies, both for the municipality and other parties.

(8) To appropriate such funds and make such expenditures as may be necessary to carry out the purposes of this chapter, and in accordance with state law: (a) Levy taxes and assessments for such purposes; (b) acquire land by negotiation and/or eminent domain; (c) close, vacate, plan, or replan streets, roads, sidewalks, ways, or other places; (d) plan or replan, zone or rezone any part of the municipality; (e) adopt annual budgets for the operation of an urban renewal agency, department, or offices vested with urban renewal project powers under RCW 35.81.150; (f) enter into agreements with such agencies or departments (which agreements may extend over any period) respecting action to be taken by such municipality pursuant to any of the powers granted by this chapter.

(9) Within the municipality, to organize, coordinate, and direct the administration of the provisions of this chapter as they apply to such municipality in order that the objective of remedying blighted areas and preventing the causes thereof within such municipality may be most effectively promoted and achieved, and to establish such new office or offices of the municipality or to reorganize existing offices in order to carry out such purpose most effectively.

(10) To exercise all or any part or combination of powers herein granted.

[1965 c 7 § 35.81.070. Prior: 1957 c 42 § 7.]

RCW 35.81.080 Eminent domain.

A municipality shall have the right to acquire by condemnation, in accordance with the procedure provided for condemnation by such municipality for other purposes, any interest in real property, which it may deem necessary for an urban renewal project under this chapter after the adoption by the local governing body of a resolution declaring that the acquisition of the real property described therein is necessary for such purpose. Condemnation for urban renewal of blighted areas is declared to be a public use, and property already devoted to any other public use or acquired by the owner or his predecessor in interest by eminent domain may be condemned for the purposes of this chapter.

The award of compensation for real property taken for such a project shall not be increased by reason of any increase in the value of the real property caused by the assembly, clearance, or reconstruction, or proposed assembly, clearance, or reconstruction in the project area. No allowance shall be made for the improvements begun on real property after notice to the owner of such property of the institution of proceedings to condemn such property. Evidence shall be admissible bearing upon the insanitary, unsafe, or substandard condition of the premises,

or the unlawful use thereof.

[1965 c 7 § 35.81.080. Prior: 1957 c 42 § 8.]

Notes:
Eminent domain by cities: Chapter 8.12 RCW.

RCW 35.81.090 Disposal of real property in urban renewal area.

(1) A municipality may sell, lease, or otherwise transfer real property or any interest therein acquired by it for an urban renewal project, in an urban renewal area for residential, recreational, commercial, industrial, or other uses or for public use, and may enter into contracts with respect thereto, or may retain such property or interest only for parks and recreation, education, public utilities, public transportation, public safety, health, highways, streets, and alleys, administrative buildings, or civic centers, in accordance with the urban renewal project plan, subject to such covenants, conditions, and restrictions, including covenants running with the land, as it may deem to be necessary or desirable to assist in preventing the development or spread of blighted areas or otherwise to carry out the purposes of this chapter: PROVIDED, That such sale, lease, other transfer, or retention, and any agreement relating thereto, may be made only after the approval of the urban renewal plan by the local governing body. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the urban renewal plan, and may be obligated to comply with such other requirements as the municipality may determine to be in the public interest, including the obligation to begin, within a reasonable time, any improvements on such real property required by the urban renewal plan. Such real property or interest shall be sold, leased, otherwise transferred, or retained at not less than its fair value for uses in accordance with the urban renewal plan. In determining the fair value of real property for uses in accordance with the urban renewal plan, a municipality shall take into account, and give consideration to, the uses provided in such plan; the restrictions upon, and the covenants, conditions, and obligations assumed by, the purchaser or lessee or by the municipality retaining the property; and the objectives of such plan for the prevention of the recurrence of blighted areas. The municipality in any instrument of conveyance to a private purchaser or lessee may provide that such purchaser or lessee shall be without power to sell, lease, or otherwise transfer the real property without the prior written consent of the municipality until he has completed the construction of any and all improvements which he has obligated himself to construct thereon. Real property acquired by a municipality which, in accordance with the provisions of the urban renewal plan, is to be transferred, shall be transferred as rapidly as feasible, in the public interest, consistent with the carrying out of the provisions of the urban renewal plan. The inclusion in any such contract or conveyance to a purchaser or lessee of any such covenants, restrictions, or conditions (including the incorporation by reference therein of the provisions of an urban renewal plan or any part thereof) shall not prevent the recording of such contract or conveyance in the land records of the auditor or the county in which such city or town is located, in such manner as to afford actual or constructive notice thereof.

(2) A municipality may dispose of real property in an urban renewal area to private persons only under such reasonable competitive bidding procedures as it shall prescribe or as hereinafter provided in this subsection. A municipality may, by public notice by publication once each week for three consecutive weeks in a newspaper having a general circulation in the community, prior to the execution of any contract or deed to sell, lease, or otherwise transfer real property and prior to the delivery of any instrument of conveyance with respect thereto under the provisions of this section, invite bids from, and make available all pertinent information to, private redevelopers or any persons interested in undertaking to redevelop or rehabilitate an urban renewal area, or any part thereof. Such notice shall identify the area, or portion thereof, and shall state that such further information as is available may be obtained at such office as shall be designated in said notice. The municipality shall consider all redevelopment or rehabilitation bids and the financial and legal ability of the persons making such bids to carry them out. The municipality may accept such bids as it deems to be in the public interest and in furtherance of the purposes of this chapter. Thereafter, the municipality may execute, in accordance with the provisions of subsection (1), and deliver contracts, deeds, leases, and other instruments of transfer.

(3) A municipality may operate and maintain real property acquired in an urban renewal area for a period of three years pending the disposition of the property for redevelopment, without regard to the provisions of subsection (1) above, for such uses and purposes as may be deemed desirable even though not in conformity with the urban renewal plan: PROVIDED, That the municipality may, after a public hearing, extend the time for a period not to exceed three years.

[1965 c 7 § 35.81.090. Prior: 1957 c 42 § 9.]

RCW 35.81.100 Bonds--Issuance--Form, terms, payment, etc.

(1) A municipality shall have the power to issue bonds from time to time in its discretion to finance the undertaking of any urban renewal project under this chapter, including, without limiting the generality thereof, the payment of principal and interest upon any advances for surveys and plans for urban renewal projects, and shall also have power to issue refunding bonds for the payment or retirement of such bonds previously issued by it. Such bonds shall not pledge the general credit of the municipality and shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the municipality derived from, or held in connection with, its undertaking and carrying out of urban renewal projects under this chapter: PROVIDED, That payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant, or contribution from the federal government or other source, in aid of any urban renewal projects of the municipality under this chapter.

(2) Bonds issued under this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and shall not be subject to the provisions of any other law or charter relating to the authorization, issuance, or sale of bonds. Bonds issued under the provisions of this chapter are declared to be issued for an essential public and governmental purpose, and together with interest thereon and income

therefrom, shall be exempted from all taxes.

(3) Bonds issued under this section shall be authorized by resolution or ordinance of the local governing body and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered as provided in RCW 39.46.030, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics, as may be provided by such resolution or trust indenture or mortgage issued pursuant thereto.

(4) Such bonds may be sold at not less than ninety-eight percent of par at public or private sale, or may be exchanged for other bonds on the basis of par: PROVIDED, That such bonds may be sold to the federal government at private sale at not less than par and, in the event less than all of the authorized principal amount of such bonds is sold to the federal government, the balance may be sold at public or private sale at not less than ninety-eight percent of par at an interest cost to the municipality of not to exceed the interest cost to the municipality of the portion of the bonds sold to the federal government.

(5) The municipality may annually pay into a fund to be established for the benefit of such bonds any and all excess of the taxes received by it from the same property over and above the average of the annual taxes authorized without vote for a five-year period immediately preceding the acquisition of the property by the municipality for renewal purposes, such payment to continue until such time as all bonds payable from the fund are paid in full. Any other taxing unit in a municipality is authorized to allocate a like amount of such excess taxes to the municipality or municipalities in which it is situated.

(6) In case any of the public officials of the municipality whose signatures appear on any bonds or any coupons issued under this chapter shall cease to be such officials before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds, issued pursuant to this chapter shall be fully negotiable.

(7) In any suit, action, or proceeding involving the validity or enforceability of any bond issued under this chapter or the security therefor, any such bond reciting in substance that it has been issued by the municipality in connection with an urban renewal project, as herein defined, shall be conclusively deemed to have been issued for such purpose and such project shall be conclusively deemed to have been planned, located, and carried out in accordance with the provisions of this chapter.

(8) Notwithstanding subsections (1) through (7) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 64; 1970 ex.s. c 56 § 44; 1969 ex.s. c 232 § 21; 1965 c 7 § 35.81.100. Prior: 1957 c 42 § 10.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.
Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 35.81.110 Bonds as legal investment, security.

All banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking or investment business, all insurance companies, insurance associations, and other persons carrying on an insurance business and all executors, administrators, curators, trustees, and other fiduciaries, may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds or other obligations issued by a municipality pursuant to this chapter: PROVIDED, That such bonds and other obligations shall be secured by an agreement between the issuer and the federal government in which the issuer agrees to borrow from the federal government and the federal government agrees to lend to the issuer, prior to the maturity of such bonds or other obligations, moneys in an amount which (together with any other moneys irrevocably committed to the payment of interest on such bonds or other obligations) will suffice to pay the principal of such bonds or other obligations with interest to maturity thereon, which moneys under the terms of said agreement are required to be used for the purpose of paying the principal of, and the interest on, such bonds or other obligations at their maturity. Such bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this section to authorize any persons, political subdivisions, and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations. Nothing contained in this section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities.

[1965 c 7 § 35.81.110. Prior: 1957 c 42 § 11.]

RCW 35.81.115 General obligation bonds authorized.

For the purposes of this chapter a municipality may (in addition to any authority to issue bonds pursuant to RCW 35.81.100) issue and sell its general obligation bonds. Any bonds issued by a municipality pursuant to this section shall be issued in the manner and within the limitations prescribed by the laws of this state for the issuance and authorization of bonds by such municipality for public purposes generally.

[1965 c 7 § 35.81.115. Prior: 1959 c 79 § 1.]

RCW 35.81.120 Property of municipality exempt from process and taxes.

(1) All property of a municipality, including funds, owned or held by it for the purposes of this chapter, shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall judgment against a municipality be a charge or lien upon such property: PROVIDED, That the provisions of this section shall not apply to, or limit the right of, obligees to pursue any remedies for the enforcement of any pledge

or lien given pursuant to this chapter by a municipality on its rents, fees, grants, or revenues from urban renewal projects.

(2) The property of a municipality, acquired or held for the purposes of this chapter, is declared to be public property used for essential public and governmental purposes and such property shall be exempt from all taxes of the municipality, the county, the state, or any political subdivision thereof: PROVIDED, That such tax exemption shall terminate when the municipality sells, leases, or otherwise disposes of such property in an urban renewal area to a purchaser or lessee which is not a public body or other organization normally entitled to tax exemption with respect to such property.

[1965 c 7 § 35.81.120. Prior: 1957 c 42 § 12.]

RCW 35.81.130 Aid to public bodies.

(1) For the purpose of aiding in the planning, undertaking, or carrying out of an urban renewal project located within the area in which it is authorized to act, any public body authorized by law or by this chapter, may, upon such terms, with or without consideration, as it may determine: (a) Dedicate, sell, convey, or lease any of its interest in any property, or grant easements, licenses, or other rights or privileges therein to a municipality; (b) incur the entire expense of any public improvements made by such public body, in exercising the powers granted in this section; (c) do any and all things necessary to aid or cooperate in the planning or carrying out of an urban renewal plan; (d) lend, grant, or contribute funds to a municipality; (e) enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with a municipality or other public body respecting action to be taken pursuant to any of the powers granted by this chapter, including the furnishing of funds or other assistance in connection with an urban renewal project, and (f) cause public building and public facilities, including parks, playgrounds, recreational, community, educational, water, sewer, or drainage facilities, or any other works which it is otherwise empowered to undertake to be furnished; furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, sidewalks, ways, or other places; plan or replan, zone or rezone any part of the urban renewal area; and provide such administrative and other services as may be deemed requisite to the efficient exercise of the powers herein granted.

(2) Any sale, conveyance, lease, or agreement provided for in this section shall be made by a public body with appraisal, public notice, advertisement, or public bidding in accordance with the provisions of RCW 35.81.090(2).

[1965 c 7 § 35.81.130. Prior: 1957 c 42 § 13.]

Notes:

Demonstration Cities and Metropolitan Development Act--Authority to contract with federal government: RCW 35.21.660.

RCW 35.81.140 Conveyance to purchaser, etc., presumed to be in compliance with

chapter.

Any instrument executed by a municipality and purporting to convey any right, title, or interest in any property under this chapter shall be conclusively presumed to have been executed in compliance with the provisions of this chapter insofar as title or other interest of any bona fide purchasers, lessees, or transferees of such property is concerned.

[1965 c 7 § 35.81.140. Prior: 1957 c 42 § 14.]

RCW 35.81.150 Exercise of urban renewal project powers.

(1) A municipality may itself exercise its urban renewal project powers (as herein defined) or may, if the local governing body by resolution determines such action to be in the public interest, elect to have such powers exercised by the urban renewal agency (created by RCW 35.81.160) or a department or other officers of the municipality or by any existing public body corporate, as they are authorized to exercise under this chapter.

(2) In the event the local governing body makes such determination, such body may authorize the urban renewal agency or department or other officers of the municipality to exercise any of the following urban renewal project powers:

(a) To formulate and coordinate a workable program as specified in RCW 35.81.040.

(b) To prepare urban renewal plans.

(c) To prepare recommended modifications to an urban renewal project plan.

(d) To undertake and carry out urban renewal projects as required by the local governing body.

(e) To make and execute contracts as specified in RCW 35.81.070, with the exception of contracts for the purchase or sale of real or personal property.

(f) To disseminate blight clearance and urban renewal information.

(g) To exercise the powers prescribed by RCW 35.81.070(2), except the power to agree to conditions for federal financial assistance and imposed pursuant to federal law relating to salaries and wages, shall be reserved to the local governing body.

(h) To enter any building or property, in any urban renewal area, in order to make surveys and appraisals in the manner specified in RCW 35.81.070(3).

(i) To improve, clear, or prepare for redevelopment any real or personal property in an urban renewal area.

(j) To insure real or personal property as provided in RCW 35.81.070(3).

(k) To effectuate the plans provided for in RCW 35.81.070(6).

(l) To prepare plans for the relocation of families displaced from an urban renewal area and to coordinate public and private agencies in such relocation.

(m) To prepare plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements.

(n) To conduct appraisals, title searches, surveys, studies, and other preliminary plans and work necessary to prepare for the undertaking of urban renewal projects.

(o) To negotiate for the acquisition of land.

(p) To study the closing, vacating, planning, or replanning of streets, roads, sidewalks,

ways, or other places and to make recommendations with respect thereto.

(q) To organize, coordinate, and direct the administration of the provisions of this chapter.

(r) To perform such duties as the local governing body may direct so as to make the necessary arrangements for the exercise of the powers and the performance of the duties and responsibilities entrusted to the local governing body.

Any powers granted in this chapter that are not included in RCW 35.81.150(2) as powers of the urban renewal agency or a department or other officers of a municipality in lieu thereof, may only be exercised by the local governing body or other officers, boards, and commissions as provided under existing law.

[1965 c 7 § 35.81.150. Prior: 1957 c 42 § 15.]

RCW 35.81.160 Exercise of urban renewal project powers--Assignment of powers--Urban renewal agency.

(1) When a municipality has made the finding prescribed in RCW 35.81.050 and has elected to have the urban renewal project powers, as specified in RCW 35.81.150, exercised, such urban renewal project powers may be assigned to a department or other officers of the municipality or to any existing public body corporate, or the legislative body of a city may create an urban renewal agency in such municipality to be known as a public body corporate to which such powers may be assigned.

(2) If the urban renewal agency is authorized to transact business and exercise powers hereunder, the mayor, by and with the advice and consent of the local governing body, shall appoint a board of commissioners of the urban renewal agency which shall consist of five commissioners. The initial membership shall consist of one commissioner appointed for one year, one for two years, one for three years, and two for four years; and each appointment thereafter shall be for four years.

(3) A commissioner shall receive no compensation for his services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. Each commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk of the municipality and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner.

The powers and responsibilities of an urban renewal agency shall be exercised by the commissioners thereof. A majority of the commissioners shall constitute a quorum for the purpose of conducting business and exercising the powers and responsibilities of the agency and for all other purposes. Action may be taken by the agency upon a vote of a majority of the commissioners present, unless in any case the bylaws shall require a larger number. Any persons may be appointed as commissioners if they reside within the municipality.

The urban renewal agency or department or officers exercising urban renewal project powers shall be staffed with the necessary technical experts and such other agents and employees, permanent and temporary, as it may require. An agency authorized to transact

business and exercise powers under this chapter shall file, with the local governing body, on or before March 31st of each year, a report of its activities for the preceding calendar year, which report shall include a complete financial statement setting forth its assets, liabilities, income, and operating expense as of the end of such calendar year. At the time of filing the report, the agency shall publish in a newspaper of general circulation in the community a notice to the effect that such report has been filed with the municipality and that the report is available for inspection during business hours in the office of the city clerk and in the office of the agency.

(4) For inefficiency, neglect of duty, or misconduct in office, a commissioner may be removed.

[1965 c 7 § 35.81.160. Prior: 1957 c 42 § 16.]

RCW 35.81.170 Discrimination prohibited.

For all of the purposes of this chapter, no person shall, because of race, creed, color, or national origin, be subjected to any discrimination.

[1965 c 7 § 35.81.170. Prior: 1957 c 42 § 17.]

Notes:
Discrimination--Human rights commission: Chapter 49.60 RCW.

RCW 35.81.180 Restrictions against public officials or employees acquiring or owning an interest in project, contract, etc.

No public official, department or division head of a municipality or urban renewal agency or department or officers which have been vested by a municipality with urban renewal project powers and responsibilities under RCW 35.81.150, shall voluntarily acquire any interest, direct or indirect, in any urban renewal project, or in any property included or planned to be included in any urban renewal project of such municipality, or in any contract or proposed contract in connection with such urban renewal project. Where such acquisition is not voluntary, the interest acquired shall be immediately disclosed in writing to the local governing body and such disclosure shall be entered upon the minutes of the governing body. If any such official, department or division head owns or controls, or owned or controlled within two years prior to the date of hearing on the urban renewal project, any interest, direct or indirect, in any property which he knows is included in an urban renewal project, he shall immediately disclose this fact in writing to the local governing body, and such disclosure shall be entered upon the minutes of the governing body, and any such official, department or division head shall not participate in any action on that particular project by the municipality or urban renewal agency, department, or officers which have been vested with urban renewal project powers by the municipality pursuant to the provisions of RCW 35.81.150. A majority of the commissioners of an urban renewal agency exercising powers pursuant to this chapter shall not hold any other public office under the municipality other than their commissionership or office with respect to such urban renewal agency, department, or officers. Any violation of the provisions of this section shall constitute

misconduct in office.

[1965 c 7 § 35.81.180. Prior: 1957 c 42 § 18.]

RCW 35.81.910 Short title.

This chapter shall be known and may be cited as the "Urban Renewal Law."

[1965 c 7 § 35.81.910. Prior: 1957 c 42 § 20.]

Chapter 35.82 RCW
HOUSING AUTHORITIES LAW

Sections

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Notes:
Eminent domain: Title 8 RCW.
Loans and grants for low-income housing: RCW 35.21.685 and 36.32.415.
Planning commissions: Chapter 35.63 RCW.

RCW 35.82.010 Finding and declaration of necessity.

It is hereby declared: (1) That there exist in the state insanitary or unsafe dwelling accommodations and that persons of low income are forced to reside in such insanitary or unsafe accommodations; that within the state there is a shortage of safe or sanitary dwelling accommodations available at rents which persons of low income can afford and that such persons are forced to occupy overcrowded and congested dwelling accommodations; that the aforesaid conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the residents of the state and impair economic values; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities; (2) that these areas in the state cannot be cleared, nor can the shortage of safe and sanitary dwellings for persons of low income be relieved, through the operation of private enterprise, and that the construction of housing projects for persons of low income (as herein defined) would therefore not be competitive with private enterprise; (3) that the clearance, replanning and reconstruction of the areas in which insanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which public money may be spent and private property acquired and are governmental functions of state concern; (4) that it is in the public interest that work on projects for such purposes be commenced as soon as possible in order to relieve unemployment which now (1939) constitutes an emergency; and the necessity in the public interest for the provisions hereinafter enacted, is hereby declared as a matter of legislative determination.

[1965 c 7 § 35.82.010. Prior: 1939 c 23 § 2; RRS § 6889-2. Formerly RCW 74.24.010.]

RCW 35.82.020 Definitions.

The following terms, wherever used or referred to in this chapter, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(1) "Authority" or "housing authority" shall mean any of the public corporations created by RCW 35.82.030.

(2) "City" shall mean any city, town, or code city. "County" shall mean any county in the

state. "The city" shall mean the particular city for which a particular housing authority is created. "The county" shall mean the particular county for which a particular housing authority is created.

(3) "Governing body" shall mean, in the case of a city, the city council or the commission and in the case of a county, the county legislative authority.

(4) "Mayor" shall mean the mayor of the city or the officer thereof charged with the duties customarily imposed on the mayor or executive head of the city.

(5) "Clerk" shall mean the clerk of the city or the clerk of the county legislative authority, as the case may be, or the officer charged with the duties customarily imposed on such clerk.

(6) "Area of operation": (a) In the case of a housing authority of a city, shall include such city and the area within five miles from the territorial boundaries thereof: PROVIDED, That the area of operation of a housing authority of any city shall not include any area which lies within the territorial boundaries of some other city, as herein defined; (b) in the case of a housing authority of a county, shall include all of the county except that portion which lies within the territorial boundaries of any city as herein defined.

(7) "Federal government" shall include the United States of America, the United States housing authority or any other agency or instrumentality, corporate or otherwise, of the United States of America.

(8) "Slum" shall mean any area where dwellings predominate which, by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary facilities, or any combination of these factors, are detrimental to safety, health and morals.

(9) "Housing project" shall mean any work or undertaking: (a) To demolish, clear or remove buildings from any slum area; such work or undertaking may embrace the adaptation of such area to public purposes, including parks or other recreational or community purposes; or (b) to provide decent, safe and sanitary urban or rural dwellings, apartments, mobile home parks, or other living accommodations for persons of low income; such work or undertaking may include the rehabilitation of dwellings owned by persons of low income, and also may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, welfare or other purposes; or (c) without limitation by implication, to provide decent, safe, and sanitary urban and rural dwellings, apartments, mobile home parks, or other living accommodations for senior citizens; such work or undertaking may include buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, welfare, or other purposes; or (d) to accomplish a combination of the foregoing. The term "housing project" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith.

(10) "Persons of low income" shall mean persons or families who lack the amount of income which is necessary (as determined by the authority undertaking the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

(11) "Bonds" shall mean any bonds, notes, interim certificates, debentures, or other obligations issued by the authority pursuant to this chapter.

(12) "Real property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

(13) "Obligee of the authority" or "obligee" shall include any bondholder, trustee or trustees for any bondholders, or lessor demising to the authority property used in connection with a housing project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the authority.

(14) "Mortgage loan" shall mean an interest bearing obligation secured by a mortgage.

(15) "Mortgage" shall mean a mortgage deed, deed of trust or other instrument securing a mortgage loan and constituting a lien on real property held in fee simple, or on a leasehold under a lease having a remaining term at the time the mortgage is acquired of not less than the term for repayment of the mortgage loan secured by the mortgage, improved or to be improved by a housing project.

(16) "Senior citizen" means a person age sixty-two or older who is determined by the authority to be poor or infirm but who is otherwise in some manner able to provide the authority with revenue which (together with all other available moneys, revenues, income, and receipts of the authority, from whatever sources derived) will be sufficient: (a) To pay, as the same become due, the principal and interest on bonds of the authority; (b) to meet the cost of, and to provide for, maintaining and operating projects (including the cost of insurance) and administrative expenses of the authority; and (c) to create (by not less than the six years immediately succeeding the issuance of any bonds) a reserve sufficient to meet the principal and interest payments which will be due on the bonds in any one year thereafter and to maintain such reserve.

(17) "Commercial space" shall mean space which, because of its proximity to public streets, sidewalks, or other thoroughfares, is well suited for commercial or office use. Commercial space includes but is not limited to office as well as retail space.

[1989 c 363 § 1; 1983 c 225 § 1; 1979 ex.s. c 187 § 1; 1977 ex.s. c 274 § 1; 1965 c 7 § 35.82.020. Prior: 1939 c 23 § 3; RRS § 6889-3. Formerly RCW 74.24.020.]

Notes:

Severability--1983 c 225: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 225 § 4.]

Severability--1979 ex.s. c 187: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 187 § 4.]

RCW 35.82.030 Creation of housing authorities.

In each city (as herein defined) and in each county of the state there is hereby created a

public body corporate and politic to be known as the "Housing Authority" of the city or county: PROVIDED, HOWEVER, That such authority shall not transact any business or exercise its powers hereunder until or unless the governing body of the city or the county, as the case may be, by proper resolution shall declare at any time hereafter that there is need for an authority to function in such city or county. The determination as to whether or not there is such need for an authority to function (1) may be made by the governing body on its own motion or (2) shall be made by the governing body upon the filing of a petition signed by twenty-five residents of the city or county, as the case may be, asserting that there is need for an authority to function in such city or county and requesting that the governing body so declare.

The governing body shall adopt a resolution declaring that there is need for a housing authority in the city or county, as the case may be, if it shall find (1) that insanitary or unsafe inhabited dwelling accommodations exist in such city or county; (2) that there is a shortage of safe or sanitary dwelling accommodations in such city or county available to persons of low income at rentals they can afford; or (3) that there is a shortage of safe or sanitary dwellings, apartments, mobile home parks, or other living accommodations available for senior citizens. In determining whether dwelling accommodations are unsafe or insanitary said governing body may take into consideration the degree of overcrowding, the percentage of land coverage, the light, air, space and access available to the inhabitants of such dwelling accommodations, the size and arrangement of the rooms, the sanitary facilities, and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes.

In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of the authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution by the governing body declaring the need for the authority. Such resolution or resolutions shall be deemed sufficient if it declares that there is such need for an authority and finds in substantially the foregoing terms (no further detail being necessary) that either or both of the above enumerated conditions exist in the city or county, as the case may be. A copy of such resolution duly certified by the clerk shall be admissible in evidence in any suit, action or proceeding.

[1979 ex.s. c 187 § 2; 1965 c 7 § 35.82.030. Prior: 1939 c 23 § 4; RRS § 6889-4. Formerly RCW 74.24.030.]

Notes:

Severability--1979 ex.s. c 187: See note following RCW 35.82.020.

RCW 35.82.040 Appointment, qualifications, and tenure of commissioners.

Except as provided in RCW 35.82.045, when the governing body of a city adopts a resolution declaring that there is a need for a housing authority, it shall promptly notify the mayor of such adoption. Upon receiving such notice, the mayor shall appoint five persons as commissioners of the authority created for the city. When the governing body of a county adopts a resolution declaring that there is a need for a housing authority, it shall appoint five persons as commissioners of the authority created for the county. The commissioners who are first

appointed shall be designated to serve for terms of one, two, three, four and five years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed for a term of office of five years except that all vacancies shall be filled for the unexpired term. No commissioner of an authority may be an officer or employee of the city or county for which the authority is created, unless the commissioner is an employee of a separately elected county official other than the county governing body in a county with a population of less than one hundred seventy-five thousand as of the 1990 federal census, and the total government employment in that county exceeds forty percent of total employment. A commissioner shall hold office until a successor has been appointed and has qualified, unless sooner removed according to this chapter. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his or her services for the authority, in any capacity, but he or she shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his or her duties.

The powers of each authority shall be vested in the commissioners thereof in office from time to time. Except as provided in RCW 35.82.045, three commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of the commissioners present, unless in any case the bylaws of the authority shall require a larger number. The mayor (or in the case of an authority for a county, the governing body of the county) shall designate which of the commissioners appointed shall be the first chair of the commission and he or she shall serve in the capacity of chair until the expiration of his or her term of office as commissioner. When the office of the chair of the authority becomes vacant, the authority shall select a chair from among its commissioners. An authority shall select from among its commissioners a vice-chair, and it may employ a secretary (who shall be executive director), technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require, an authority may call upon the chief law officer of the city or the county or may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

If federal law requires that the membership of the board of commissioners of a local authority contains one member who is directly assisted by the authority, the board may by resolution temporarily or permanently increase its size to six members. The board may determine the length of the term of the position filled by a directly assisted member. A person appointed to such a position may serve in that position only as long as he or she is directly assisted by the authority.

[1999 c 77 § 1; 1998 c 140 § 1; 1995 c 293 § 1; 1965 c 7 § 35.82.040. Prior: 1939 c 23 § 5; RRS § 6889-5. Formerly RCW 74.24.040.]

RCW 35.82.045 Cities with a population of 400,000 or more--Appointment of additional commissioners--Appointment, compensation of commissioners--Organization of

authority.

(1) After June 11, 1998, the governing body of a city with a population of four hundred thousand or more, that has created a housing authority under RCW 35.82.040, shall adopt a resolution to expand the number of commissioners on the housing authority from five to seven. Upon receiving the notice, the mayor, with approval of the city council, shall appoint additional persons as commissioners of the authority created for the city.

(2) In appointing commissioners, the mayor shall consider persons that represent the community, provided that two commissioners shall consist of tenants that reside in a housing project that is owned by the housing authority.

(3) After June 11, 1998, all commissioners shall be appointed to serve four-year terms, except that all vacancies shall be filled for the remainder of the unexpired term. A commissioner of an authority may not be an officer or employee of the city for which the authority is created. A commissioner shall hold office until a successor has been appointed and has qualified, unless sooner removed according to this chapter.

(4) A commissioner may be reappointed only after review and approval by the city council.

(5) A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk and the certificate is conclusive evidence of the due and proper appointment of the commissioner.

(6) A commissioner shall receive no compensation for his or her services for the authority, in any capacity, but he or she is entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his or her duties.

(7) The powers of each authority vest in the commissioners of the authority in office from time to time. Four commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of the commissioners present, unless in any case the bylaws of the authority shall require a larger number.

(8) The mayor, with consent of the city council, shall designate which of the commissioners appointed shall be the first chair of the commission and he or she shall serve in the capacity of chair until the expiration of his or her term of office as commissioner. When the office of the chair of the authority becomes vacant, the authority shall select a chair from among its commissioners. An authority shall select from among its commissioners a vice-chair, and the authority may employ a secretary, who shall be executive director, technical experts and such other officers, agents, and employees, permanent and temporary, as the authority requires, and shall determine their qualifications, duties, and compensation.

(9) For such legal services as it may require, an authority may call upon the chief law officer of the city or may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

[1998 c 140 § 2.]

RCW 35.82.050 Conflicts of interest for commissioners, employees, and appointees.

(1) No commissioner, employee, or appointee to any decision-making body for the housing authority shall own or hold an interest in any contract or property or engage in any business, transaction, or professional or personal activity, that would:

(a) Be, or appear to be, in conflict with the commissioner's, employee's, or appointee's official duties to any decision-making body for the housing authority duties relating to the housing authority served by or subject to the authority of such commissioner, employee, or appointee to any decision-making body for the housing authority;

(b) Secure, or appear to secure, unwarranted privileges or advantages for such commissioner, employee, or appointee to any decision-making body for the housing authority, or others; or

(c) Prejudice, or appear to prejudice, such commissioner's, employee's, or appointee's to any decision-making body for the housing authority independence of judgment in exercise of his or her official duties relating to the housing authority served by or subject to the authority of the commissioner, employee, or appointee to any decision-making body for the housing authority.

(2) No commissioner, employee, or appointee to any decision-making body for the housing authority shall act in an official capacity in any manner in which such commissioner, employee, or appointee to any decision-making body of the housing authority has a direct or indirect financial or personal involvement.

(3) No commissioner, employee, or appointee to any decision-making body for the housing authority shall use his or her public office or employment to secure financial gain to such commissioner, employee, or appointee to any decision-making body for the housing authority.

(4) If any commissioner or employee of an authority or any appointee to any decision-making body for the housing authority owns or controls an interest direct or indirect in any property included or planned to be included in any housing project, he immediately shall disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure to disclose such interest shall constitute misconduct in office. Upon such disclosure such commissioner, employee, or appointee to any decision-making body for the housing authority shall not participate in any action by the authority affecting such property.

(5) No provision of this section shall preclude a tenant of the public housing authority from serving as a commissioner, employee, or appointee to any decision-making body of the housing authority. No provision of this section shall preclude a tenant of the public housing authority who is serving as a commissioner, employee, or appointee to any decision-making body of the housing authority from voting on any issue or decision, or participating in any action by the authority, unless a conflict of interest, as set forth in subsections (1) through (4) of this section, exists as to that particular tenant and the particular property or interest at issue before, or subject to action by the housing authority.

[1998 c 140 § 3; 1965 c 7 § 35.82.050. Prior: 1939 c 23 § 6; RRS § 6889-6. Formerly RCW 74.24.050.]

RCW 35.82.060 Removal of commissioners.

For inefficiency or neglect of duty or misconduct in office, a commissioner of an authority may be removed by the mayor (or in the case of an authority for a county, by the governing body of said county), but a commissioner shall be removed only after he shall have been given a copy of the charges at least ten days prior to the hearing thereon and had an opportunity to be heard in person or by counsel. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk.

[1965 c 7 § 35.82.060. Prior: 1939 c 23 § 7; RRS § 6889-7. Formerly RCW 74.24.060.]

RCW 35.82.070 Powers of authority.

An authority shall constitute a public body corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein granted:

(1) To sue and be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments, including but not limited to partnership agreements and joint venture agreements, necessary or convenient to the exercise of the powers of the authority; to participate in the organization or the operation of a nonprofit corporation which has as one of its purposes to provide or assist in the provision of housing for persons of low income; and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with this chapter, to carry into effect the powers and purposes of the authority.

(2) Within its area of operation: To prepare, carry out, acquire, lease and operate housing projects; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project or any part thereof; to agree to rent or sell dwellings forming part of the projects to or for persons of low income. Where an agreement or option is made to sell a dwelling to a person of low income, the authority may convey the dwelling to the person upon fulfillment of the agreement irrespective of whether the person is at the time of the conveyance a person of low income. Leases, options, agreements, or conveyances may include such covenants as the authority deems appropriate to assure the achievement of the objectives of this chapter.

(3) To acquire, lease, rent, sell, or otherwise dispose of any commercial space located in buildings or structures containing a housing project or projects.

(4) To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works, or facilities for, or in connection with, a housing project or the occupants thereof; and (notwithstanding anything to the contrary contained in this chapter or in any other provision of law) to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project.

(5) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and (subject to the limitations contained in this

chapter) to establish and revise the rents or charges therefor; to own or manage buildings containing a housing project or projects as well as commercial space or other dwelling units that do not constitute a housing project as that term is defined in this chapter: PROVIDED, That notwithstanding the provisions under subsection (1) of this section, dwelling units made available or sold to persons of low income, together with functionally related and subordinate facilities, shall occupy at least fifty percent of the interior space in the total development owned by the authority or at least fifty percent of the total number of units in the development owned by the authority, whichever produces the greater number of units for persons of low income, and for mobile home parks, the mobile home lots made available to persons of low income shall be at least fifty percent of the total number of mobile home lots in the park owned by the authority; to own, hold, and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise including financial assistance and other aid from the state or any public body, person or corporation, any real or personal property or any interest therein; to acquire by the exercise of the power of eminent domain any real property; to sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest therein; to sell, lease, exchange, transfer, or dispose of any real or personal property or interest therein at less than fair market value to a governmental entity for any purpose when such action assists the housing authority in carrying out its powers and purposes under this chapter, to a low-income person or family for the purpose of providing housing for that person or family, or to a nonprofit corporation provided the nonprofit corporation agrees to sell the property to a low-income person or family or to use the property for the provision of housing for persons of low income for at least twenty years; to insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards; to procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or parts thereof issued by an authority, including the power to pay premiums on any such insurance.

(6) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be canceled.

(7) Within its area of operation: To investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where slum areas exist or where there is a shortage of decent, safe and sanitary dwelling accommodations for persons of low income; to make studies and recommendations relating to the problem of clearing, replanning and reconstructing of slum areas, and the problem of providing dwelling accommodations for persons of low income, and to cooperate with the city, the county, the state or any political subdivision thereof in action taken in connection with such problems; and to engage in research, studies and experimentation on the subject of housing.

(8) Acting through one or more commissioners or other person or persons designated by the authority: To conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to administer oaths, issue subpoenas requiring the attendance of witnesses or the production of books and

papers and to issue commissions for the examination of witnesses who are outside of the state or unable to attend before the authority, or excused from attendance; to make available to appropriate agencies (including those charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or insanitary structures within its area of operation) its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety or welfare.

(9) To initiate eviction proceedings against any tenant as provided by law. Activity occurring in any housing authority unit that constitutes a violation of chapter 69.41, 69.50 or 69.52 RCW shall constitute a nuisance for the purpose of RCW 59.12.030(5).

(10) To exercise all or any part or combination of powers herein granted.

No provisions of law with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to an authority unless the legislature shall specifically so state.

(11) To agree (notwithstanding the limitation contained in RCW 35.82.210) to make such payments in lieu of taxes as the authority finds consistent with the achievement of the purposes of this chapter.

(12) Upon the request of a county or city, to exercise any powers of an urban renewal agency under chapter 35.81 RCW or a public corporation, commission, or authority under chapter 35.21 RCW. However, in the exercise of any such powers the housing authority shall be subject to any express limitations contained in this chapter.

(13) To exercise the powers granted in this chapter within the boundaries of any city, town, or county not included in the area in which such housing authority is originally authorized to function: PROVIDED, HOWEVER, The governing or legislative body of such city, town, or county, as the case may be, adopts a resolution declaring that there is a need for the authority to function in such territory.

(14) To administer contracts for assistance payments to persons of low income in accordance with section 8 of the United States Housing Act of 1937, as amended by Title II, section 201 of the Housing and Community Development Act of 1974, P.L. 93-383.

(15) To sell at public or private sale, with or without public bidding, for fair market value, any mortgage or other obligation held by the authority.

(16) To the extent permitted under its contract with the holders of bonds, notes, and other obligations of the authority, to consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest security, or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which the authority is a party.

(17) To make, purchase, participate in, invest in, take assignments of, or otherwise acquire loans to persons of low income to enable them to acquire, construct, reconstruct, rehabilitate, improve, lease, or refinance their dwellings, and to take such security therefor as is deemed necessary and prudent by the authority.

(18) To make, purchase, participate in, invest in, take assignments of, or otherwise acquire loans for the acquisition, construction, reconstruction, rehabilitation, improvement,

leasing, or refinancing of land, buildings, or developments for housing for persons of low income. For purposes of this subsection, development shall include either land or buildings or both.

(a) Any development financed under this subsection shall be subject to an agreement that for at least twenty years the dwelling units made available to persons of low income together with functionally related and subordinate facilities shall occupy at least fifty percent of the interior space in the total development or at least fifty percent of the total number of units in the development, whichever produces the greater number of units for persons of low income. For mobile home parks, the mobile home lots made available to persons of low income shall be at least fifty percent of the total number of mobile home lots in the park. During the term of the agreement, the owner shall use its best efforts in good faith to maintain the dwelling units or mobile home lots required to be made available to persons of low income at rents affordable to persons of low income. The twenty-year requirement under this subsection (18)(a) shall not apply when an authority finances the development by nonprofit corporations or governmental units of dwellings or mobile home lots intended for sale to persons of low and moderate income, and shall not apply to construction or other short-term financing provided to nonprofit corporations or governmental units when the financing has a repayment term of one year or less.

(b) In addition, if the development is owned by a for-profit entity, the dwelling units or mobile home lots required to be made available to persons of low income shall be rented to persons whose incomes do not exceed fifty percent of the area median income, adjusted for household size, and shall have unit or lot rents that do not exceed fifteen percent of area median income, adjusted for household size, unless rent subsidies are provided to make them affordable to persons of low income.

For purposes of this subsection (18)(b), if the development is owned directly or through a partnership by a governmental entity or a nonprofit organization, which nonprofit organization is itself not controlled by a for-profit entity or affiliated with any for-profit entity that a nonprofit organization itself does not control, it shall not be treated as being owned by a for-profit entity when the governmental entity or nonprofit organization exercises legal control of the ownership entity and in addition, (i) the dwelling units or mobile home lots required to be made available to persons of low income are rented to persons whose incomes do not exceed sixty percent of the area median income, adjusted for household size, and (ii) the development is subject to an agreement that transfers ownership to the governmental entity or nonprofit organization or extends an irrevocable right of first refusal to purchase the development under a formula for setting the acquisition price that is specified in the agreement.

(c) Commercial space in any building financed under this subsection that exceeds four stories in height shall not constitute more than twenty percent of the interior area of the building. Before financing any development under this subsection the authority shall make a written finding that financing is important for project feasibility or necessary to enable the authority to carry out its powers and purposes under this chapter.

(19) To contract with a public authority or corporation, created by a county, city, or town under RCW 35.21.730 through 35.21.755, to act as the developer for new housing projects or improvement of existing housing projects.

[1993 c 478 § 17; 1991 c 167 § 1; 1989 c 363 § 2; 1985 c 386 § 1; 1983 c 225 § 2; 1977 ex.s. c 274 § 2; 1965 c 7 § 35.82.070. Prior: 1945 c 43 § 1; 1939 c 23 § 8; Rem. Supp. 1945 § 6889-8. Formerly RCW 74.24.070.]

Notes:

Severability--1983 c 225: See note following RCW 35.82.020.

RCW 35.82.076 Small works roster.

A housing authority may establish and use a small works roster for awarding contracts under RCW 39.04.155.

[2000 c 138 § 205.]

Notes:

Purpose--Part headings not law--2000 c 138: See notes following RCW 39.04.155.

RCW 35.82.080 Operation not for profit.

It is hereby declared to be the policy of this state that each housing authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for low-income dwelling accommodations at the lowest possible rates consistent with its providing decent, safe and sanitary dwelling accommodations, and that no housing authority shall construct or operate any such project for profit, or as a source of revenue to the city or the county. To this end, an authority shall fix the rentals for rental units for persons of low income in projects owned or leased by the authority at no higher rates than it shall find to be necessary in order to produce revenues which (together with all other available moneys, revenues, income and receipts of the authority from whatever sources derived) will be sufficient (1) to pay, as the same become due, the principal and interest on the bonds or other obligations of the authority issued or incurred to finance the projects; (2) to meet the cost of, and to provide for, maintaining and operating the projects (including the cost of any insurance) and the administrative expenses of the authority; and (3) to create (during not less than the six years immediately succeeding its issuance of any such bonds) a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds in any one year thereafter and to maintain such reserve. Nothing contained in this section shall be construed to limit an authority's power to rent commercial space located in buildings containing housing projects or non low-income units owned, acquired, financed, or constructed under *RCW 35.82.070(5), (16), or (17) at profitable rates and to use any profit realized from such rentals in carrying into effect the powers and purposes provided to housing authorities under this chapter.

[1989 c 363 § 3; 1983 c 225 § 3; 1977 ex.s. c 274 § 3; 1965 c 7 § 35.82.080. Prior: 1939 c 23 § 9; RRS § 6889-9. Formerly RCW 74.24.080.]

Notes:

***Reviser's note:** RCW 35.82.070 was amended by 1991 c 167 § 1, changing subsections (16) and (17) to subsections (17) and (18); and subsequently amended by 1993 c 478 § 17 changing subsections (17) and (18) to subsections (18) and (19).

Severability--1983 c 225: See note following RCW 35.82.020.

RCW 35.82.090 Rentals and tenant selection.

In the operation and management of rental units which are rented to persons of low income in any housing project an authority shall at all times observe the following duties with respect to rentals and tenant selection: (1) It may rent or lease the dwelling accommodations therein to persons of low income and at rentals within the financial reach of such persons of low income; (2) it may rent or lease to a low-income tenant dwelling accommodations consisting of the number of rooms (but no greater number) which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding; and (3) it shall not accept any person as a low income tenant in any housing project designated for persons of low income if the person or persons who would occupy the dwelling accommodations have an annual net income in excess of five times the annual rental of the quarters to be furnished such person or persons, except that in the case of families with three or more minor dependents, such ratio shall not exceed six to one; in computing the rental for this purpose of selecting tenants, there shall be included in the rental the average annual cost (as determined by the authority) to occupants of heat, water, electricity, gas, cooking range and other necessary services or facilities, whether or not the charge for such services and facilities is in fact included in the rental. This income limitation does not apply to housing projects designated for senior citizens.

Nothing contained in this section or RCW 35.82.080 shall be construed as limiting the power of an authority to vest in an obligee the right, in the event of a default by the authority, to take possession of a housing project or cause the appointment of a receiver thereof, free from all the restrictions imposed by this section or RCW 35.82.080.

[1989 c 363 § 4; 1979 ex.s. c 187 § 3; 1977 ex.s. c 274 § 4; 1965 c 7 § 35.82.090. Prior: 1939 c 23 § 10; RRS § 6889-10. Formerly RCW 74.24.090.]

Notes:

Severability--1979 ex.s. c 187: See note following RCW 35.82.020.

RCW 35.82.100 Cooperation between authorities.

Any two or more authorities may join or cooperate with one another in the exercise of any or all of the powers conferred hereby for the purpose of financing, planning, undertaking, constructing or operating a housing project or projects located within the area of operation of any one or more of said authorities.

[1965 c 7 § 35.82.100. Prior: 1939 c 23 § 11; RRS § 6889-11. Formerly RCW 74.24.100.]

RCW 35.82.110 Eminent domain.

An authority shall have the right to acquire by the exercise of the power of eminent domain any real property which it may deem necessary for its purposes under this chapter after the adoption by it of a resolution declaring that the acquisition of the real property described

therein is necessary for such purposes. An authority may exercise the power of eminent domain in the same manner and under the same procedure as now is or may be hereafter provided by law in the case of other corporations authorized by the laws of the state to exercise the right of eminent domain; or it may exercise the power of eminent domain in the manner now or which may be hereafter provided by any other applicable statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired in like manner: PROVIDED, That no real property belonging to the city, the county, the state or any political subdivision thereof may be acquired without its consent.

[1965 c 7 § 35.82.110. Prior: 1939 c 23 § 12; RRS § 6889-12. Formerly RCW 74.24.110.]

Notes:
Eminent domain: Title 8 RCW.

RCW 35.82.120 Planning, zoning and building laws.

All housing projects of an authority shall be subject to the planning, zoning, sanitary and building laws, ordinances and regulations applicable to the locality in which the housing project is situated. In the planning and location of any housing project, an authority shall take into consideration the relationship of the project to any larger plan or long-range program for the development of the area in which the housing authority functions.

[1965 c 7 § 35.82.120. Prior: 1939 c 23 § 13; RRS § 6889-13. Formerly RCW 74.24.120.]

Notes:
Ordinances--Adoption of codes by reference: RCW 35.21.180.
Planning commissions: Chapter 35.63 RCW.

RCW 35.82.130 Bonds.

An authority shall have power to issue bonds from time to time in its discretion, for any of its corporate purposes. An authority shall also have power to issue refunding bonds for the purpose of paying or retiring bonds previously issued by it. An authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable: (1) Exclusively from the income and revenues of the housing project financed with the proceeds of such bonds; (2) exclusively from the income and revenues of certain designated housing projects whether or not they are financed in whole or in part with the proceeds of such bonds; or (3) from all or part of its revenues or assets generally. Any such bonds may be additionally secured by a pledge of any grant or contributions from the federal government or other source, or a pledge of any income or revenues of the authority, or a mortgage of any housing project, projects or other property of the authority. Any pledge made by the authority shall be valid and binding from the time when the pledge is made; the revenues, moneys, or property so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in

tort, contract, or otherwise against the authority, irrespective or whether the parties have notice thereof.

Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority (and such bonds and obligations shall so state on their face) shall not be a debt of the city, the county, the state or any political subdivision thereof and neither the city or the county, nor the state or any political subdivision thereof shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of the authority. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes. Nothing in this section shall prevent an authority from issuing bonds the interest on which is included in gross income of the owners thereof for income tax purposes.

[1995 c 293 § 2; 1991 c 167 § 2; 1977 ex.s. c 274 § 5; 1965 c 7 § 35.82.130. Prior: 1939 c 23 § 14; RRS § 6889-14. Formerly RCW 74.24.130.]

RCW 35.82.140 Form and sale of bonds.

(1) Bonds of an authority shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, either coupon or registered as provided in RCW 39.46.030, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution, its trust indenture or mortgage may provide.

The bonds may be sold at public or private sale.

In case any of the commissioners or officers of the authority whose signatures appear on any bond or any coupons shall cease to be such commissioners or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if they had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this chapter shall be fully negotiable.

In any suit, action or proceedings involving the validity or enforceability of any bond of an authority or the security therefor, any such bond reciting in substance that it has been issued by the authority to aid in financing a housing project to provide dwelling accommodations for persons of low income shall be conclusively deemed to have been issued for a housing project of such character and said project shall be conclusively deemed to have been planned, located and constructed in accordance with the purposes and provisions of this chapter.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 65; 1977 ex.s. c 274 § 6; 1970 ex.s. c 56 § 45; 1969 ex.s. c 232 § 22; 1965 c 7 § 35.82.140. Prior:

1939 c 23 § 15; RRS § 6889-15. Formerly RCW 74.24.140.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 35.82.150 Provisions of bonds, trust indentures, and mortgages.

In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of such bonds or obligations, an authority, in addition to its other powers, shall have power:

(1) To pledge all or any part of its gross or net rents, fees, revenues, or assets, including mortgage loans and obligations securing the same, to which its right then exists or may thereafter come into existence.

(2) To mortgage all or any part of its real or personal property, then owned or thereafter acquired.

(3) To covenant against pledging all or any part of its rents, fees and revenues, or against mortgaging all or any part of its real or personal property, to which its right or title then exists or may thereafter come into existence or against permitting or suffering any lien on such revenues or property; to covenant with respect to limitations on its right to sell, lease or otherwise dispose of any housing project or any part thereof; and to covenant as to what other, or additional debts or obligations may be incurred by it.

(4) To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest thereon; and to redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

(5) To covenant (subject to the limitations contained in this chapter) as to the rents and fees to be charged in the operation of a housing project or projects, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof; to create or to authorize the creation of special funds for moneys held for construction or operating costs, debt service, reserves, or other purposes, and to covenant as to the use and disposition of the moneys held in such funds.

(6) To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(7) To covenant as to use of any or all of its real or personal property; and to covenant as to the maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

(8) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration

and its consequences may be waived.

(9) To vest in a trustee or trustees or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default by said authority, to take possession and use, operate and manage any housing project or part thereof, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the authority with said trustee; to provide for the powers and duties of a trustee or trustees and to limit the liabilities thereof; and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any covenant or rights securing or relating to the bonds.

(10) To covenant as to the use and disposition of the gross income from mortgages owned by the authority and payment of principal of the mortgages.

(11) To exercise all or any part or combination of the powers herein granted; to make covenants other than and in addition to the covenants herein expressly authorized, of like or different character; to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or, in the absolute discretion of said authority, as will tend to make the bonds more marketable notwithstanding that such covenants, acts or things may not be enumerated herein.

[1977 ex.s. c 274 § 7; 1965 c 7 § 35.82.150. Prior: 1939 c 23 § 16; RRS § 6889-16. Formerly RCW 74.24.150.]

RCW 35.82.160 Certification by attorney general.

Any authority may submit to the attorney general of the state any bonds to be issued hereunder after all proceedings for the issuance of such bonds have been taken. Upon the submission of such proceedings to the attorney general, it shall be the duty of the attorney general to examine into and pass upon the validity of such bonds and the regularity of all proceedings in connection therewith. If such proceedings conform to the provisions of this chapter and are otherwise regular in form and if such bonds when delivered and paid for will constitute binding and legal obligations of the authority enforceable according to the terms thereof, the attorney general shall certify in substance upon the back of each of said bonds that it is issued in accordance with the Constitution and laws of the state of Washington.

[1965 c 7 § 35.82.160. Prior: 1939 c 23 § 17; RRS § 6889-17. Formerly RCW 74.24.160.]

RCW 35.82.170 Remedies of an obligee of authority.

An obligee of an authority shall have the right in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

(1) By mandamus, suit, action or proceeding at law or in equity to compel said authority and the commissioners, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any contract of said authority with or for the benefit of such obligee, and to require the carrying out of any or all such covenants and agreements of said

authority and the fulfillment of all duties imposed upon said authority by this chapter.

(2) By suit, action or proceeding in equity, to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of said authority.

[1965 c 7 § 35.82.170. Prior: 1939 c 23 § 18; RRS § 6889-18. Formerly RCW 74.24.170.]

RCW 35.82.180 Additional remedies conferable by authority.

An authority shall have power by its resolution, trust indenture, mortgage, lease or other contract to confer upon any obligee holding or representing a specified amount in bonds, or holding a lease, the right (in addition to all rights that may otherwise be conferred), upon the happening of an event of default as defined in such resolution or instrument, by suit, action or proceeding in any court of competent jurisdiction:

(1) To cause possession of any housing project or any part thereof to be surrendered to any such obligee.

(2) To obtain the appointment of a receiver of any housing project of said authority or any part thereof and of the rents and profits therefrom. If such receiver be appointed, he may enter and take possession of such housing project or any part thereof and operate and maintain same, and collect and receive all fees, rents, revenues, or other charges thereafter arising therefrom, and shall keep such moneys in a separate account or accounts and apply the same in accordance with the obligations of said authority as the court shall direct.

(3) To require said authority and the commissioners thereof to account as if it and they were the trustees of an express trust.

[1965 c 7 § 35.82.180. Prior: 1939 c 23 § 19; RRS § 6889-19. Formerly RCW 74.24.180.]

RCW 35.82.190 Exemption of property from execution sale.

All real property of an authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against an authority be a charge or lien upon its real property: PROVIDED, HOWEVER, That the provisions of this section shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of an authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by an authority on its rents, fees or revenues.

[1965 c 7 § 35.82.190. Prior: 1939 c 23 § 20; RRS § 6889-20. Formerly RCW 74.24.190.]

RCW 35.82.200 Aid from federal government.

In addition to the powers conferred upon an authority by other provisions of this chapter, an authority is empowered to borrow money or accept contributions, grants or other financial assistance from the federal government for or in aid of any housing project within its area of operation, to take over or lease or manage any housing project or undertaking constructed or

owned by the federal government, and to these ends, to comply with such conditions and enter into such mortgages, trust indentures, leases or agreements as may be necessary, convenient or desirable. It is the purpose and intent of this chapter to authorize every authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the federal government in the undertaking, construction, maintenance or operation of any housing project by such authority.

[1965 c 7 § 35.82.200. Prior: 1939 c 23 § 21; RRS § 6889-21. Formerly RCW 74.24.200.]

RCW 35.82.210 Tax exemption and payments in lieu of taxes--Definitions.

(1) The property of an authority is declared to be public property used for essential public and governmental purposes and such property and an authority shall be exempt from all taxes and special assessments of the city, the county, the state or any political subdivision thereof: PROVIDED, HOWEVER, That in lieu of such taxes an authority may agree to make payments to the city or the county or any such political subdivision for improvements, services and facilities furnished by such city, county or political subdivision for the benefit of a housing project, but in no event shall such payments exceed the amount last levied as the annual tax of such city, county or political subdivision upon the property included in said project prior to the time of its acquisition by the authority.

(2) For the sole purpose of the exemption from tax under this section:

(a) "Authority," in addition to the meaning in RCW 35.82.020, also means tribal housing authorities and intertribal housing authorities.

(b) "Intertribal housing authority" means a housing authority created by a consortium of tribal governments to operate and administer housing programs for persons of low income or senior citizens for and on behalf of such tribes.

(c) "Tribal government" means the governing body of a federally recognized Indian tribe.

(d) "Tribal housing authority" means the tribal government or an agency or branch of the tribal government that operates and administers housing programs for persons of low income or senior citizens.

[2000 c 187 § 2; 1965 c 7 § 35.82.210. Prior: 1939 c 23 § 22; RRS § 6889-22. Formerly RCW 74.24.210.]

Notes:

Finding--2000 c 187: "Affordable and accessible housing is of great concern and importance to the legislature and the people of this state. The legislature recognizes the important role housing authorities serve in creating and maintaining housing for low-income persons and senior citizens. The legislature finds that tribal housing authorities should be afforded the same exemptions from tax as all other housing authorities and extends the exemption from state and local tax to tribal housing authorities." [2000 c 187 § 1.]

Effective date--2000 c 187: "This act takes effect July 1, 2000." [2000 c 187 § 3.]

RCW 35.82.220 Housing bonds legal investments and security.

Notwithstanding any restrictions on investments contained in any laws of this state, the state and all public officers, municipal corporations, political subdivisions, and public bodies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations,

savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or other obligations issued by a housing authority pursuant to the housing authorities law of this state or issued by any public housing authority or agency in the United States, and such bonds and other obligations shall be authorized security for all public deposits; it being the purpose of this chapter to authorize any persons, firms, corporations, associations, political subdivisions, bodies and officers, public or private, to use any funds owned or controlled by them, including (but not limited to) sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any such bonds or other obligations: PROVIDED, HOWEVER, That nothing contained in this chapter shall be construed as relieving any person, firm or corporation from any duty of exercising reasonable care in selecting securities.

[1977 ex.s. c 274 § 8; 1965 c 7 § 35.82.220. Prior: 1939 c 23 § 23; RRS § 6889-23. Formerly RCW 74.24.220.]

RCW 35.82.230 Reports.

At least once a year, an authority shall file with the clerk a report of its activities for the preceding year, and shall make recommendations with reference to such additional legislation or other action as it deems necessary in order to carry out the purposes of this chapter.

[1965 c 7 § 35.82.230. Prior: 1939 c 23 § 24; RRS § 6889-24. Formerly RCW 74.24.230.]

RCW 35.82.240 Rural housing projects.

Housing authorities created for counties are specifically empowered and authorized to borrow money, accept grants and exercise their other powers to provide housing for farmers of low income as herein defined. In providing such housing, such housing authorities shall not be subject to the tenant selection limitations provided in RCW 35.82.090(3). In connection with such projects, such housing authorities may enter into such leases or purchase agreements, accept such conveyances and rent or sell dwellings forming part of such projects to or for farmers of low income, as such housing authority deems necessary in order to assure the achievement of the objectives of this chapter. Such leases, agreements or conveyances may include such covenants as the housing authority deems appropriate regarding such dwellings and the tracts of land described in any such instrument, which covenants shall be deemed to run with the land where the housing authority deems it necessary and the parties to such instrument so stipulate. Nothing contained in this section shall be construed as limiting any other powers of any housing authority.

[1965 c 7 § 35.82.240. Prior: 1941 c 69 § 1; Rem. Supp. 1941 § 6889-23a. Formerly RCW 74.24.240.]

RCW 35.82.250 Housing applications by farmers.

The owner of any farm operated, or worked upon, by farmers of low income in need of safe and sanitary housing may file an application with a housing authority of a county requesting that it provide for a safe and sanitary dwelling or dwellings for occupancy by such farmers of low income. Such applications shall be received and examined by housing authorities in connection with the formulation of projects or programs to provide housing for farmers of low income.

[1965 c 7 § 35.82.250. Prior: 1941 c 69 § 2; Rem. Supp. 1941 § 6889-23b. Formerly RCW 74.24.250.]

RCW 35.82.260 Farmers of low income.

"Farmers of low income" shall mean persons or families who at the time of their admission to occupancy in a dwelling of a housing authority: (1) live under unsafe or insanitary housing conditions; (2) derive their principal income from operating or working upon a farm; and (3) had an aggregate average annual net income for the three years preceding their admission that was less than the amount determined by the housing authority to be necessary, within its area of operation, to enable them, without financial assistance, to obtain decent, safe and sanitary housing without overcrowding.

[1965 c 7 § 35.82.260. Prior: 1941 c 69 § 3; Rem. Supp. 1941 § 6889-23c. Formerly RCW 74.24.260.]

RCW 35.82.270 Powers are additional.

The powers conferred by RCW 35.82.240 through 35.82.270 shall be in addition and supplemental to the powers conferred by any other law, and nothing contained herein shall be construed as limiting any other powers of any housing authority.

[1965 c 7 § 35.82.270. Prior: 1941 c 69 § 4; Rem. Supp. 1941 § 6889-23d. Formerly RCW 74.24.270.]

RCW 35.82.280 Supplemental projects.

Except as limited by this section, an authority shall have the same powers with respect to supplemental projects as hereinafter in this section defined as are now or hereafter granted to it under this chapter with respect to housing projects.

No funds shall be expended by an authority for a supplemental project except by resolution adopted on notice at a public hearing as provided by chapter 42.32 RCW, supported by formal findings of fact incorporated therein, establishing that:

(1) Low-income housing needs within the area of operation of the authority are being or will be adequately met by existing programs; and

(2) A surplus of funds will exist after meeting such low-income housing needs.

Expenditures for supplemental projects shall be limited to those funds determined to be surplus.

"Supplemental project" for the purposes of this chapter shall mean any work or

undertaking to provide buildings, land, equipment, facilities, and other real or personal property for recreational, group home, halfway house or other community purposes which by resolution of the housing authority is determined to be necessary for the welfare of the community within its area of operation and to fully accomplish the purposes of this chapter. Such project need not be in conjunction with the clearing of a slum area under subsection (9)(a) of RCW 35.82.020 or with the providing of low-income housing under subsection (9)(b) of RCW 35.82.020.

[1971 ex.s. c 300 § 2.]

RCW 35.82.285 Group homes or halfway houses for released juveniles or developmentally disabled.

Housing authorities created under this chapter may establish and operate group homes or halfway houses to serve juveniles released from state juvenile or correctional institutions, or to serve the developmentally disabled as defined in *RCW 71A.10.020(2). Authorities may contract for the operation of facilities so established, with qualified nonprofit organizations as agent of the authority. Authorities may provide support or supportive services in facilities serving juveniles, the developmentally disabled or other persons under a disability, and the frail elderly, whether or not they are operated by the authority.

Action under this section shall be taken by the authority only after a public hearing as provided by chapter 42.30 RCW. In exercising this power the authority shall not be empowered to acquire property by eminent domain, and the facilities established shall comply with all zoning, building, fire, and health regulations and procedures applicable in the locality.

[1991 c 167 § 3; 1973 1st ex.s. c 198 § 2.]

Notes:

***Reviser's note:** RCW 71A.10.020 was amended by 1998 c 216 § 2, changing subsection (2) to subsection (3).

Effective date--1973 1st ex.s. c 198: See note following RCW 13.06.050.

RCW 35.82.300 Joint city-county housing authorities--Creation authorized--Contents of ordinances creating--Powers.

This section applies to all counties.

(1) Joint city-county housing authorities are hereby authorized when the legislative authority of the county and the legislative authority of any city or cities within the county have authorized such joint city-county housing authorities by ordinance.

(2) The ordinance enacted by the legislative authorities creating the joint housing authority shall prescribe the number of commissioners, the method for their appointment and length of their terms, the election of officers, and the method for removal of commissioners.

(3) The ordinances enacted by the legislative authorities creating the joint housing authority shall prescribe the allocation of all costs of the joint housing authority and any other matters necessary for the operation of the joint housing authority.

(4) A joint city-county housing authority shall have all the powers as prescribed by this

chapter for any housing authority. The area of operation of a joint city-county authority shall be the combined areas of each as they are defined by RCW 35.82.020(6).

(5) The provisions of RCW 35.82.040 and 35.82.060 as now or hereafter amended shall not apply to a joint city-county housing authority created pursuant to this section.

[1980 c 25 § 1.]

RCW 35.82.320 Deactivation of housing authority--Procedure.

A housing authority created under this chapter and activated by a resolution by the governing body of a city, town, or county may be deactivated by a resolution by the city, town, or county. The findings listed in RCW 35.82.030 to activate the housing authority shall be considered prior to deactivating the housing authority. For the sole purposes of winding up the affairs of a deactivated housing authority, the governing body of the city, town, or county may exercise any power granted to a housing authority under this chapter.

[1987 c 275 § 1.]

RCW 35.82.325 Deactivation of housing authority--Distribution of assets.

The assets of an authority in the process of deactivation shall be applied and distributed as follows:

(1) All liabilities and obligations of the authority shall be paid, satisfied, and discharged, or adequate provision shall be made therefor;

(2) Assets held by the authority upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the deactivation shall be returned, transferred, or conveyed in accordance with such requirements;

(3) Assets received and held by the authority subject to limitations permitting their use only for activities purposes contained in RCW 35.82.070, but not held upon a condition requiring return, transfer, or conveyance by reason of the deactivation, shall be transferred or conveyed to the governing body of the city, town, or county and used to engage in activities contained in RCW 35.82.070;

(4) Other assets, if any, shall be returned to the governing body of the city, town, or county for uses allowed under state law.

[1987 c 275 § 2.]

RCW 35.82.900 Short title.

This chapter shall be known and may be cited as the "Housing Authorities Law."

[1965 c 7 § 35.82.900. Prior: 1939 c 23 § 1.]

RCW 35.82.910 Chapter controlling.

Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, the provisions of this chapter shall be controlling.

[1965 c 7 § 35.82.910. Prior: 1939 c 23 § 26.]

Chapter 35.83 RCW
HOUSING COOPERATION LAW

Sections

35.83.005 Short title.
35.83.010 Finding and declaration of necessity.
35.83.020 Definitions.
35.83.030 Cooperation in undertaking housing projects.
35.83.040 Agreements as to payments by housing authority.
35.83.050 Advances to housing authority.
35.83.060 Procedure for exercising powers.
35.83.070 Supplemental nature of chapter.

Notes:
Housing authorities law: Chapter 35.82 RCW.

RCW 35.83.005 Short title.

This act may be referred to as the "Housing Cooperation Law."

[1965 c 7 § 35.83.005. Prior: 1939 c 24 § 1; RRS § 6889-31.]

RCW 35.83.010 Finding and declaration of necessity.

It has been found and declared in the housing authorities law that there exist in the state unsafe and insanitary housing conditions and a shortage of safe and sanitary dwelling accommodations for persons of low income; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities; and that the public interest requires the remedying of these conditions. It is hereby found and declared that the assistance herein provided for the remedying of the conditions set forth in the housing authorities law constitutes a public use and purpose and an essential governmental function for which public moneys may be spent, and other aid given; that it is a proper public purpose for any state public body to aid any housing authority operating within its boundaries or jurisdiction or any housing project located therein, as the state public body derives immediate benefits and advantages from such an authority or project; and that the provisions hereinafter enacted are necessary in the public interest.

[1965 c 7 § 35.83.010. Prior: 1939 c 24 § 2; RRS § 6889-32. Formerly RCW 74.28.010.]

RCW 35.83.020 Definitions.

The following terms, whenever used or referred to in this chapter shall have the following respective meanings, unless a different meaning clearly appears from the context:

(1) "Housing authority" shall mean any housing authority created pursuant to the housing authorities law of this state.

(2) "Housing project" shall mean any work or undertaking of a housing authority pursuant to the housing authorities law or any similar work or undertaking of the federal government.

(3) "State public body" shall mean the state of Washington and any city, town, county, municipal corporation, commission, district, authority, other subdivision or public body of the state.

(4) "Governing body" shall mean the council, the commission, board of county commissioners or other body having charge of the fiscal affairs of the state public body.

(5) "Federal government" shall include the United States of America, the United States housing authority, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

[1991 c 167 § 4; 1965 c 7 § 35.83.020. Prior: 1939 c 24 § 3; RRS § 6889-33. Formerly RCW 74.28.020.]

RCW 35.83.030 Cooperation in undertaking housing projects.

For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects located within the area in which it is authorized to act, any state public body may upon such terms, with or without consideration, as it may determine:

(1) Dedicate, sell, grant, convey, or lease any of its interest in any property, or grant easements, licenses or any other rights or privileges therein to a housing authority or the federal government;

(2) Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;

(3) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake;

(4) Plan or replan, zone or rezone any part of such state public body; make exceptions from building regulations and ordinances; any city or town also may change its map;

(5) Cause services to be furnished to the housing authority of the character which such state public body is otherwise empowered to furnish;

(6) Enter into agreements with respect to the exercise by such state public body of its powers relating to the repair, elimination or closing of unsafe, insanitary or unfit dwellings;

(7) Employ (notwithstanding the provisions of any other law) any funds belonging to or within the control of such state public body, including funds derived from the sale or furnishing of property or facilities to a housing authority, in the purchase of the bonds or other obligations

of a housing authority; and exercise all the rights of any holder of such bonds or other obligations;

(8) Do any and all things, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of such housing projects;

(9) Incur the entire expense of any public improvements made by such state public body in exercising the powers granted in this chapter;

(10) Enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary), with a housing authority respecting action to be taken by such state public body pursuant to any of the powers granted by this chapter. Any law or statute to the contrary notwithstanding, any sale, conveyance, lease or agreement provided for in this section may be made by a state public body without appraisal, advertisement or public bidding: PROVIDED, There must be five days public notice given either by posting in three public places or publishing in the official county newspaper of the county wherein the property is located; and

(11) With respect to any housing project which a housing authority has acquired or taken over from the federal government and which the housing authority by resolution has found and declared to have been constructed in a manner that will promote the public interest and afford necessary safety, sanitation and other protection, no state public body shall require any changes to be made in the housing project or the manner of its construction or take any other action relating to such construction.

[1991 c 167 § 5; 1965 c 7 § 35.83.030. Prior: 1939 c 24 § 4; RRS § 6889-34. Formerly RCW 74.28.030.]

RCW 35.83.040 Agreements as to payments by housing authority.

In connection with any housing project located wholly or partly within the area in which it is authorized to act, any state public body may agree with a housing authority or the federal government that a certain sum (in no event to exceed the amount last levied as the annual tax of such state public body upon the property included in said project prior to the time of its acquisition by the housing authority) or that no sum, shall be paid by the authority in lieu of taxes for any year or period of years.

[1965 c 7 § 35.83.040. Prior: 1939 c 24 § 5; RRS § 6889-35. Formerly RCW 74.28.040.]

RCW 35.83.050 Advances to housing authority.

Any city, town, or county located in whole or in part within the area of operation of a housing authority shall have the power from time to time to lend or donate money to such authority or to agree to take such action. Such housing authority, when it has money available therefor, shall make reimbursements for all such loans made to it.

[1965 c 7 § 35.83.050. Prior: 1939 c 24 § 6; RRS § 6889-36. Formerly RCW 74.28.050.]

RCW 35.83.060 Procedure for exercising powers.

The exercise by a state public body of the powers herein granted may be authorized by resolution of the governing body of such state public body adopted by a majority of the members of its governing body present at a meeting of said governing body, which resolution may be adopted at the meeting at which such resolution is introduced. Such a resolution or resolutions shall take effect immediately and need not be laid over or published or posted.

[1965 c 7 § 35.83.060. Prior: 1939 c 24 § 7; RRS § 6889-37. Formerly RCW 74.28.060.]

RCW 35.83.070 Supplemental nature of chapter.

The powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law.

[1965 c 7 § 35.83.070. Prior: 1939 c 24 § 8; RRS § 6889-39. Formerly RCW 74.28.070.]

Chapter 35.84 RCW
UTILITY AND OTHER SERVICES BEYOND CITY LIMITS

Sections

35.84.010 Electric energy--Sale of--Purchase.
35.84.020 Electric energy facilities--Right to acquire.
35.84.030 Limitation on right of eminent domain.
35.84.040 Fire apparatus--Use beyond city limits.
35.84.050 Fireman injured outside corporate limits.
35.84.060 Street railway extensions.

RCW 35.84.010 Electric energy--Sale of--Purchase.

Every city or town owning its own electric power and light plant, shall have the right to sell and dispose of electric energy to any other city or town, public utility district, governmental agency, or municipal corporation, mutual association, or to any person, firm, or corporation, inside or outside its corporate limits, and to purchase electric energy therefrom.

[1965 c 7 § 35.84.010. Prior: 1933 c 51 § 1; RRS § 9209-1.]

Notes:

Reduced utility rates for low-income senior citizens and other low-income citizens: RCW 74.38.070.

RCW 35.84.020 Electric energy facilities--Right to acquire.

Every city or town owning its own electric power and light plant may acquire, construct, purchase, condemn and purchase, own, operate, control, add to and maintain lands, easements, rights-of-way, franchises, distribution systems, substations, inter-tie or transmission lines, to

enable it to use, purchase, sell, and dispose of electric energy inside or outside its corporate limits, or to connect its electric plant with any other electric plant or system, or to connect parts of its own electric system.

[1965 c 7 § 35.84.020. Prior: 1933 c 51 § 2; RRS § 9209-2.]

RCW 35.84.030 Limitation on right of eminent domain.

Every city or town owning its own electric power and light plant may exercise the power of eminent domain as provided by law for the condemnation of private property for any of the corporate uses or purposes of the city or town: PROVIDED, That no city or town shall acquire, by purchase or condemnation, any publicly or privately owned electric power and light plant or electric system located in any other city or town except with the approval of a majority of the qualified electors of the city or town in which the property to be acquired is situated; nor shall any city or town acquire by condemnation the electric power and light plant or electric system, or any part thereof, belonging to or owned or operated by any municipal corporation, mutual, nonprofit, or cooperative association or organization, or by a public utility district.

[1965 c 7 § 35.84.030. Prior: 1933 c 51 § 3; RRS § 9209-3.]

Notes:
Eminent domain by cities: Chapter 8.12 RCW.

RCW 35.84.040 Fire apparatus--Use beyond city limits.

Every municipal corporation which owns, operates, or maintains fire apparatus and equipment may permit, under conditions prescribed by the governing body of such corporation, such equipment and the personnel operating the same to go outside of the corporate limits of such municipality for the purpose of extinguishing or aiding in the extinguishing or control of fires. Any use made of such equipment or personnel under the authority of this section shall be deemed an exercise of a governmental function of such municipal corporation.

[1965 c 7 § 35.84.040. Prior: 1941 c 96 § 1; Rem. Supp. 1941 § 9213-9.]

RCW 35.84.050 Fireman injured outside corporate limits.

Whenever a fireman engages in any duty outside the limits of such municipality, such duty shall be considered as part of his duty as fireman for the municipality, and a fireman who is injured while engaged in such duties outside the limits of the municipality shall be entitled to the same benefits that he or his family would be entitled to receive had he been injured within the municipality.

[1965 c 7 § 35.84.050. Prior: 1941 c 96 § 2; Rem. Supp. 1941 § 9563-1.]

RCW 35.84.060 Street railway extensions.

Every municipal corporation which owns or operates an urban public transportation system as defined in RCW 47.04.082 within its corporate limits, may acquire, construct, extend, own or operate such urban public transportation system to any point or points not to exceed fifteen miles outside of its corporate limits: PROVIDED, That no municipal corporation shall extend its urban public transportation system beyond its corporate limits to operate in any territory already served by a privately operated auto transportation company holding a certificate of public convenience and necessity from the utilities and transportation commission.

[1969 ex.s. c 281 § 26; 1965 c 7 § 35.84.060. Prior: 1919 c 138 § 1; 1917 c 59 § 1; RRS § 9213.]

Chapter 35.85 RCW
VIADUCTS, ELEVATED ROADWAYS, TUNNELS AND SUBWAYS

Sections

35.85.010 Authority to construct viaducts, bridges, elevated roadways, etc.
35.85.020 Assessment district--Resolution--Hearing--Ordinance ordering improvement.
35.85.030 Limit of assessment--Lien--Priority.
35.85.040 Operation by city--Leases--Use of income.
35.85.050 Authority to construct tunnels and subways.
35.85.060 Procedure.
35.85.070 Assessments--Bonds.
35.85.080 Construction of chapter.

RCW 35.85.010 Authority to construct viaducts, bridges, elevated roadways, etc.

Any city of the first class shall have power to provide for the construction, maintenance and operation upon public streets and upon the extensions and connections thereof over intervening tidelands to and across any harbor reserves, waterways, canals, rivers, natural watercourses and other channels, any bridges, drawbridges, viaducts, elevated roadways and tunnels or any combination thereof together with all necessary approaches thereto, with or without street railway tracks thereon or therein, and to make any and all necessary cuts, fills, or other construction, upon, in, or along such streets and approaches as a part of any such improvement, and to order any and all work to be done which shall be necessary to complete any such improvement. The word "approaches" as used in this section shall include any arterial highway or highways or streets connecting with any such bridge, drawbridge, viaduct, elevated roadway or tunnel, or combination thereof, which are necessary to give convenient access thereto or therefrom from any portion of the improvement district which may be specially benefited by such improvement and which is liable to assessment for such improvement.

Whenever it is desired to pay the whole or any portion of the cost and expense of any such improvement by special assessments, the council or other legislative body of such city shall in the ordinance ordering such improvement fix and establish the boundaries of the improvement district, the property within which is to bear such assessment, which district shall include as near

as may be, all the property specially benefited by such improvement.

[1965 c 7 § 35.85.010. Prior: 1911 c 103 § 1; 1909 ex.s. c 14 § 1; RRS § 9001.]

Notes:
First class cities, generally: Chapter 35.22 RCW.

RCW 35.85.020 Assessment district--Resolution--Hearing--Ordinance ordering improvement.

Any such improvement may be initiated by the city council, or other legislative body, by a resolution, declaring its intention to order such improvement, which resolution shall set forth the nature and territorial extent of such proposed improvement, shall specify and describe the boundaries of the proposed improvement district and notify all persons who may desire to object thereto to appear and present such objections at a meeting of the council specified in such resolution and directing the board of public works, or other proper board, officer, or authority of the city, to submit to such council at or prior to the date fixed for such hearing the estimated cost and expense of the improvement, and a statement of the proportionate amount thereof which should be borne by the property within the proposed improvement district, and a statement of the aggregate assessed valuation of the real property exclusive of improvements, within said district, according to the valuation last placed upon it for purposes of general taxation. Such resolution shall be published in at least two consecutive issues of the official newspaper of the city, the date of the first publication to be at least thirty days prior to the date fixed by the resolution for hearing before the council.

Upon such hearing, or upon any adjournment thereof, the council shall have power to amend, change, extend, or contract the boundaries of the proposed improvement district as specified in the resolution, and to consider and determine all matters in relation to the proposed improvement, and, upon the conclusion of the hearing, or any adjournment thereof, shall have power by ordinance to order the improvement to be made and to adopt, fix and establish the boundaries of the improvement district. The action of such council in ordering such improvement, or in abandoning it, and in fixing and establishing the boundaries of the improvement district shall be final and conclusive. Any such ordinance may be passed upon majority vote of the council or other legislative body of the city.

Such ordinance may provide for the construction of the improvement in sections, the letting of separate contracts for each such section, and, in case the same is made in sections, separate assessment rolls to defray the cost and expense of any such section of such improvement may be prepared, and the amounts thereon appearing as finally determined, may be levied and assessed against real property within the improvement district. The provisions of law, charter and ordinance of any such city, relating to supplemental assessments, reassessments and omitted property shall be applicable to any improvement authorized in this chapter.

The city council, or other legislative body of such city, shall by general ordinance, make provision for hearing any objections in writing, to any assessment roll for such improvement, filed with the city clerk or comptroller at a prior date to the hearing thereon. Any right of appeal

to the superior court provided by law to be taken from any local improvement assessment levied and assessed by any such city, may be exercised, within the time and in the manner therein provided, by any person so objecting to any assessment levied and assessed for any improvement authorized in this chapter.

[1965 c 7 § 35.85.020. Prior: 1911 c 103 § 2; 1909 ex.s. c 14 § 2; RRS § 9002.]

Notes:
Appeal from local improvement district assessments: RCW 35.44.200 through 35.44.270.

RCW 35.85.030 Limit of assessment--Lien--Priority.

The city council may prescribe by general ordinance, the mode and manner in which the charge upon property in such local improvement district shall be assessed and determined for the purpose of paying the cost and expense of establishing and constructing such improvement: PROVIDED, That no assessment shall be levied on any such district, the aggregate of which is a greater sum than twenty-five percent of the assessed value of all the real property in such district according to the last equalized assessment thereof for general taxation: PROVIDED FURTHER, That there shall be, in all cases, an opportunity for a hearing upon objections to the assessment roll by the parties affected thereby, before the council as a board of equalization, which hearing shall be after publication of a reasonable notice thereof, such notice to be published in such manner and for such time as may be prescribed by ordinance. At such hearing, or at legal adjournments thereof, such changes may be made in the assessment roll as the city council may find necessary to make the same just and equitable. Railroad rights-of-way shall be assessed for such benefits as shall inure or accrue to the owners, lessees, or operators of the same, resulting or to result from the construction and maintenance of any such improvement, whether such rights-of-way lie within the limits of any street or highway or not; such assessment to lie against the franchise rights when such right-of-way is within such street or highway.

When the assessment roll has been finally confirmed by the city council, the charges therein made shall be and become a lien against the property or franchise therein described, paramount to all other liens (except liens for assessments and taxes) upon the property assessed from the time the assessment roll shall be placed in the hands of the collector.

[1965 c 7 § 35.85.030. Prior: 1909 ex.s. c 14 § 3; RRS § 9003.]

RCW 35.85.040 Operation by city--Leases--Use of income.

As a part of the original construction of any improvement herein authorized, or afterward as an alteration or renewal thereof, any such city, notwithstanding any charter provision to the contrary, may, at its own cost, construct, maintain and operate street railway tracks in the roadway thereof, and may provide electric power for the propulsion of cars, and may lease the use of such tracks and power for the operation of street cars or interurban railways; or such city may authorize any operator of the street or interurban railways to construct and furnish such street railway tracks and electric power and use the same for street or interurban purposes, under

lease or franchise ordinance: PROVIDED, That no such lease or franchise shall be exclusive, but shall at all times reserve the right to the city to permit other lines of street or interurban railway to use such street railway tracks in common with any preceding lessee or grantee, upon equal terms. The rate of lease or use of such street railway tracks for streets or interurban cars shall be as fixed by the legislative authority of the city, but shall not be less than one mill for each passenger carried, or ten cents for each freight car moved over such improvement. The income from such charges, rental and leasing shall be used wholly for the maintenance, repair and betterment of said improvement and the extinguishment of any debt incurred by the city in constructing it.

[1965 c 7 § 35.85.040. Prior: 1909 ex.s. c 14 § 4; RRS § 9004.]

RCW 35.85.050 Authority to construct tunnels and subways.

Any city of the first class shall have power to provide for the construction, maintenance and operation within such city of tunnels, subways, or both, with or without roadways, sidewalks, street railway tracks or any combination thereof therein, together with all necessary approaches thereto; and to order any and all work to be done which shall be necessary to complete any such improvement. The word "approaches," as used in this section, shall include any arterial highway or highways or streets connecting with any such tunnel or subway which may be necessary to give convenient access thereto or therefrom from any portion of the improvement district which may be specially benefited by such improvement, and which is liable to assessment for such improvement.

Whenever it is desired to pay the whole or any portion of the cost and expense of any such improvement by special assessments, the council or other legislative body of such city shall, in the ordinance ordering such improvement, fix and establish the boundaries of the improvement district, the property in which is to bear such assessment, which district shall include as near as may be all the property specially benefited by such improvement.

[1965 c 7 § 35.85.050. Prior: 1925 ex.s. c 168 § 1; RRS § 9005-1.]

RCW 35.85.060 Procedure.

Any such improvement may be initiated and assessments therefor determined and levied as prescribed in RCW 35.85.020 to 35.85.040, inclusive.

[1965 c 7 § 35.85.060. Prior: 1925 ex.s. c 168 § 2; RRS § 9005-2.]

RCW 35.85.070 Assessments--Bonds.

Any assessments so levied shall be collected, and bonds may be issued for the payment of the whole or any part of the cost of such improvement, in the manner now or hereafter provided for the collection of assessments and the issuance of bonds for other local improvements.

[1965 c 7 § 35.85.070. Prior: 1925 ex.s. c 168 § 3; RRS § 9005-3.]

RCW 35.85.080 Construction of chapter.

The provisions and remedies provided by this chapter are cumulative of existing provisions and remedies, and nothing herein contained shall be held to repeal any provision of the existing law or of any charter of any city upon the subject matter thereof, but such existing law or charter provision shall continue in full force and effect, and it shall be optional with the city authorities to proceed under either such existing law, charter provision or this chapter.

[1965 c 7 § 35.85.080. Prior: (i) 1909 ex.s. c 14 § 5; RRS § 9005. (ii) 1925 ex.s. c 168 § 4; RRS § 9005-4.]

Chapter 35.86 RCW
OFF-STREET PARKING FACILITIES

Sections

35.86.010 Space and facilities authorized.
35.86.020 Financing.
35.86.030 Acquisition and disposition of real property.
35.86.040 Operation--Leasing.
35.86.045 Operation of parking facilities by cities prohibited, exception--Bid requirements and procedure.
35.86.050 Procedure to establish--Plan, surveys, hearings.
35.86.060 Maximum parking fee schedule.
35.86.080 Leasing for store space in lieu of undesirable off-street parking facility.
35.86.910 Chapter prevails over inconsistent laws.

RCW 35.86.010 Space and facilities authorized.

Cities of the first and second classes are authorized to provide off-street parking space and facilities located on land dedicated for park or civic center purposes, or on other municipally-owned land where the primary purpose of such off-street parking facility is to provide parking for persons who use such park or civic center facilities. In addition a city may own other off-street parking facilities and operate them in accordance with RCW 35.86A.120.

[1997 c 361 § 16; 1975 1st ex.s. c 221 § 1; 1967 ex.s. c 144 § 13; 1965 c 7 § 35.86.010. Prior: 1961 c 186 § 1; 1959 c 302 § 1.]

Notes:

Severability--1975 1st ex.s. c 221: "If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 221 § 5.]

Severability--1967 ex.s. c 144: See note following RCW 36.900.030.

Off-street parking space and facilities in towns: RCW 35.27.550 through 35.27.600.

Public parks in or beneath off-street parking space or facilities--Revenue bond financing--Special funds--Use of

off-street and on-street parking revenues: RCW 35.41.010.

RCW 35.86.020 Financing.

In order to provide for off-street parking space and/or facilities, such cities are authorized, in addition to the powers already possessed by them for financing public improvements, to finance their acquisition and construction through the issuance and sale of revenue bonds or general obligation bonds or both. Any bonds issued by such cities pursuant to this section shall be issued in the manner and within the limitations prescribed by the Constitution and the laws of this state.

In addition local improvement districts may be created and their financing procedures used for this purpose in accordance with the provisions of Title 35 RCW as now or hereafter amended.

Such cities may authorize and finance the economic and physical surveys and plans, acquisition and construction, for off-street parking spaces and facilities, and the maintenance and management of such off-street parking spaces and facilities either within their general budget or by issuing revenue bonds or general obligation bonds or both.

General obligation bonds issued hereunder may additionally be made payable from any otherwise unpledged revenue, fees or charges which may be derived from the ownership, operation, lease or license of off-street parking space or facilities or which may be derived from the license of on-street parking space.

Such cities may, in addition to utilizing the pledging revenues from off-street parking spaces and facilities, utilize and pledge revenues from on-street parking meters in exercising any of the powers provided by this chapter, including the financing of economic and physical surveys and plans, acquisition, and construction, for off-street parking facilities, the maintenance and management thereof, and for the payment of debt service of revenue bonds issued therefor.

In the event revenue bonds are issued, such cities are authorized to make such covenants pertaining to the continued maintenance of on-street and/or off-street parking spaces and facilities and the fixing of rates and charges for the use thereof as are deemed necessary to effectuate the sale of such revenue bonds.

[1969 ex.s. c 204 § 14; 1967 ex.s. c 144 § 14; 1965 c 7 § 35.86.020. Prior: 1961 c 186 § 2; 1959 c 302 § 2.]

Notes:

Severability--1969 ex.s. c 204: See note following RCW 35.86A.010.

Severability--1967 ex.s. c 144: See note following RCW 36.900.030.

Public parks in or beneath off-street parking space or facilities--Revenue bond financing--Special funds--Use of off-street and on-street parking revenues: RCW 35.41.010.

RCW 35.86.030 Acquisition and disposition of real property.

Such cities are authorized to obtain by lease, purchase, donation and/or gift, or by eminent domain in the manner provided by law for the exercise of this power by cities, such real property for off-street parking as the legislative bodies thereof determine to be necessary by

ordinance. Such property or any fraction or fractions thereof may be sold, transferred, exchanged, leased, or otherwise disposed of by the city when its legislative body has determined by ordinance such property or fraction or fractions thereof is no longer necessary for off-street parking purposes.

[1965 c 7 § 35.86.030. Prior: 1961 c 186 § 3; 1959 c 302 § 3.]

Notes:
Eminent domain by cities: Chapter 8.12 RCW.

RCW 35.86.040 Operation--Leasing.

Such cities are authorized to establish the method of operation of off-street parking space and/or facilities by ordinance, which may include leasing or municipal operation.

[1975 1st ex.s. c 221 § 2; 1969 ex.s. c 204 § 13; 1965 c 7 § 35.86.040. Prior: 1959 c 302 § 4.]

Notes:
Severability--1975 1st ex.s. c 221: See note following RCW 35.86.010.
Severability--1969 ex.s. c 204: See note following RCW 35.86A.010.

RCW 35.86.045 Operation of parking facilities by cities prohibited, exception--Bid requirements and procedure.

See RCW 35.86A.120.

RCW 35.86.050 Procedure to establish--Plan, surveys, hearings.

In the establishment of off-street parking space and/or facilities, cities shall proceed with the development of the plan therefor by making such economic and physical surveys as are necessary, shall prepare comprehensive plans therefor, and shall hold a public hearing thereon prior to the adoption of any ordinances relating to the leasing or acquisition of property and providing for the financing thereof for this purpose.

[1965 c 7 § 35.86.050. Prior: 1959 c 302 § 5.]

RCW 35.86.060 Maximum parking fee schedule.

The lease referred to in RCW 35.86.040 shall specify a schedule of maximum parking fees which the operator may charge. This maximum parking fee schedule may be modified from time to time by agreement of the city and the operator.

[1965 c 7 § 35.86.060. Prior: 1959 c 302 § 6.]

RCW 35.86.080 Leasing for store space in lieu of undesirable off-street parking facility.

Cities are expressly authorized to lease space which would otherwise be wasted in an off-street parking facility for store space, both for the enhancement of civic beauty and aesthetic values and for revenue which such leasing can provide.

[1965 c 7 § 35.86.080. Prior: 1961 c 186 § 4.]

RCW 35.86.910 Chapter prevails over inconsistent laws.

Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, the provisions of this chapter shall be controlling.

[1965 c 7 § 35.86.910. Prior: 1959 c 302 § 9.]

Chapter 35.86A RCW
OFF-STREET PARKING--PARKING COMMISSIONS

Sections

35.86A.010 Declaration.
35.86A.020 Authority of cities of first and second class to establish parking facilities through parking commissions.
35.86A.030 Definitions.
35.86A.040 Ownership, control and use of parking facilities.
35.86A.050 Parking commission--Creation authorized--Purpose--Membership--Terms--Vacancies--Expenses.
35.86A.060 Parking commission--Chairman--Rules--Resolutions.
35.86A.070 Powers and authority of parking commission.
35.86A.080 New off-street parking facilities--Powers of parking commission and city council.
35.86A.090 Powers of cities.
35.86A.100 Disposition of revenues--Expenditure procedure.
35.86A.110 Excise tax to reimburse taxing authorities for loss of property tax revenue.
35.86A.120 Operation of parking facilities--Bid requirements and procedure.

RCW 35.86A.010 Declaration.

It is hereby determined and declared:

(1) The free circulation of traffic of all kinds through our cities is necessary to the health, safety and general welfare of the public, whether residing in, traveling to or through the cities of this state;

(2) The most efficient use of the street and highway system requires availability of strategically located parking for vehicles in localities where large numbers of persons congregate;

(3) An expanding suburban population has increased demands for further concentration of uses in central metropolitan areas, necessitating an increasing investment in streets and highways;

(4) On-street parking is now inadequate, and becomes increasingly an inefficient and

uneconomical method for temporary storage of vehicles in commercial, industrial and high-density residential areas, causing such immediate adverse consequences as the following, among others:

(a) Serious traffic congestion from on-street parking, which interferes with use of streets for travel, disrupts public surface transportation at peak hours, impedes rapid and effective fighting of fires and disposition of police forces, slows emergency vehicles, and inflicts hardship upon handicapped persons and others dependent upon private vehicles for transportation;

(b) On-street parking absorbs right-of-way useful and usable for travel;

(c) On-street parking reduces the space available for truck and passenger loading for the abutting properties, hinders ready access, and impedes cleaning of streets;

(d) Inability to temporarily store automobiles has discouraged the public from travel to and within our cities, from congregating at public events, and from using public facilities.

(5) Insufficient off-street parking has had long-range results, as the following, among others:

(a) Metropolitan street and highway systems have lost efficiency and the free circulation of traffic and persons has been impaired;

(b) The growth and development of metropolitan areas has been retarded;

(c) Business, industry, and housing has become unnecessarily and uneconomically dispersed;

(d) Limited and valuable land area is under used.

All of which cause loss of payrolls, business and productivity, and property values, with resulting impairment of the public health, safety and welfare, the utility of our streets and highways, and tax revenues;

(6) Establishment of public off-street parking facilities will promote the public health, safety, convenience, and welfare, by:

(a) Expediting the movement of the public, and of goods in metropolitan areas, alleviating traffic congestion, and preserving the large investment in streets and highways;

(b) Permitting a greater use of public facilities, congregation of the public, and more intensive development of private property within the community;

(7) Establishment of public off-street parking is a necessary ancillary to and extension of an efficient street and highway system in metropolitan areas, as much so as a station or terminal is to a railroad or urban transit line;

(8) Public off-street parking facilities, open to the public and owned by a city or town, are and remain a public use and a public function, irrespective of whether:

(a) Parking fees are charged to users;

(b) The management or operation of one or more parking facilities is conducted by a public agency, or under contract or lease by private enterprise; or

(c) A portion of the facilities is used for commercial, store or automobile accessory purposes;

(9) Public parking facilities under the control of a parking commission are appropriately treated differently from other parking facilities of a city.

[1969 ex.s. c 204 § 1.]

Notes:

Severability--1969 ex.s. c 204: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 204 § 15.]

RCW 35.86A.020 Authority of cities of first and second class to establish parking facilities through parking commissions.

Cities of the first and second class are authorized and empowered to establish and maintain public off-street parking facilities through a parking commission; the use of property and property rights for such purpose is declared to be a public use; and parking facilities under the control of such parking commission shall be governed by the provisions of this chapter.

[1994 c 81 § 64; 1969 ex.s. c 204 § 2.]

RCW 35.86A.030 Definitions.

(1) "Parking facilities" means lots, garages, parking terminals, buildings and structures and accommodations for parking of motor vehicles off the street or highway, open to public use, with or without charge.

(2) "Parking commission" shall mean the department or agency created by the legislative authority of the municipality as hereinafter provided.

(3) "City council" shall mean the city council or legislative authority of the municipality.

(4) "Mayor" shall mean the chief executive officer of the municipality.

[1969 ex.s. c 204 § 3.]

RCW 35.86A.040 Ownership, control and use of parking facilities.

Parking facilities established pursuant to this chapter shall be owned by the city, under the control of the parking commission (unless relinquished), and for the use of the public. The provisions of chapter 35.86 RCW as now or hereafter amended shall not apply to such parking facilities or other facilities under parking commission control.

[1969 ex.s. c 204 § 4.]

RCW 35.86A.050 Parking commission--Creation authorized--Purpose--Membership--Terms--Vacancies--Expenses.

Any city of the first or second class may by ordinance create a parking commission for the purpose of establishing and operating off-street parking facilities.

Such parking commission shall consist of five members appointed by the mayor and confirmed by the city council, who shall serve without compensation but may be reimbursed for

necessary expenses. One member of the parking commission shall be selected from among persons actively engaged in the private parking industry, if available.

Three of those first appointed shall be designated to serve for one, two, and three years respectively, and two shall be designated to serve four years. The terms for all subsequently appointed members shall be four years. In event of any vacancy, the mayor, subject to confirmation of the city council, shall make appointments to fill the unexpired portion of the term.

A member may be reappointed, and shall hold office until his or her successor has been appointed and has qualified. Members may be removed by the mayor upon consent of the city council.

[1994 c 81 § 65; 1969 ex.s. c 204 § 5.]

RCW 35.86A.060 Parking commission--Chairman--Rules--Resolutions.

The parking commission shall select from its members a chairman, and may establish its own rules, regulations and procedures not inconsistent with this chapter. No resolution shall be adopted by the parking commission except upon the concurrence of at least three members.

[1969 ex.s. c 204 § 6.]

RCW 35.86A.070 Powers and authority of parking commission.

The parking commission is authorized and empowered, in the name of the municipality by resolution to:

(1) Own and acquire property and property rights by purchase, gift, devise, or lease for the construction, maintenance, or operation of off-street parking facilities, or for effectuating the purpose of this chapter; and accept grants-in-aid, including compliance with conditions attached thereto;

(2) Construct, maintain, and operate off-street parking facilities located on land dedicated for park or civic center purposes, or on other municipally-owned land where the primary purpose of such off-street parking facility is to provide parking for persons who use such park or civic center facilities, and undertake research, and prepare plans incidental thereto subject to applicable statutes and charter provisions for municipal purchases, expenditures, and improvements; and in addition may own other off-street parking facilities and operate them in accordance with RCW 35.86A.120: PROVIDED, That the provisions of chapter 35.86 RCW as now or hereafter amended shall not apply to such construction, operation or maintenance;

(3) Establish and collect parking fees, require that receipts be provided for parking fees, make exemption for handicapped persons, lease space for commercial, store, advertising or automobile accessory purposes, and regulate prices and service charges, for use of and within and the aerial space over parking facilities under its control;

(4) Subject to applicable city civil service provisions, provide for the appointment, removal and control of officers and employees, and prescribe their duties and compensation, and to control all equipment and property under the commission's jurisdiction;

(5) Contract with private persons and organizations for the management and/or operation of parking facilities under its control, and services related thereto, including leasing of such facilities or portions thereof;

(6) Cause construction of parking facilities as a condition of an operating agreement or lease, derived through competitive bidding, or in the manner authorized by chapter 35.42 RCW;

(7) Execute and accept instruments, including deeds, necessary or convenient for the carrying on of its business; acquire rights to develop parking facilities over or under city property; and to contract to operate and manage parking facilities under the jurisdiction of other city departments or divisions and of other public bodies;

(8) Determine the need for and recommend to the city council:

(a) The establishment of local improvement districts to pay the cost of parking facilities or any part thereof;

(b) The issuance of bonds or other financing by the city for construction of parking facilities;

(c) The acquisition of property and property rights by condemnation from the public, or in street areas;

(9) Transfer its control of property to the city and liquidate its affairs, so long as such transfer does not contravene any covenant or agreement made with the holders of bonds or other creditors; and

(10) Require payment of the excise tax hereinafter provided.

Parking fees for parking facilities under the control of the parking commission shall be maintained commensurate with and neither higher nor lower than prevailing rates for parking charged by commercial operators in the general area.

[1980 c 127 § 1; 1975 1st ex.s. c 221 § 3; 1969 ex.s. c 204 § 7.]

Notes:

Severability--1975 1st ex.s. c 221: See note following RCW 35.86.010.

RCW 35.86A.080 New off-street parking facilities--Powers of parking commission and city council.

(1) Whenever the parking commission intends to construct new off-street parking facilities it shall:

(a) Prepare plans for such proposed development, which shall meet the approval of the planning commission, other appropriate city planning agency, or city council;

(b) Prepare a report to the city council stating the proposed method of financing and property acquisition;

(c) Specify the property rights, if any, to be secured from the public or of property devoted to public use; the uses of streets necessary therefor, or realignment or vacation of streets and alleys; the relocation of street utilities; and any street area to be occupied or closed during construction.

(2) In the event the proposed parking facility shall require:

(a) Creation of a local improvement district;

(b) Issuance of bonds, allocation or appropriation of municipal revenues from other sources, or guarantees of or use of the credit of the municipality;

(c) Exercise of the power of eminent domain; or

(d) Use of, or vacation, realignment of streets and alleys, or relocation of municipal utilities.

One or more public hearings shall be held thereon before the city council, or an assigned committee thereof, which shall report its recommendations to be approved, revised, or rejected by the city council. Such hearings may be consolidated with any required hearings for street vacations, or creation of a local improvement district. Pursuant to such hearing, the city council may:

(1) Create a local improvement district to finance all or part of the parking facility, in accordance with Title 35 RCW, as now existing or hereinafter amended: PROVIDED, HOWEVER, That assessments against property within the district may be measured per lot, per square foot, by property valuation, or any other method as fairly reflects the special benefits derived therefrom, and credit in calculating the assessment may be allowed for property rights or services performed;

(2) Provide for issuance of revenue bonds payable from revenues of the proposed parking facility, from other off-street parking facilities, on-street meter collections, or allocations of other sources of funds; issue general obligation bonds; make reimbursable or nonrefundable appropriations from the general fund, or reserves; and/or guarantee bonds issued or otherwise pledge the city's credit, all in such combination, and under such terms and conditions as the city council shall specify;

(3) Authorize acquisition of the necessary property and property rights by eminent domain proceedings, in the manner authorized by law for cities in Title 8 RCW: PROVIDED, That the city council shall first determine that the proposed parking facility will promote the circulation of traffic or the more convenient or efficient use by the public of streets or public facilities in the immediate area than would exist if the proposed parking facility were not provided, or that the parking facility otherwise enhances the public health, safety and welfare; and

(4) Authorize and execute the necessary transfer or control of property rights; vacate or realign streets and alleys or permit uses within the same; and direct relocation of street utilities.

In event none of the four above powers need be exercised, the city council's approval of construction plans shall be deemed full authority to construct and complete the parking facility.

[1969 ex.s. c 204 § 8.]

RCW 35.86A.090 Powers of cities.

The city may:

(1) Transfer control of off-street parking facilities under other departments to the parking commission under such conditions as deemed appropriate;

(2) Issue revenue bonds pursuant to chapter 35.41 RCW, and RCW *35.24.305, and

35.81.100 as now or hereafter amended, and such other statutes as may authorize such bonds for parking facilities authorized herein;

(3) Issue general obligation bonds pursuant to chapters 39.44, 39.52 RCW, and RCW 35.81.115 as now or hereafter amended, and such other statutes and applicable provisions of the state Constitution that may authorize such bonds for parking facilities authorized herein;

(4) Appropriate funds for the parking commission; and

(5) Enact such ordinances as may be necessary to carry out the provisions of this chapter, notwithstanding any charter provisions to the contrary.

[1969 ex.s. c 204 § 9.]

Notes:

***Reviser's note:** RCW 35.24.305 was recodified as RCW 35.23.454 pursuant to 1994 c 81 § 90.

RCW 35.86A.100 Disposition of revenues--Expenditure procedure.

All revenues received shall be paid to the municipal treasurer for the credit of the general fund, or such other funds as may be provided by ordinance.

Expenditures of the parking commission shall be made in accordance with the budget adopted by the municipality pursuant to chapter 35.32A RCW.

[1969 ex.s. c 204 § 10.]

RCW 35.86A.110 Excise tax to reimburse taxing authorities for loss of property tax revenue.

Such cities shall pay to the county treasurer an annual excise tax equal to the amount which would be paid upon real property devoted to the purpose of off-street parking, were it in private ownership. This section shall apply to parking facilities acquired and/or operated under this chapter. The proceeds of such excise tax shall be allocated by the county treasurer to the various taxing authorities in which such property is situated, in the same manner as though the property were in private ownership.

[1969 ex.s. c 204 § 11.]

RCW 35.86A.120 Operation of parking facilities--Bid requirements and procedure.

Except for off-street parking facilities situated on real property leased or rented to a city and not used for park and civic center parking, cities may operate off-street parking facilities with city forces. Leased or rented off-street parking facilities shall be operated by responsible, experienced private operators of such facilities. The call for bids shall specify the terms and conditions under which the facility will be leased for private operation. The call for bids shall specify the time and place at which the bids will be received and the time and when the same will be opened, and such call shall be advertised once a week for two successive weeks before the time fixed for the filing of bids in a newspaper of general circulation in the city. If no bid is received for the operation of such an off-street parking facility, or if the bids received are not

satisfactory, the legislative body of the city may reject such bids and shall readvertise the facility for lease. In the event that no bids or no satisfactory bids shall have been received following the second advertising, the city may negotiate with a private operator for the operation of the facility without competitive bidding. In the event the city shall be unable to negotiate for satisfactory private operation within a reasonable time, the city may operate the facility for a period not to exceed three years, at which time it shall readvertise as provided above in this section.

[1980 c 127 § 2; 1975 1st ex.s. c 221 § 4; 1969 ex.s. c 204 § 12.]

Notes:

Severability--1975 1st ex.s. c 221: See note following RCW 35.86.010.

Chapter 35.87 RCW
PARKING FACILITIES--CONVEYANCE OF LAND FOR IN CITIES OVER 300,000

Sections

35.87.010 Sale, lease or conveyance of real property for free public parking authorized--"Municipality" defined.
35.87.020 Notice of intention to sell, lease or convey real property in business area--Posting--Publication--Preference right to purchase or lease.
35.87.030 Consideration, terms and conditions--Reversion.
35.87.040 RCW 35.87.020 inapplicable to sale, lease or conveyance to federal government or agency or to the state or any county, city or political subdivision.

RCW 35.87.010 Sale, lease or conveyance of real property for free public parking authorized--"Municipality" defined.

Any municipality may sell, lease or convey any real property located in an area zoned to permit the operation of retail business, when such property is no longer needed for the use or purposes of the municipality, to any private corporation or association established to develop and maintain free public parking facilities. "Municipality" as used in RCW 35.87.010 through 35.87.040, means any city with a population over three hundred thousand and any municipal corporation or other political subdivision located within the boundaries of such city.

[1967 ex.s. c 144 § 2.]

Notes:

Severability--1967 ex.s. c 144: See note following RCW 36.900.030.

RCW 35.87.020 Notice of intention to sell, lease or convey real property in business area--Posting--Publication--Preference right to purchase or lease.

Before any municipality may sell, lease or convey any real property located in an area zoned to permit the operation of retail business, it shall post in a conspicuous place on such

property and publish in the official newspaper for the county in which such property is located for fifteen days prior to such sale, lease or conveyance a notice giving the legal description of such property and disclosing an intention to sell, lease or convey such property; and it shall offer in its notice, and shall give, the first right of purchase or lease of the whole or any part of such property to any private corporation or association (1) established to develop and maintain free public parking facilities and (2) which agrees to dedicate such property for free public parking.

[1967 ex.s. c 144 § 3.]

Notes:

Severability--1967 ex.s. c 144: See note following RCW 36.900.030.

RCW 35.87.030 Consideration, terms and conditions--Reversion.

A sale, lease or conveyance to such corporation or association may be made for such consideration and on such terms and conditions as the municipality deems appropriate: PROVIDED, That the price charged such corporation or association shall not be in excess of the fair market value of such property: PROVIDED FURTHER, That all deeds, leases and other instruments of conveyance shall incorporate a reversion to the municipality of the property or property interest so deeded, leased or conveyed, in the event that such property should no longer be used as a free public parking facility.

[1967 ex.s. c 144 § 4.]

Notes:

Severability--1967 ex.s. c 144: See note following RCW 36.900.030.

RCW 35.87.040 RCW 35.87.020 inapplicable to sale, lease or conveyance to federal government or agency or to the state or any county, city or political subdivision.

The provisions of RCW 35.87.020 shall not apply to any sale, lease or conveyance to the federal government or to any agency thereof, or to the state or any agency, county, city, town or other political subdivision of this state.

[1967 ex.s. c 144 § 5.]

Notes:

Severability--1967 ex.s. c 144: See note following RCW 36.900.030.

Chapter 35.87A RCW
PARKING AND BUSINESS IMPROVEMENT AREAS

Sections

35.87A.010 Authorized--Purposes--Special assessments.
35.87A.020 Definitions.
35.87A.030 Initiation petition or resolution--Contents.

35.87A.040 Resolution of intention to establish--Contents--Hearing.
35.87A.050 Notice of hearing.
35.87A.060 Hearings.
35.87A.070 Change of boundaries.
35.87A.080 Special assessments--Legislative authority may make reasonable classifications--Assessments for separate purposes.
35.87A.090 Special assessments--Same basis or rate for classes not required--Factors as to parking facilities.
35.87A.100 Ordinance to establish--Adoption--Contents.
35.87A.110 Use of revenue--Contracts to administer operation of area.
35.87A.120 Use of assessment proceeds restricted.
35.87A.130 Collection of assessments.
35.87A.140 Changes in assessment rates.
35.87A.150 Benefit zones--Authorized--Rates.
35.87A.160 Benefit zones--Establishment, modification and disestablishment of area provisions and procedure to be followed.
35.87A.170 Exemption period for new businesses and projects.
35.87A.180 Disestablishment of area--Hearing.
35.87A.190 Disestablishment of area--Assets and liabilities.
35.87A.200 Bids required--Monetary amount.
35.87A.210 Computing cost of improvement for bid requirement.
35.87A.220 Existing laws not affected--Chapter supplemental--Purposes may be accomplished in conjunction with other methods.
35.87A.900 Severability--1971 ex.s. c 45.

Notes:
Assessments and charges against state lands: Chapter 79.44 RCW.

RCW 35.87A.010 Authorized--Purposes--Special assessments.

To aid general economic development and neighborhood revitalization, and to facilitate the cooperation of merchants, businesses, and residential property owners which assists trade, economic viability, and liveability, the legislature hereby authorizes all counties and all incorporated cities and towns, including unclassified cities and towns operating under special charters:

(1) To establish, after a petition submitted by the operators responsible for sixty percent of the assessments by businesses and multifamily residential or mixed-use projects within the area, parking and business improvement areas, hereafter referred to as area or areas, for the following purposes:

(a) The acquisition, construction or maintenance of parking facilities for the benefit of the area;

(b) Decoration of any public place in the area;

(c) Sponsorship or promotion of public events which are to take place on or in public places in the area;

(d) Furnishing of music in any public place in the area;

(e) Providing professional management, planning, and promotion for the area, including

the management and promotion of retail trade activities in the area; or

(f) Providing maintenance and security for common, public areas.

(2) To levy special assessments on all businesses and multifamily residential or mixed-use projects within the area and specially benefited by a parking and business improvement area to pay in whole or in part the damages or costs incurred therein as provided in this chapter.

[2000 c 201 § 1; 1993 c 429 § 1; 1985 c 128 § 1; 1981 c 279 § 1; 1971 ex.s. c 45 § 1.]

RCW 35.87A.020 Definitions.

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

(1) "Business" means all types of business, including professions.

(2) "Legislative authority" means the legislative authority of any city or town including unclassified cities or towns operating under special charters or the legislative authority of any county.

(3) "Multifamily residential or mixed-use project" means any building or buildings containing four or more residential units or a combination of residential and commercial units, whether title to the entire property is held in single or undivided ownership or title to individual units is held by owners who also, directly or indirectly through an association, own real property in common with the other unit owners.

(4) "Residential operator" means the owner or operator of a multifamily residential or mixed-use project if title is held in single or undivided ownership, or, if title is held in a form of common interest ownership, the association of unit owners, condominium association, homeowners' association, property owners' association, or residential cooperative corporation.

[1993 c 429 § 2; 1971 ex.s. c 45 § 2.]

RCW 35.87A.030 Initiation petition or resolution--Contents.

For the purpose of establishing a parking and business improvement area, an initiation petition may be presented to the legislative authority having jurisdiction of the area in which the proposed parking and business improvement area is to be located or the legislative authority may by resolution initiate a parking and business improvement area. The initiation petition or resolution shall contain the following:

(1) A description of the boundaries of the proposed area;

(2) The proposed uses and projects to which the proposed special assessment revenues shall be put and the total estimated cost thereof;

(3) The estimated rate of levy of special assessment with a proposed breakdown by class of business and multifamily residential or mixed-use project if such classification is to be used.

The initiating petition shall also contain the signatures of the persons who operate businesses and residential operators in the proposed area which would pay fifty percent of the proposed special assessments.

[1993 c 429 § 3; 1971 ex.s. c 45 § 3.]

RCW 35.87A.040 Resolution of intention to establish--Contents--Hearing.

The legislative authority, after receiving a valid initiation petition or after passage of an initiation resolution, shall adopt a resolution of intention to establish an area. The resolution shall state the time and place of a hearing to be held by the legislative authority to consider establishment of an area and shall restate all the information contained in the initiation petition or initiation resolution regarding boundaries, projects and uses, and estimated rates of assessment.

[1971 ex.s. c 45 § 4.]

RCW 35.87A.050 Notice of hearing.

Notice of a hearing held under the provisions of this chapter shall be given by:

(1) One publication of the resolution of intention in a newspaper of general circulation in the city; and

(2) Mailing a complete copy of the resolution of intention to each business and multifamily residential or mixed-use project in the proposed, or established, area. Publication and mailing shall be completed at least ten days prior to the time of the hearing.

[1993 c 429 § 4; 1971 ex.s. c 45 § 5.]

RCW 35.87A.060 Hearings.

Whenever a hearing is held under this chapter, the legislative authority shall hear all protests and receive evidence for or against the proposed action. The legislative authority may continue the hearing from time to time. Proceedings shall terminate if protest is made by businesses and residential operators in the proposed area which would pay a majority of the proposed special assessments.

[1993 c 429 § 5; 1971 ex.s. c 45 § 6.]

RCW 35.87A.070 Change of boundaries.

If the legislative authority decides to change the boundaries of the proposed area, the hearing shall be continued to a time at least fifteen days after such decision and notice shall be given as prescribed in RCW 35.87A.050, showing the boundary amendments, but no resolution of intention is required.

[1971 ex.s. c 45 § 7.]

RCW 35.87A.080 Special assessments--Legislative authority may make reasonable

classifications--Assessments for separate purposes.

For purposes of the special assessments to be imposed pursuant to this chapter, the legislative authority may make a reasonable classification of businesses and multifamily residential or mixed-use projects, giving consideration to various factors such as business and occupation taxes imposed, square footage of the business, number of employees, gross sales, or any other reasonable factor relating to the benefit received, including the degree of benefit received from parking. Whenever it is proposed that a parking and business improvement area provide more than one of the purposes listed in RCW 35.87A.010, special assessments may be imposed in a manner that measures benefit from each of the separate purposes, or any combination of the separate purposes. Special assessments shall be imposed and collected annually, or on another basis specified in the ordinance establishing the parking and business improvement area.

[1993 c 429 § 6; 1985 c 128 § 2; 1981 c 279 § 2; 1971 ex.s. c 45 § 8.]

RCW 35.87A.090 Special assessments--Same basis or rate for classes not required--Factors as to parking facilities.

The special assessments need not be imposed on different classes of business and multifamily residential or mixed-use projects, as determined pursuant to RCW 35.87A.080, on the same basis or the same rate. The special assessments imposed for the purpose of the acquisition, construction or maintenance of parking facilities for the benefit of the area shall be imposed on the basis of benefit determined by the legislative authority after giving consideration to the total cost to be recovered from the businesses and multifamily residential or mixed-use projects upon which the special assessment is to be imposed, the total area within the boundaries of the parking and business improvement area, the assessed value of the land and improvements within the area, the total business volume generated within the area and within each business, and such other factors as the legislative authority may find and determine to be a reasonable measure of such benefit.

[1993 c 429 § 7; 1971 ex.s. c 45 § 9.]

RCW 35.87A.100 Ordinance to establish--Adoption--Contents.

If the legislative authority, following the hearing, decides to establish the proposed area, it shall adopt an ordinance to that effect. This ordinance shall contain the following information:

(1) The number, date and title of the resolution of intention pursuant to which it was adopted;

(2) The time and place the hearing was held concerning the formation of such area;

(3) The description of the boundaries of such area;

(4) A statement that the businesses and multifamily residential or mixed-use projects in the area established by the ordinance shall be subject to the provisions of the special assessments authorized by RCW 35.87A.010;

(5) The initial or additional rate or levy of special assessment to be imposed with a

breakdown by classification of business and multifamily residential or mixed-use project, if such classification is used; and

(6) A statement that a parking and business improvement area has been established.

(7) The uses to which the special assessment revenue shall be put. Uses shall conform to the uses as declared in the initiation petition presented pursuant to RCW 35.87A.030.

[1993 c 429 § 8; 1971 ex.s. c 45 § 10.]

RCW 35.87A.110 Use of revenue--Contracts to administer operation of area.

The legislative authority of each city or town or county shall have sole discretion as to how the revenue derived from the special assessments is to be used within the scope of the purposes; however, the legislative authority may appoint existing advisory boards or commissions to make recommendations as to its use, or the legislative authority may create a new advisory board or commission for the purpose.

The legislative authority may contract with a chamber of commerce or other similar business association operating primarily within the boundaries of the legislative authority to administer the operation of a parking and business improvement area, including any funds derived pursuant thereto: PROVIDED, That such administration must comply with all applicable provisions of law including this chapter, with all county, city, or town resolutions and ordinances, and with all regulations lawfully imposed by the state auditor or other state agencies.

[1971 ex.s. c 45 § 11.]

RCW 35.87A.120 Use of assessment proceeds restricted.

The special assessments levied hereunder must be for the purposes specified in the ordinances and the proceeds shall not be used for any other purpose.

[1971 ex.s. c 45 § 12.]

RCW 35.87A.130 Collection of assessments.

Collections of assessments imposed pursuant to this chapter shall be made at the same time and in the same manner as otherwise prescribed by Title 35 RCW or in such other manner as the legislative authority shall determine.

[1971 ex.s. c 45 § 13.]

RCW 35.87A.140 Changes in assessment rates.

Changes may be made in the rate or additional rate of special assessment as specified in the ordinance establishing the area, by ordinance adopted after a hearing before the legislative authority.

The legislative authority shall adopt a resolution of intention to change the rate or

additional rate of special assessment at least fifteen days prior to the hearing required by this section. This resolution shall specify the proposed change and shall give the time and place of the hearing. Proceedings to change the rate or impose an additional rate of special assessments shall terminate if protest is made by businesses or multifamily residential or mixed-use projects in the proposed area which would pay a majority of the proposed increase or additional special assessments.

[1993 c 429 § 9; 1971 ex.s. c 45 § 14.]

RCW 35.87A.150 Benefit zones--Authorized--Rates.

The legislative authority may, for each of the purposes set out in RCW 35.87A.010, establish and modify one or more separate benefit zones based upon the degree of benefit derived from the purpose and may impose a different rate of special assessment within each such benefit zone.

[1971 ex.s. c 45 § 15.]

RCW 35.87A.160 Benefit zones--Establishment, modification and disestablishment of area provisions and procedure to be followed.

All provisions of this chapter applicable to establishment or disestablishment of an area also apply to the establishment, modification, or disestablishment of benefit zones pursuant to *RCW 35.87A.150. The establishment or the modification of any such zone shall follow the same procedure as provided for the establishment of a parking and business improvement area and the disestablishment shall follow the same procedure as provided for disestablishment of an area.

[1971 ex.s. c 45 § 16.]

Notes:

***Reviser's note:** "RCW 35.87A.150" has been translated from "section 13 of this act," as the reference to section 13, herein codified as RCW 35.87A.130, was apparently erroneous.

RCW 35.87A.170 Exemption period for new businesses and projects.

Businesses or multifamily residential or mixed-use projects established after the creation of an area within the area may be exempted from the special assessments imposed pursuant to this chapter for a period not exceeding one year from the date they commenced business in the area.

[1993 c 429 § 10; 1971 ex.s. c 45 § 17.]

RCW 35.87A.180 Disestablishment of area--Hearing.

The legislative authority may disestablish an area by ordinance after a hearing before the legislative authority. The legislative authority shall adopt a resolution of intention to disestablish

the area at least fifteen days prior to the hearing required by this section. The resolution shall give the time and place of the hearing.

[1971 ex.s. c 45 § 18.]

RCW 35.87A.190 Disestablishment of area--Assets and liabilities.

Upon disestablishment of an area, any proceeds of the special assessments, or assets acquired with such proceeds, or liabilities incurred as a result of the formation of such area, shall be subject to disposition as the legislative authority shall determine: PROVIDED, HOWEVER, Any liabilities, either current or future, incurred as a result of action taken to accomplish the purposes of RCW 35.87A.010 shall not be an obligation of the general fund or any special fund of the city or town, but such liabilities shall be provided for entirely from available revenue generated from the projects or facilities authorized by RCW 35.87A.010 or from special assessments on the property specially benefited within the area.

[1971 ex.s. c 45 § 19.]

RCW 35.87A.200 Bids required--Monetary amount.

Any city or town or county authorized by this chapter to establish a parking improvement area shall call for competitive bids by appropriate public notice and award contracts, whenever the estimated cost of such work or improvement, including cost of materials, supplies and equipment, exceeds the sum of two thousand five hundred dollars.

[1971 ex.s. c 45 § 20.]

RCW 35.87A.210 Computing cost of improvement for bid requirement.

The cost of the improvement for the purposes of this chapter shall be aggregate of all amounts to be paid for the labor, materials and equipment on one continuous or inter-related project where work is to be performed simultaneously or in near sequence. Breaking an improvement into small units for the purposes of avoiding the minimum dollar amount prescribed in RCW 35.87A.200 is contrary to public policy and is prohibited.

[1971 ex.s. c 45 § 21.]

RCW 35.87A.220 Existing laws not affected--Chapter supplemental--Purposes may be accomplished in conjunction with other methods.

This chapter providing for parking and business improvement areas shall not be deemed or construed to affect any existing act, or any part thereof, relating to special assessments or other powers of counties, cities and towns, but shall be supplemental thereto and concurrent therewith.

The purposes and functions of parking and business improvement areas as set forth by

the provisions of this chapter may be accomplished in part by the establishment of an area pursuant to this chapter and in part by any other method otherwise provided by law, including provisions for local improvements.

[1971 ex.s. c 45 § 22.]

RCW 35.87A.900 Severability--1971 ex.s. c 45.

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

[1971 ex.s. c 45 § 23.]

Chapter 35.88 RCW
WATER POLLUTION--PROTECTION FROM

Sections

35.88.010 Authority over sources of supply.
35.88.020 Enforcement of ordinance--Special police.
35.88.030 Pollution declared to be a nuisance--Abatement.
35.88.040 Pollution as criminal nuisance--Punishment.
35.88.050 Prosecution--Trial--Abatement of nuisance.
35.88.060 Health officers and mayor must enforce.
35.88.070 Injunction proceeding.
35.88.080 Inland cities over 100,000--Discharge of sewage and other discharges prohibited--Nuisance.
35.88.090 Inland cities over 100,000--Investigation of disposal systems by secretary of social and health services.

Notes:
Furnishing impure water: RCW 70.54.020.
Pollution of watershed or source of drinking water: RCW 70.54.010, 70.54.030.
Sewerage improvement districts: Chapter 85.08 RCW.
Water-sewer districts: Title 57 RCW.

RCW 35.88.010 Authority over sources of supply.

For the purpose of protecting the water furnished to the inhabitants of cities and towns from pollution, cities and towns are given jurisdiction over all property occupied by the works, reservoirs, systems, springs, branches and pipes, by means of which, and of all the lakes, rivers, springs, streams, creeks, or tributaries constituting the sources of supply from which the cities and towns or the companies or individuals furnishing water to the inhabitants thereof obtain their supply of water, or store or conduct it, and over all property acquired for any of the foregoing works or purposes or for the preservation and protection of the purity of the water supply, and

over all property within the areas draining into the lakes, rivers, springs, streams, creeks, or tributaries constituting the sources of supply whether they or any of them are within the city or town limits or outside.

[1965 c 7 § 35.88.010. Prior: 1907 c 227 § 1, part; 1899 c 70 § 1, part; RRS § 9473, part.]

RCW 35.88.020 Enforcement of ordinance--Special police.

Every city and town may by ordinance prescribe what acts shall constitute offenses against the purity of its water supply and the punishment or penalties therefor and enforce them. The mayor of each city and town may appoint special policemen, with such compensation as the city or town may fix, who shall, after taking oath, have the powers of constables, and who may arrest with or without warrant any person committing, within the territory over which any city or town is given jurisdiction by this chapter, any offense declared by law or by ordinance, against the purity of the water supply, or which violate any rule or regulation lawfully promulgated by the state board of health for the protection of the purity of such water supply. Every special policeman whose appointment is authorized herein may take any person arrested for any such offense or violation before any court having jurisdiction thereof to be proceeded with according to law. Every such special policeman shall, when on duty wear in plain view a badge or shield bearing the words "special police" and the name of the city or town by which he has been appointed.

[1965 c 7 § 35.88.020. Prior: 1907 c 227 § 1, part; 1899 c 70 § 1, part; RRS § 9473, part.]

RCW 35.88.030 Pollution declared to be a nuisance--Abatement.

The establishment or maintenance of any slaughter pens, stock feeding yards, hogpens, or the deposit or maintenance of any uncleanly or unwholesome substance, or the conduct of any business or occupation, or the allowing of any condition upon or sufficiently near the (1) sources from which the supply of water for the inhabitants of any city or town is obtained, or (2) where its water is stored, or (3) the property or means through which the same may be conveyed or conducted so that such water would be polluted or the purity of such water or any part thereof destroyed or endangered, is prohibited and declared to be unlawful, and is declared to constitute a nuisance, and may be abated as other nuisances are abated.

[1965 c 7 § 35.88.030. Prior: 1899 c 70 § 2, part; RRS § 9474, part.]

RCW 35.88.040 Pollution as criminal nuisance--Punishment.

Any person who does, establishes, maintains, or creates any of the things which have the effect of polluting any such sources of water supply, or water, and any person who does any of the things in RCW 35.88.030 declared to be unlawful, shall be deemed guilty of creating and maintaining a nuisance, and may be prosecuted therefor, and upon conviction thereof may be fined in any sum not exceeding five hundred dollars.

[1965 c 7 § 35.88.040. Prior: 1899 c 70 § 2, part; RRS § 9474, part.]

Notes:
Nuisance: Chapter 9.66 RCW.

RCW 35.88.050 Prosecution--Trial--Abatement of nuisance.

If upon the trial of any person for the violation of any of the provisions of this chapter he is found guilty of creating or maintaining a nuisance or of violating any of the provisions of this chapter, he shall forthwith abate the nuisance, and if he fails so to do within one day after such conviction, unless further time is granted by the court, a warrant shall be issued by the court wherein the conviction was obtained, directed to the sheriff of the county in which such nuisance exists and the sheriff shall forthwith proceed to abate the said nuisance and the cost thereof shall be taxed against the person so convicted as a part of the costs of such case.

[1965 c 7 § 35.88.050. Prior: 1899 c 70 § 3; RRS § 9475.]

RCW 35.88.060 Health officers and mayor must enforce.

The city health officer, city physician, board of public health, mayor, or any other officer, who has the sanitary condition of the city or town in charge, shall see that the provisions of this chapter are enforced and upon complaint being made to any such officer of an alleged violation, he shall immediately investigate the said complaint and if the same appears to be well founded he shall file a complaint against the person or persons violating any of the provisions of this chapter and cause their arrest and prosecution.

[1965 c 7 § 35.88.060. Prior: 1899 c 70 § 4; RRS § 9476.]

RCW 35.88.070 Injunction proceeding.

If any provision of this chapter is being violated, the city or town supplied with the water or a corporation owning waterworks for the purpose of supplying the city or town or the inhabitants thereof with water may, by civil action in the superior court of the proper county, have the maintenance of the nuisance which pollutes or tends to pollute the said water, enjoined and such injunction may be perpetual.

[1965 c 7 § 35.88.070. Prior: 1899 c 70 § 5; RRS § 9477.]

RCW 35.88.080 Inland cities over 100,000--Discharge of sewage and other discharges prohibited--Nuisance.

Any city not located on tidewater, having a population of one hundred thousand or more, is hereby prohibited from discharging, draining or depositing, or causing to be discharged, drained or deposited, any sewage, garbage, feculent matter, offal, refuse, filth, or any animal, mineral, or vegetable matter or substance, offensive, injurious or dangerous to health, into any

springs, streams, rivers, lakes, tributaries thereof, wells, or into any subterranean or other waters used or intended to be used for human or animal consumption or for domestic purposes.

Anything done, maintained, or suffered, in violation of any of the provisions of this section, shall be deemed to be a public nuisance, and may be summarily abated as such by any court of competent jurisdiction at the suit of the secretary of social and health services or any person whose supply of water for human or animal consumption or for domestic purposes is or may be affected.

[1979 c 141 § 40; 1965 c 7 § 35.88.080. Prior: (i) 1941 c 186 § 1; Rem. Supp. 1941 § 9354-1. (ii) 1941 c 186 § 3; Rem. Supp. 1941 § 9354-3.]

Notes:
Nuisance: Chapter 9.66 RCW.

RCW 35.88.090 Inland cities over 100,000--Investigation of disposal systems by secretary of social and health services.

The secretary of social and health services shall have the power, and it shall be his duty, to investigate the system of disposal of sewage, garbage, feculent matter, offal, refuse, filth, or any animal, mineral, or vegetable matter or substance, by cities not located on tidewater, having a population of one hundred thousand or more, and if he shall determine upon investigation that any such system or systems of disposal is or may be injurious or dangerous to health, he shall have the power, and it shall be his duty, to order such city or cities to provide for, construct, and maintain a system or systems of disposal which will not be injurious or dangerous to health.

[1979 c 141 § 41; 1965 c 7 § 35.88.090. Prior: 1941 c 186 § 2; Rem. Supp. 1941 § 9354-2.]

Chapter 35.89 RCW
WATER REDEMPTION BONDS

Sections

35.89.010 Authority to issue water redemption bonds.
35.89.020 Bonds--Terms--Execution--Rights of owner.
35.89.030 Bonds exchange--Subrogation.
35.89.040 Water redemption fund--Creation.
35.89.050 Water redemption fund--Sources.
35.89.060 Water redemption fund--Trust fund.
35.89.070 Payment of interest on bonds.
35.89.080 Payment of principal of bonds.
35.89.090 Violations--Penalties--Personal liability.
35.89.100 Water systems--What included.

Notes:
Water-sewer districts: Title 57 RCW.

RCW 35.89.010 Authority to issue water redemption bonds.

If a public water system has been constructed within any local improvement district of any city or town for the construction of which bonds of the local improvement district were issued and are outstanding and unpaid, and if the city or town has taken over the system or is operating it as a public utility or has incorporated it into or connected it with any system operated by city or town as a public utility, from the operation of which such city or town derives a revenue, the city or town may by resolution of its council authorize the issue of bonds to an amount not exceeding the amount of the local improvement bonds issued for the construction of the water system then outstanding and unpaid with interest due and unpaid, and may redeem the outstanding local improvement bonds by exchanging therefor an equal amount at par of the bonds authorized by this chapter. The new bonds shall be called water redemption bonds.

[1965 c 7 § 35.89.010. Prior: (i) 1929 c 85 § 1; 1923 c 52 § 1; RRS § 9154-1. (ii) 1923 c 52 § 2, part; RRS § 9154-2, part.]

RCW 35.89.020 Bonds--Terms--Execution--Rights of owner.

(1) Water redemption bonds shall be in denominations of not more than one thousand nor less than one hundred dollars each, and shall bear interest at a rate or rates as authorized by the city or town council, payable semiannually, and shall bear a serial number and shall be signed by the mayor of the city or town and shall be otherwise executed in such manner and payable at such time and place not exceeding twenty years after the date of issue as the city or town council shall determine and such bonds shall be payable only out of the special fund created by authority of this chapter and shall be a valid claim of the owner thereof only against that fund and the fixed portion or amount of the revenues of the water system pledged to the fund, and shall not constitute an indebtedness of the city or town. Such bonds may be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 66; 1970 ex.s. c 56 § 46; 1969 ex.s. c 232 § 23; 1965 c 7 § 35.89.020. Prior: 1923 c 52 § 2, part; RRS § 9154-2, part.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 35.89.030 Bonds exchange--Subrogation.

Water redemption bonds issued under the authority of this chapter shall only be sold or disposed of in exchange for an equal amount in par value of principal and interest of the local

improvement district bonds issued for the construction of water systems taken over and operated by the city or town, or incorporated into or connected with a water system operated by it.

Upon the exchange of the water redemption bonds authorized by this chapter for local improvement district bonds the city or town shall be subrogated to all the rights of the owners and holders of such local improvement district bonds against the property of the local improvement district and against any person or corporation liable thereon.

Any money derived by the city or town from the sale or enforcement of such local improvement district bonds shall be paid into the city's water redemption fund.

[1965 c 7 § 35.89.030. Prior: 1923 c 52 § 3; RRS § 9154-3.]

RCW 35.89.040 Water redemption fund--Creation.

The city or town council before issuing water redemption bonds shall by ordinance establish a fund for the payment of the bonds at maturity and of interest thereon as it matures to be designated the water redemption fund.

[1965 c 7 § 35.89.040. Prior: 1923 c 52 § 4; RRS § 9154-4.]

RCW 35.89.050 Water redemption fund--Sources.

Every city and town shall have power to regulate and control the use and price of water supplied through a water system taken over from a local improvement district.

It shall establish such rates and charges for the water as shall be sufficient after providing for the operation and maintenance of the system to provide for the payment of the water redemption bonds at maturity and of interest thereon as it matures, and such portion shall be included in and collected as a part of the charges made by such city or town for water supplied through such water system and such portion shall be paid into the water redemption fund.

[1965 c 7 § 35.89.050. Prior: 1923 c 52 § 5; RRS § 9154-5.]

RCW 35.89.060 Water redemption fund--Trust fund.

All moneys paid into or collected for the water redemption fund shall be used for the payment of principal and interest of the water redemption bonds issued under the authority of this chapter and no part thereof while any of said bonds are outstanding and unpaid, shall be diverted to any other fund or use: PROVIDED, That when both principal and interest on all water redemption bonds issued and outstanding have been paid, any unexpended balance remaining in the fund may be transferred to the general fund or such other fund as the city or town council may direct.

[1965 c 7 § 35.89.060. Prior: 1923 c 52 § 8; RRS § 9154-8.]

RCW 35.89.070 Payment of interest on bonds.

The treasurer of such city or town shall pay the interest on the water redemption bonds authorized by this chapter out of the money in the water redemption fund.

[1965 c 7 § 35.89.070. Prior: 1923 c 52 § 6; RRS § 9154-6.]

RCW 35.89.080 Payment of principal of bonds.

Whenever there is sufficient money in the water redemption fund, over and above the amount that will be required to pay the interest on the bonds up to the time of maturity of the next interest payment, to pay the principal of one or more bonds, the city or town treasurer shall call in and pay such bonds. The bonds shall be called and paid in their numerical order, and the call shall be made by publication in the official newspaper of the city or town. The call shall state the total amount and the serial number or numbers of the bonds called and that they will be paid on the date when the next semiannual payment of interest will be due, and that interest on the bonds called will cease from such date.

[1965 c 7 § 35.89.080. Prior: 1923 c 52 § 7; RRS § 9154-7.]

RCW 35.89.090 Violations--Penalties--Personal liability.

Every ordinance, resolution, order, or action of the council, board, or officer of any city or town, and every warrant or other instrument made, issued, passed or done in violation of the provisions of this chapter shall be void.

Every officer, agent, employee, or member of the council of the city or town, and every person or corporation who shall knowingly commit any violation of the provisions of this chapter or knowingly aid in such violation, shall be liable to the city or town for all money transferred, diverted or paid out in violation thereof and such liability shall attach to and be enforceable against the official bond, if any, of such official agent, employee, or member of the council.

[1965 c 7 § 35.89.090. Prior: 1923 c 52 § 9; RRS § 9154-9.]

RCW 35.89.100 Water systems--What included.

The term "water system" as used in this chapter shall include and be applicable to all reservoirs, storage and clarifying tanks, conduits, mains, laterals, pipes, hydrants and other equipment used or constructed for the purpose of supplying water for public or domestic use, and shall include not only water systems constructed by local improvement districts, but also any system with which the same may be incorporated or connected.

[1965 c 7 § 35.89.100. Prior: 1923 c 52 § 10; RRS § 9154-10.]

Chapter 35.91 RCW

MUNICIPAL WATER AND SEWER FACILITIES ACT

Sections

35.91.010	Declaration of purpose--Short title.
35.91.020	Contracts with owners of real estate for water or sewer facilities--Reimbursement of costs by subsequent users.
35.91.025	Extension outside city subject to review by boundary review board.
35.91.030	Approval and acceptance of facilities by municipality--Rates, costs.
35.91.040	Contract payment to be made prior to tap, connection, or use--Removal of tap or connection.
35.91.050	Owner's pro rata share of cost to which he did not contribute.

Notes:
Water-sewer districts: Title 57 RCW.

RCW 35.91.010 Declaration of purpose--Short title.

The improvement of public health and the implementation of both urban and rural development being furthered by adequate and comprehensive water facilities and storm and sanitary sewer systems, and there being a need for legislation enabling such aids to the welfare of the state, there is hereby enacted the "municipal water and sewer facilities act."

[1965 c 7 § 35.91.010. Prior: 1959 c 261 § 1.]

RCW 35.91.020 Contracts with owners of real estate for water or sewer facilities--Reimbursement of costs by subsequent users.

The governing body of any city, town, county, water-sewer district, or drainage district, hereinafter referred to as a "municipality" may contract with owners of real estate for the construction of storm, sanitary, or combination sewers, pumping stations, and disposal plants, water mains, hydrants, reservoirs, or appurtenances, hereinafter called "water or sewer facilities," within their boundaries or (except for counties) within ten miles from their corporate limits connecting with the public water or sewerage system to serve the area in which the real estate of such owners is located, and to provide for a period of not to exceed fifteen years for the reimbursement of such owners and their assigns by any owner of real estate who did not contribute to the original cost of such water or sewer facilities and who subsequently tap onto or use the same of a fair pro rata share of the cost of the construction of said water or sewer facilities, including not only those directly connected thereto, but also users connected to laterals or branches connecting thereto, subject to such reasonable rules and regulations as the governing body of such municipality may provide or contract, and notwithstanding the provisions of any other law. To the extent it may require in the performance of such contract, such municipality may install said water or sewer facilities in and along the county streets in the area to be served as hereinabove provided, subject to such reasonable requirements as to the manner of occupancy of such streets as the county may by resolution provide. The provisions of such contract shall not be effective as to any owner of real estate not a party thereto unless such contract has been

recorded in the office of the county auditor of the county in which the real estate of such owner is located prior to the time such owner taps into or connects to said water or sewer facilities.

[1999 c 153 § 38; 1981 c 313 § 11; 1967 c 113 § 1; 1965 c 7 § 35.91.020. Prior: 1959 c 261 § 2.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.
Severability--1981 c 313: See note following RCW 36.94.020.

RCW 35.91.025 Extension outside city subject to review by boundary review board.

The extension of water or sewer facilities outside of the boundaries of a city or town may be subject to potential review by a boundary review board under chapter 36.93 RCW.

[1989 c 84 § 33.]

RCW 35.91.030 Approval and acceptance of facilities by municipality--Rates, costs.

Upon the completion of water or sewer facilities pursuant to contract mentioned in the foregoing section, the governing body of any such municipality shall be authorized to approve their construction and accept the same as facilities of the municipality and to charge for their use such water or sewer rates as such municipality may be authorized by law to establish, and if any such water or sewer facilities are so approved and accepted, all further maintenance and operation costs of said water or sewer lines and facilities shall be borne by such municipality.

[1965 c 7 § 35.91.030. Prior: 1959 c 261 § 3.]

RCW 35.91.040 Contract payment to be made prior to tap, connection, or use--Removal of tap or connection.

No person, firm or corporation shall be granted a permit or be authorized to tap into, or use any such water or sewer facilities or extensions thereof during the period of time prescribed in such contract without first paying to the municipality, in addition to any and all other costs and charges made or assessed for such tap, or use, or for the water lines or sewers constructed in connection therewith, the amount required by the provisions of the contract under which the water or sewer facilities so tapped into or used were constructed. All amounts so received by the municipality shall be paid out by it under the terms of such contract within sixty days after the receipt thereof. Whenever any tap or connection is made into any such contracted water or sewer facilities without such payment having first been made, the governing body of the municipality may remove, or cause to be removed, such unauthorized tap or connection and all connecting tile, or pipe located in the facility right of way and dispose of unauthorized material so removed without any liability whatsoever.

[1965 c 7 § 35.91.040. Prior: 1959 c 261 § 4.]

RCW 35.91.050 Owner's pro rata share of cost to which he did not contribute.

Whenever the cost, or any part thereof, of any water or sewer improvement, whether local or general, is or will be assessed against the owners of real estate and such water or sewer improvement will be connected into or will make use of, contracted water or sewer facilities constructed under the provisions of this chapter and to the cost of which such owners, or any of them, did not contribute, there shall be included in the engineer's estimate before the hearing on any such improvement, separately itemized, and in such assessments, a sum equal to the amount provided in or computed from such contract as the fair pro rata share due from such owners upon and for such contracted water or sewer facilities.

[1965 c 7 § 35.91.050. Prior: 1959 c 261 § 5.]

Chapter 35.92 RCW
MUNICIPAL UTILITIES

Sections

35.92.010 Authority to acquire and operate waterworks--Generation of electricity--Classification of services for rates.
35.92.012 May accept and operate water-sewer district's property when boundaries are identical.
35.92.014 Acquisition of out-of-state waterworks.
35.92.015 Acquisition of out-of-state waterworks--Joint acquisition and operation.
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35.92.400 Provision of water services and facilities--Contract with Canadian corporation.
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NOTES:

Assessments and charges against state lands: Chapter 79.44 RCW.

Electric franchises and rights of way: Chapter 80.32 RCW.

Electrical utilities and facilities owned by cities, support for political subdivisions and taxing districts: RCW 35.21.420 through 35.21.440.

Hydroelectric resources, creation of separate legal authority by irrigation districts and cities, towns, or public utility districts: RCW 87.03.825 through 87.03.840.

Joint development of nuclear, thermal power facilities: Chapter 54.44 RCW.

Limitations upon indebtedness: State Constitution Art. 7 § 2 (Amendments 55, 59), Art. 8 § 6 (Amendment 27), chapter 39.36 RCW, RCW 84.52.050.

Local improvement districts, creation: Chapter 35.43 RCW.

Public utility districts: Title 54 RCW.
Sewerage improvement districts: Chapter 85.08 RCW.
Special assessments or taxation for local improvements: State Constitution Art. 7 § 9.
Street railways: Chapter 81.64 RCW.
Water-sewer districts: Title 57 RCW.

RCW 35.92.010 Authority to acquire and operate waterworks--Generation of electricity--Classification of services for rates.

A city or town may construct, condemn and purchase, purchase, acquire, add to, alter, maintain and operate waterworks, within or without its limits, for the purpose of furnishing the city and its inhabitants, and any other persons, with an ample supply of water for all purposes, public and private, including water power and other power derived therefrom, with full power to regulate and control the use, distribution, and price thereof: PROVIDED, That the rates charged must be uniform for the same class of customers or service. Such waterworks may include facilities for the generation of electricity as a byproduct and such electricity may be used by the city or town or sold to an entity authorized by law to distribute electricity. Such electricity is a byproduct when the electrical generation is subordinate to the primary purpose of water supply.

In classifying customers served or service furnished, the city or town governing body may in its discretion consider any or all of the following factors: The difference in cost of service to the various customers; location of the various customers within and without the city or town; the difference in cost of maintenance, operation, repair, and replacement of the various parts of the system; the different character of the service furnished various customers; the quantity and quality of the water furnished; the time of its use; the achievement of water conservation goals and the discouragement of wasteful water use practices; capital contributions made to the system including, but not limited to, assessments; and any other matters which present a reasonable difference as a ground for distinction. No rate shall be charged that is less than the cost of the water and service to the class of customers served.

For such purposes any city or town may take, condemn and purchase, purchase, acquire, and retain water from any public or navigable lake or watercourse, surface or ground, and, by means of aqueducts or pipe lines, conduct it to the city or town; and it may erect and build dams or other works across or at the outlet of any lake or watercourse in this state for the purpose of storing and retaining water therein up to and above high water mark; and for all the purposes of erecting such aqueducts, pipe lines, dams, or waterworks or other necessary structures in storing and retaining water, or for any of the purposes provided for by this chapter, the city or town may occupy and use the beds and shores up to the high water mark of any such watercourse or lake, and acquire the right by purchase, or by condemnation and purchase, or otherwise, to any water, water rights, easements or privileges named in this chapter, or necessary for any of said purposes, and the city or town may acquire by purchase or condemnation and purchase any properties or privileges necessary to be had to protect its water supply from pollution. Should private property be necessary for any such purposes or for storing water above high water mark, the city or town may condemn and purchase, or purchase and acquire such private property. For the purposes of waterworks which include facilities for the generation of electricity as a byproduct, nothing in this section may be construed to authorize a city or town that does not own

or operate an electric utility system to condemn electric generating, transmission, or distribution rights or facilities of entities authorized by law to distribute electricity, or to acquire such rights or facilities without the consent of the owner.

[1991 c 347 § 18. Prior: 1985 c 445 § 4; 1985 c 444 § 2; 1965 c 7 § 35.92.010; prior: 1959 c 90 § 6; 1957 c 209 § 2; prior: 1951 c 252 § 1; 1947 c 214 § 1, part; 1933 c 163 § 1, part; 1931 c 53 § 1, part; 1923 c 173 § 1, part; 1913 c 45 § 1, part; 1909 c 150 § 1, part; 1899 c 128 § 1, part; 1897 c 112 § 1, part; 1893 c 8 § 1, part; 1890 p 520 § 1, part; Rem. Supp. 1947 § 9488, part. Formerly RCW 80.40.010.]

NOTES:

Purposes--1991 c 347: See note following RCW 90.42.005.

Severability--1991 c 347: See RCW 90.42.900.

Intent--1985 c 444: "For the purposes of this act, the legislature finds it is the policy of the state of Washington that:

(1) The quality of the natural environment shall be protected and, where possible, enhanced as follows: Perennial rivers and streams of the state shall be retained with base flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, and navigational values. Lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served.

(2) Development of water supply systems, whether publicly or privately owned, which provide water to the public generally in regional areas within the state shall be encouraged. Development of water supply systems for multiple domestic use which will not serve the public generally shall be discouraged where water supplies are available from water systems serving the public." [1985 c 444 § 1.]

Construction--Economic feasibility study--1985 c 444: "(1) Nothing in this act exempts any city or town, water district, or sewer district from compliance with applicable state and federal statutes and regulations including but not limited to: State environmental policy act, chapter 43.21C RCW; national environmental policy act, 42 U.S.C. Sec. 4321 et seq.; federal power act, 16 U.S.C. Sec. 791 et seq.; public utility regulatory policies act, 15 U.S.C. Sec. 717f; Pacific northwest electric power planning and conservation act, 16 U.S.C. Sec. 839; energy financing voter approval act, chapter 80.52 RCW; water resources act, chapter 90.54 RCW; federal clean water act, 33 U.S.C. Sec. 1251 et seq.; the public water system coordination act, chapter 70.116 RCW; and the state clean water act, chapter 90.48 RCW.

(2) In addition, if the work proposed under this act involves a new water supply project combined with an electric generation facility with an installed capacity in excess of five megawatts which may produce electricity for sale in excess of present and future needs of the water system, then each of those with a greater than twenty-five percent ownership interest in the project shall jointly prepare an independent economic feasibility study evaluating the cost-effectiveness of the combined facility in the context of forecast regional water needs, alternate sources of water supply, and the potential impact of the combined facility on rates charged for water and electricity.

In addition to the economic feasibility study, the results of the environmental impact statement required by chapter 43.21C RCW and any review by the department of ecology made pursuant to chapter 90.54 RCW shall be made available to the public at least sixty days prior to any public vote on the new combined project.

(3) This act supplements the authority of cities and towns, water districts, and sewer districts and does not restrict or impose limits on any authority such municipal corporations may otherwise have under any laws of this state nor may the authority of such municipal corporations under other laws of this state be construed more narrowly on account of this act." [1985 c 444 § 7.]

Severability--1985 c 444: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 444 § 8.]

Validating--1917 c 12: "Whenever any city or town has heretofore issued or authorized to be issued by such vote of its electors as is required by law at any election duly and legally held to vote on such proposition, such

utility bonds for the purpose of purchasing, paying for or acquiring any such utility as is described in this act, in every such case such utility bonds are hereby declared to be legal and valid, and such city or town is hereby authorized and empowered to proceed to issue and negotiate such bonds and to continue and conclude proceedings for the purchase or acquirement of such utility, and is hereby given full power to maintain and operate the same within all and every part of such contiguous territory whether incorporated or unincorporated." [1917 c 12 § 2.]

Validating--1909 c 150: "That in all cases where the qualified electors of any city or town have heretofore, at any election, ratified any plan or system of any public utility mentioned in section 1 of this act, and shall have authorized a general indebtedness of such city or town and the issuance of bonds therefor, or the creation of a special fund or funds out of the revenues of the public utility the plan or system of which was so ratified, and the issuance of bonds or warrants payable only out of such fund or funds; and pursuant to such authorization or ratification a general indebtedness shall have been incurred or authorized to be incurred, and bonds or other obligations issued or contracted to be issued or authorized to be issued, or a special fund or funds shall have been created out of the revenue of any such public utility by pledging or setting aside a fixed proportion of such revenues, or a fixed amount out of and not exceeding a fixed proportion or a fixed amount without regard to any fixed proportion, and bonds or warrants payable either upon the call of such city or town or at a fixed date, but only out of such special fund or funds, issued or contracted to be issued or authorized to be issued, or a contract or contracts for the purchase, construction, acquisition, improvement, betterment, or addition to such public utility entered into; such general indebtedness, bonds or other obligations, contracts, special funds, and bonds or warrants, payable out of such special funds, and all proceedings relating thereto, are hereby ratified, confirmed and validated; and any bonds or other obligations constituting a general indebtedness, or bonds or warrants payable out of such special funds, heretofore so authorized, may be hereafter issued or sold as if all of said proceedings were taken pursuant to and under the authority of this act, and in full compliance therewith." [1909 c 150 § 5.]

Eminent domain by cities: Chapter 8.12 RCW.

Evaluation of application to appropriate water for electric generation facility: RCW 90.54.170.

RCW 35.92.012 May accept and operate water-sewer district's property when boundaries are identical.

A city or town, whose boundaries are identical with those of a water-sewer district, or within which a water-sewer district is entirely located, which is free from all debts and liabilities except contractual obligations between the district and the town, may accept the property and assets of the district and operate such property and assets as a municipal waterworks, if the district and the city or town each participate in a summary dissolution proceedings for the district as provided in RCW 57.04.110.

[1999 c 153 § 39; 1965 c 7 § 35.92.012. Prior: 1955 c 358 § 2. Formerly RCW 80.40.012.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

RCW 35.92.014 Acquisition of out-of-state waterworks.

Municipalities of this state under ordinance of the governing body are empowered to acquire by purchase or lease, and to maintain and operate, in cooperation with neighboring municipalities of states bordering this state, the out-of-state property, plant and equipment of privately owned utilities supplying water to the purchasing municipalities from an out-of-state source: PROVIDED, The legislature of the state in which such property, plant, equipment and supply are located, by enabling legislation similar to this, authorizes its municipalities to join in such acquisition, maintenance and operation.

[1965 c 7 § 35.92.014. Prior: 1951 c 39 § 1. Formerly RCW 80.40.014.]

RCW 35.92.015 Acquisition of out-of-state waterworks--Joint acquisition and operation.

The governing bodies of the municipalities acting jointly under RCW 35.92.014 and this section shall have authority by mutual agreement to exercise jointly all powers granted to each individual municipality in the acquisition, maintenance and operation of a water supply system.

[1965 c 7 § 35.92.015. Prior: 1951 c 39 § 2. Formerly RCW 80.40.015.]

RCW 35.92.017 Authority to assist customers in the acquisition of water conservation equipment--Limitations.

Any city or town engaged in the sale or distribution of water is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of structures in financing the acquisition and installation of fixtures, systems, and equipment, for compensation or otherwise, for the conservation or more efficient use of water in the structures under a water conservation plan adopted by the city or town if the cost per unit of water saved or conserved by the use of the fixtures, systems, and equipment is less than the cost per unit of water supplied by the next least costly new water source available to the city or town to meet future demand. Except where otherwise authorized, assistance shall be limited to:

(1) Providing an inspection of the structure, either directly or through one or more inspectors under contract, to determine and inform the owner of the estimated cost of purchasing and installing conservation fixtures, systems, and equipment for which financial assistance will be approved and the estimated life cycle savings to the water system and the consumer that are likely to result from the installation of the fixtures, systems, or equipment;

(2) Providing a list of businesses that sell and install the fixtures, systems, and equipment within or in close proximity to the service area of the city or town, each of which businesses shall have requested to be included and shall have the ability to provide the products in a workmanlike manner and to utilize the fixtures, systems, and equipment in accordance with the prevailing national standards;

(3) Arranging to have approved conservation fixtures, systems, and equipment installed by a private contractor whose bid is acceptable to the owner of the structure and verifying the installation; and

(4) Arranging or providing financing for the purchase and installation of approved conservation fixtures, systems, and equipment. The fixtures, systems, and equipment shall be purchased or installed by a private business, the owner, or the utility.

Pay back shall be in the form of incremental additions to the utility bill, billed either together with use charge or separately. Loans shall not exceed one hundred twenty months in length.

[1989 c 421 § 3.]

Notes:

Intent--Water conservation encouraged--1989 c 421: "The conservation and efficient use of water is found and declared to be a public purpose of highest priority. The legislature further finds and declares that all municipal corporations, public utility districts, water districts, and other political subdivisions of the state that are engaged in the sale or distribution of water should be granted the authority to develop and carry out programs that will conserve resources, reduce waste, and encourage more efficient use of water by consumers.

In order to establish the most effective state-wide program for water conservation, the legislature hereby encourages any company, corporation, or association engaged in selling or furnishing utility services to assist their customers in the acquisition and installation of fixtures, systems, and equipment, for compensation or otherwise, for the conservation or more efficient use of water." [1989 c 421 § 1.]

Contingent effective date--1989 c 421: "This act shall take effect on the same date as the proposed amendment to Article VIII of the state Constitution, authorizing the use of public moneys or credit to promote conservation or more efficient use of water, is validly submitted and is approved and ratified by the voters at a general election held in November 1989. If the proposed amendment is not so approved and ratified, this act shall be void in its entirety." [1989 c 421 § 6.] Senate Joint Resolution No. 8210 was approved and ratified by the voters at the November 7, 1989, general election.

RCW 35.92.020 Authority to acquire and operate sewerage and solid waste handling systems, plants, sites, or facilities--Classification of services and facilities for rates--Assistance for low-income persons.

A city or town may construct, condemn and purchase, purchase, acquire, add to, alter, maintain, and operate systems, plants, sites, or other facilities of sewerage as defined in RCW 35.67.010, or solid waste handling as defined by RCW 70.95.030, and shall have full authority to manage, regulate, operate, control, and to fix the price of service and facilities of those systems, plants, sites, or other facilities within and without the limits of the city or town. The rates charged shall be uniform for the same class of customers or service and facilities. In classifying customers served or service and facilities furnished by a system or systems of sewerage, the legislative authority of the city or town may in its discretion consider any or all of the following factors: (1) The difference in cost of service and facilities to customers; (2) the location of customers within and without the city or town; (3) the difference in cost of maintenance, operation, repair, and replacement of the parts of the system; (4) the different character of the service and facilities furnished to customers; (5) the quantity and quality of the sewage delivered and the time of its delivery; (6) capital contributions made to the systems, plants, sites, or other facilities, including but not limited to, assessments; (7) the nonprofit public benefit status, as defined in RCW 24.03.490, of the land user; and (8) any other factors that present a reasonable difference as a ground for distinction. Rates or charges for on-site inspection and maintenance services may not be imposed under this chapter on the development, construction, or reconstruction of property.

A city or town may provide assistance to aid low-income persons in connection with services provided under this chapter.

Under this chapter, after July 1, 1998, any requirements for pumping the septic tank of an on-site sewage system should be based, among other things, on actual measurement of accumulation of sludge and scum by a trained inspector, trained owner's agent, or trained owner.

Training must occur in a program approved by the state board of health or by a local health officer.

Before adopting on-site inspection and maintenance utility services, or incorporating residences into an on-site inspection and maintenance or sewer utility under this chapter, notification must be provided, prior to the applicable public hearing, to all residences within the proposed service area that have on-site systems permitted by the local health officer. The notice must clearly state that the residence is within the proposed service area and must provide information on estimated rates or charges that may be imposed for the service.

A city or town shall not provide on-site sewage system inspection, pumping services, or other maintenance or repair services under this section using city or town employees unless the on-site system is connected by a publicly owned collection system to the city or town's sewerage system, and the on-site system represents the first step in the sewage disposal process. Nothing in this section shall affect the authority of state or local health officers to carry out their responsibilities under any other applicable law.

[1997 c 447 § 9; 1995 c 124 § 5; 1989 c 399 § 6; 1985 c 445 § 5; 1965 c 7 § 35.92.020. Prior: 1959 c 90 § 7; 1957 c 288 § 3; 1957 c 209 § 3; prior: 1947 c 214 § 1, part; 1933 c 163 § 1, part; 1931 c 53 § 1, part; 1923 c 173 § 1, part; 1913 c 45 § 1, part; 1909 c 150 § 1, part; 1899 c 128 § 1, part; 1897 c 112 § 1, part; 1893 c 8 § 1, part; 1890 p 520 § 1, part; Rem. Supp. 1947 § 9488, part. Formerly RCW 80.40.020.]

Notes:

Finding--Purpose--1997 c 447: See note following RCW 70.05.074.

RCW 35.92.021 Public property subject to rates and charges for storm water control facilities.

Except as otherwise provided in RCW 90.03.525, any public entity and public property, including the state of Washington and state property, shall be subject to rates and charges for storm water control facilities to the same extent private persons and private property are subject to such rates and charges that are imposed by cities and towns pursuant to RCW 35.92.020. In setting these rates and charges, consideration may be made of in-kind services, such as stream improvements or donation of property.

[1986 c 278 § 56; 1983 c 315 § 2.]

Notes:

Severability--1986 c 278: See note following RCW 36.01.010.

Severability--1983 c 315: See note following RCW 90.03.500.

Flood control zone districts--Storm water control improvements: Chapter 86.15 RCW.

Rates and charges for storm water control facilities--Limitations--Definitions: RCW 90.03.500 through 90.03.525. See also RCW 35.67.025, 36.89.085, and 36.94.145.

RCW 35.92.023 Solid waste--Compliance with chapter 70.95 RCW required.

See RCW 35.21.154.

RCW 35.92.025 Authority to make charges for connecting to water or sewerage system--Interest charges.

Cities and towns are authorized to charge property owners seeking to connect to the water or sewerage system of the city or town as a condition to granting the right to so connect, in addition to the cost of such connection, such reasonable connection charge as the legislative body of the city or town shall determine proper in order that such property owners shall bear their equitable share of the cost of such system. The equitable share may include interest charges applied from the date of construction of the water or sewer system until the connection, or for a period not to exceed ten years, at a rate commensurate with the rate of interest applicable to the city or town at the time of construction or major rehabilitation of the water or sewer system, or at the time of installation of the water or sewer lines to which the property owner is seeking to connect but not to exceed ten percent per year: PROVIDED, That the aggregate amount of interest shall not exceed the equitable share of the cost of the system allocated to such property owners. Connection charges collected shall be considered revenue of such system.

[1985 c 445 § 6; 1965 c 7 § 35.92.025. Prior: 1959 c 90 § 8. Formerly RCW 80.40.025.]

RCW 35.92.027 Extension of water and sewer facilities outside city subject to review by boundary review board.

The extension of water or sewer facilities outside of the boundaries of a city or town may be subject to potential review by a boundary review board under chapter 36.93 RCW.

[1989 c 84 § 34.]

RCW 35.92.030 Authority to acquire and operate stone or asphalt plants.

A city or town may also construct, condemn and purchase, purchase, acquire, add to, alter, maintain, and operate works, plants and facilities for the preparation and manufacture of all stone or asphalt products or compositions or other materials which may be used in street construction or maintenance, together with the right to use them, and also fix the price of and sell such products for use in the construction of municipal improvements.

[1985 c 445 § 8; 1965 c 7 § 35.92.030. Prior: 1957 c 288 § 4; 1957 c 209 § 4; prior: 1947 c 214 § 1, part; 1933 c 163 § 1, part; 1931 c 53 § 1, part; 1923 c 173 § 1, part; 1913 c 45 § 1, part; 1909 c 150 § 1, part; 1899 c 128 § 1, part; 1897 c 112 § 1, part; 1893 c 8 § 1, part; 1890 p 520 § 1, part; Rem. Supp. 1947 § 9488, part. Formerly RCW 80.40.030.]

Notes:
Eminent domain by cities: Chapter 8.12 RCW.

RCW 35.92.040 Authority to acquire and operate public markets and cold storage plants--"Public markets" defined.

A city or town may also construct, acquire, and operate public markets and cold storage

plants for the sale and preservation of butter, eggs, meats, fish, fruits, vegetables, and other perishable provisions. Whenever the words "public markets" are used in this chapter and the public market is managed in whole or in part by a public corporation created by a city, the words shall be construed to include all real or personal property located in a district or area designated by a city as a public market and traditionally devoted to providing farmers, crafts vendors and other merchants with retail space to market their wares to the public. Property located in such a district or area need not be exclusively or primarily used for such traditional public market retail activities and may include property used for other public purposes including, but not limited to, the provision of human services and low-income or moderate-income housing.

[1990 c 189 § 4; 1965 c 7 § 35.92.040. Prior: 1957 c 288 § 5; 1957 c 209 § 5; prior: 1947 c 214 § 1, part; 1933 c 163 § 1, part; 1931 c 53 § 1, part; 1923 c 173 § 1, part; 1913 c 45 § 1, part; 1909 c 150 § 1, part; 1899 c 128 § 1, part; 1897 c 112 § 1, part; 1893 c 8 § 1, part; 1890 p 520 § 1, part; Rem. Supp. 1947 § 9488, part. Formerly RCW 80.40.040.]

RCW 35.92.050 Authority to acquire and operate utilities.

A city or town may also construct, condemn and purchase, purchase, acquire, add to, alter, maintain and operate works, plants, facilities for the purpose of furnishing the city or town and its inhabitants, and any other persons, with gas, electricity, and other means of power and facilities for lighting, heating, fuel, and power purposes, public and private, with full authority to regulate and control the use, distribution, and price thereof, together with the right to handle and sell or lease, any meters, lamps, motors, transformers, and equipment or accessories of any kind, necessary and convenient for the use, distribution, and sale thereof; authorize the construction of such plant or plants by others for the same purpose, and purchase gas, electricity, or power from either within or without the city or town for its own use and for the purpose of selling to its inhabitants and to other persons doing business within the city or town and regulate and control the use and price thereof.

[1985 c 445 § 9; 1965 c 7 § 35.92.050. Prior: 1957 c 288 § 6; 1957 c 209 § 6; prior: 1947 c 214 § 1, part; 1933 c 163 § 1, part; 1931 c 53 § 1, part; 1923 c 173 § 1, part; 1913 c 45 § 1, part; 1909 c 150 § 1, part; 1899 c 128 § 1, part; 1897 c 112 § 1, part; 1893 c 8 § 1, part; 1890 p 520 § 1, part; Rem. Supp. 1947 § 9488, part. Formerly RCW 80.40.050.]

RCW 35.92.052 First class cities operating electrical facilities--Participation in agreements to use or own high voltage transmission facilities and other electrical generating facilities--Terms--Limitations.

(1) Except as provided in subsection (3) of this section, cities of the first class which operate electric generating facilities and distribution systems shall have power and authority to participate and enter into agreements for the use or undivided ownership of high voltage transmission facilities and capacity rights in those facilities and for the undivided ownership of any type of electric generating plants and facilities, including, but not limited to, nuclear and other thermal power generating plants and facilities and transmission facilities including, but not

limited to, related transmission facilities, to be called "common facilities"; and for the planning, financing, acquisition, construction, operation, and maintenance with: (a) Each other; (b) electrical companies which are subject to the jurisdiction of the Washington utilities and transportation commission or the regulatory commission of any other state, to be called "regulated utilities"; (c) rural electric cooperatives, including generation and transmission cooperatives in any state; (d) municipal corporations, utility districts, or other political subdivisions in any state; and (e) any agency of the United States authorized to generate or transmit electrical energy. It shall be provided in such agreements that each city shall use or own a percentage of any common facility equal to the percentage of the money furnished or the value of property supplied by it for the acquisition and construction of or additions or improvements to the facility and shall own and control or provide for the use of a like percentage of the electrical transmission or output.

(2) A city using or owning common facilities under this section may issue revenue bonds or other obligations to finance the city's share of the use or ownership of the common facilities.

(3) Cities of the first class shall have the power and authority to participate and enter into agreements for the use or undivided ownership of a coal-fired thermal electric generating plant and facility placed in operation before July 1, 1975, including related common facilities, and for the planning, financing, acquisition, construction, operation, and maintenance of the plant and facility. It shall be provided in such agreements that each city shall use or own a percentage of any common facility equal to the percentage of the money furnished or the value of property supplied by the city for the acquisition and construction of or additions or improvements to the facility and shall own and control or provide for the use of a like percentage of the electrical transmission or output of the facility. Cities may enter into agreements under this subsection with each other, with regulated utilities, with rural electric cooperatives, with utility districts, with electric companies subject to the jurisdiction of the regulatory commission of any other state, and with any power marketer subject to the jurisdiction of the federal energy regulatory commission.

(4) The agreement must provide that each participant shall defray its own interest and other payments required to be made or deposited in connection with any financing undertaken by it to pay its percentage of the money furnished or value of property supplied by it for the planning, acquisition, and construction of any common facility, or any additions or betterments. The agreement shall provide a uniform method of determining and allocating operation and maintenance expenses of a common facility.

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

(6) In carrying out the powers granted in this section, each such city shall be severally liable only for its own acts and not jointly or severally liable for the acts, omissions, or obligations of others. No money or property supplied by any such city for the planning,

financing, acquisition, construction, operation, or maintenance of, or addition or improvement to any common facility shall be credited or otherwise applied to the account of any other participant therein, nor shall the undivided share of any city in any common facility be charged, directly or indirectly, with any debt or obligation of any other participant or be subject to any lien as a result thereof. No action in connection with a common facility shall be binding upon any city unless authorized or approved by resolution or ordinance of its governing body.

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

[1997 c 230 § 1; 1992 c 11 § 1; 1989 c 249 § 1.]

RCW 35.92.054 May acquire electrical distribution property from public utility district.

Any city or town may acquire by purchase or condemnation from any public utility district or combination of public utility districts any electrical distribution property within the boundaries of such city or town: PROVIDED, That such right of condemnation shall not apply to a city or town located within a public utility district that owns the electric distribution properties sought to be condemned.

[1965 c 7 § 35.92.054. Prior: 1953 c 97 § 1; 1951 c 272 § 1. Formerly RCW 80.40.054.]

Notes:
Right of county-wide utility district to acquire distribution properties: RCW 54.32.040.

RCW 35.92.060 Authority to acquire and operate transportation facilities.

A city or town may also construct, condemn and purchase, purchase, acquire, add to, alter, maintain, operate, or lease cable, electric, and other railways, automobiles, motor cars, motor buses, auto trucks, and any and all other forms or methods of transportation of freight or passengers within the corporate limits of the city or town, and a first class city may also construct, purchase, acquire, add to, alter, maintain, operate, or lease cable, electric, and other railways beyond those corporate limits only within the boundaries of the county in which the city is located and of any adjoining county, for the transportation of freight and passengers above, upon, or underneath the ground. It may also fix, alter, regulate, and control the fares and rates to be charged therefor; and fares or rates may be adjusted or eliminated for any distinguishable class of users including, but not limited to, senior citizens, handicapped persons, and students. Without the payment of any license fee or tax, or the filing of a bond with, or the securing of a permit from, the state, or any department thereof, the city or town may engage in, carry on, and operate the business of transporting and carrying passengers or freight for hire by any method or combination of methods that the legislative authority of any city or town may by ordinance

provide, with full authority to regulate and control the use and operation of vehicles or other agencies of transportation used for such business.

[1995 c 42 § 1; 1991 c 124 § 1; 1990 c 43 § 49; 1985 c 445 § 10; 1981 c 25 § 2; 1965 c 7 § 35.92.060. Prior: 1957 c 288 § 7; 1957 c 209 § 7; prior: 1947 c 214 § 1, part; 1933 c 163 § 1, part; 1931 c 53 § 1, part; 1923 c 173 § 1, part; 1913 c 45 § 1, part; 1909 c 150 § 1, part; 1899 c 128 § 1, part; 1897 c 112 § 1, part; 1893 c 8 § 1, part; 1890 p 520 § 1, part; Rem. Supp. 1947 § 9488, part. Formerly RCW 80.40.060.]

Notes:

Construction--Severability--Headings--1990 c 43: See notes following RCW 81.100.010.

Public transportation systems, financing, purchase of leased systems: Chapter 35.95 RCW.

RCW 35.92.070 Procedure--Election.

When the governing body of a city or town deems it advisable that the city or town purchase, acquire, or construct any such public utility, or make any additions and betterments thereto or extensions thereof, it shall provide therefor by ordinance, which shall specify and adopt the system or plan proposed, and declare the estimated cost thereof, as near as may be, and the ordinance shall be submitted for ratification or rejection by majority vote of the voters of the city or town at a general or special election.

(1) No submission shall be necessary:

(a) When the work proposed is an addition to, or betterment of, extension of, or an increased water supply for existing waterworks, or an addition, betterment, or extension of an existing system or plant of any other public utility;

(b) When in the charter of a city a provision has been adopted authorizing the corporate authorities thereof to provide by ordinance for acquiring, opening, or operating any of such public utilities; or

(c) When in the judgment of the corporate authority, the public health is being endangered by the discharge of raw or untreated sewage into any body of water and the danger to the public health may be abated by the construction and maintenance of a sewage disposal plant.

(2) Notwithstanding subsection (1) of this section, submission to the voters shall be necessary if:

(a) The project or work may produce electricity for sale in excess of present or future needs of the water system;

(b) The city or town does not own or operate an electric utility system;

(c) The work involves an ownership greater than twenty-five percent in a new water supply project combined with an electric generation facility; and

(d) The combined facility has an installed capacity in excess of five megawatts.

(3) Notwithstanding subsection (1) of this section, submission to the voters shall be necessary to make extensions to a public utility which would expand the previous service capacity by fifty percent or more, where such increased service capacity is financed by the issuance of general obligation bonds.

(4) Thirty days' notice of the election shall be given in the official newspaper of the city

or town, by publication at least once each week in the paper during such time.

(5) When a proposition has been adopted, or in the cases where no submission is necessary, the corporate authorities of the city or town may proceed forthwith to purchase, construct, and acquire the public utility or make additions, betterments, and extensions thereto and to make payment therefor.

[1987 c 145 § 1. Prior: 1985 c 445 § 11; 1985 c 444 § 3; 1965 c 7 § 35.92.070; prior: 1941 c 147 § 1; 1931 c 53 § 2; 1909 c 150 § 2; 1901 c 85 § 1; 1897 c 112 § 2; 1893 c 8 § 2; 1891 c 141 § 1; 1890 p 520 § 2; Rem. Supp. 1941 § 9489. Formerly RCW 80.40.070.]

Notes:

Intent--Construction--Severability--1985 c 444: See notes following RCW 35.92.010.

Elections: Title 29 RCW.

Notice of elections: RCW 29.27.080.

RCW 35.92.075 Indebtedness incurred on credit of expected utility revenues.

A city or town may contract indebtedness and borrow money for a period not in excess of two years for any public utility purpose on the credit of the revenues expected from such public utility.

[1982 c 24 § 1.]

RCW 35.92.080 General obligation bonds.

General obligation bonds may be issued by a city or town for the purposes of providing all or part of the costs of purchasing, acquiring, or constructing a public utility or making any additions, betterments, or alterations thereto, or extensions thereof. The bonds shall be issued and sold in accordance with chapter 39.46 RCW.

There shall be levied each year a tax upon the taxable property of the city or town sufficient to pay the interest on and principal of the bonds then due, which taxes shall become due and collectible as other taxes: PROVIDED, That it may pledge to the payment of such principal and interest the revenue of the public utility being acquired, constructed, or improved out of the proceeds of sale of such bonds. Such pledge of revenue shall constitute a binding obligation, according to its terms, to continue the collection of such revenue so long as such bonds or any of them are outstanding, and to the extent that revenues are insufficient to meet the debt service requirements on such bonds, the governing body of the municipality shall provide for the levy of taxes sufficient to meet such deficiency.

[1985 c 445 § 12; 1984 c 186 § 23; 1983 c 167 § 67; 1970 ex.s. c 56 § 47; 1969 ex.s. c 232 § 24; 1967 c 107 § 1; 1965 c 118 § 2; 1965 c 7 § 35.92.080. Prior: 1909 c 150 § 3, part; RRS § 9490, part. Formerly RCW 80.40.080.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 35.92.090 Limit of indebtedness.

The total general indebtedness incurred under this chapter, added to all other indebtedness of a city or town at any time outstanding, shall not exceed the amounts of indebtedness authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred without and with the assent of the voters: PROVIDED, That a city or town may become indebted to a larger amount, but not exceeding the amount authorized therefor by chapter 39.36 RCW, as now or hereafter amended, for supplying it with water, artificial light, and sewers when works for supplying such water, light, and sewers are owned and controlled by the city or town.

[1965 c 7 § 35.92.090. Prior: 1909 c 150 § 3, part; RRS § 9490, part. Formerly RCW 80.40.090.]

Notes:

Limitations upon indebtedness: State Constitution Art. 7 § 2 (Amendments 55, 59), Art. 8 § 6 (Amendment 27), RCW 84.52.050.

RCW 35.92.100 Revenue bonds or warrants.

(1) When the voters of a city or town, or the corporate authorities thereof, have adopted a proposition for any public utility and either no general indebtedness has been authorized or the corporate authorities do not desire to incur a general indebtedness, and when the corporate authorities are authorized to exercise any of the powers conferred by this chapter without submitting the proposition to a vote, the corporate authorities may create a special fund for the sole purpose of defraying the cost of the public utility or addition, betterment, or extension thereto, into which special fund they may obligate and bind the city or town to set aside and pay a fixed proportion of the gross revenues of the utility, or any fixed amount out of and not exceeding a fixed proportion of such revenues, or a fixed amount without regard to any fixed proportion, and issue and sell bonds or warrants bearing interest at a rate or rates as authorized by the corporate authorities; payable semiannually, executed in such manner and payable at such times and places as the corporate authorities shall determine, but the bonds or warrants and the interest thereon shall be payable only out of the special fund and shall be a lien and charge against payments received from any utility local improvement district assessments pledged to secure such bonds. Such bonds shall be negotiable instruments within the meaning of the negotiable instruments law, Title 62A RCW, notwithstanding same are made payable out of a particular fund contrary to the provisions of RCW 62A.3-105. Such bonds and warrants may be of any form, including bearer bonds or bearer warrants, or registered bonds or registered warrants as provided in RCW 39.46.030.

When corporate authorities deem it necessary to construct any sewage disposal plant, it may be considered as a part of the waterworks department of the city or town and the cost of construction and maintenance thereof may be chargeable to the water fund of the municipality, or to any other special fund which the corporate authorities may by ordinance designate.

In creating a special fund, the corporate authorities shall have due regard to the cost of operation and maintenance of the plant or system as constructed or added to, and to any proportion or part of the revenue previously pledged as a fund for the payment of bonds, warrants, or other indebtedness, and shall not set aside into such special fund a greater amount or

proportion of the revenue and proceeds than in their judgment will be available above such cost of maintenance and operation and the amount or proportion, if any, of the revenue so previously pledged. Rates shall be maintained adequate to service such bonds and to maintain the utility in sound financial condition.

The bonds or warrants and interest thereon issued against any such fund shall be a valid claim of the owner thereof only as against the special fund and its fixed proportion or amount of the revenue pledged thereto, and shall not constitute an indebtedness of the city or town within the meaning of constitutional provisions and limitations. Each bond or warrant shall state upon its face that it is payable from a special fund, naming it and the ordinance creating it. The bonds and warrants shall be sold in such manner as the corporate authorities shall deem for the best interest of the city or town, and they may provide in any contract for the construction and acquirement of the proposed improvement that payment therefor shall be made only in such bonds and warrants at par value thereof.

When a special fund is created and any such obligation is issued against it, a fixed proportion, or a fixed amount out of and not exceeding such fixed proportion, or a fixed amount without regard to any fixed proportion, of revenue shall be set aside and paid into such fund as provided in the ordinance creating it, and in case the city or town fails to thus set aside and pay such fixed proportion or amount, the owner of any bond or warrant against the fund may bring action against the city or town and compel such setting aside and payment: PROVIDED, That whenever the corporate authorities of any city or town shall so provide by ordinance then all such bonds thereafter issued shall be on a parity, without regard to date of issuance or authorization and without preference or priority of right or lien with respect to participation of special funds in amounts from gross revenues for payment thereof.

(2) Notwithstanding subsection (1) of this section, such bonds and warrants may be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 68; 1983 c 3 § 57; 1970 ex.s. c 56 § 48; 1969 ex.s. c 232 § 25; 1967 c 52 § 25; 1965 c 7 § 35.92.100. Prior: 1953 c 231 § 1; 1931 c 53 § 3; 1909 c 150 § 4; RRS § 9491. Formerly RCW 80.40.100.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

Construction--Severability--1967 c 52: See notes following RCW 35.43.042.

Alternative authority to issue revenue bonds: RCW 39.46.150, 39.46.160.

Funds for reserve purposes may be included in issue amount: RCW 39.44.140.

Instruments payable from a particular fund: RCW 62A.3-105.

Municipal revenue bond act: Chapter 35.41 RCW.

RCW 35.92.105 Revenue bonds, warrants, or other evidences of indebtedness for energy or water conservation programs.

A city or town engaged in the sale or distribution of water or energy may issue revenue bonds, warrants, or other evidences of indebtedness in the manner provided by this chapter for

the purpose of defraying the cost of financing programs for the conservation or more efficient use of energy or water. The bonds, warrants, or other evidences of indebtedness shall be deemed to be for capital purposes within the meaning of the uniform system of accounts for municipal corporations.

[1992 c 25 § 1; 1981 c 273 § 1.]

Notes:
Uniform system of accounts for local governments: RCW 43.09.200.

RCW 35.92.110 Funding or refunding bonds.

The legislative authority of a city or town which has any outstanding warrants or bonds issued for the purpose of purchasing, acquiring, or constructing any such public utility or for making any additions or betterments thereto or extensions thereof, whether the warrants or bonds are general obligation warrants or bonds of the municipality or are payable solely from a special fund, into which fund the city or town is bound and obligated to set aside and pay any proportion or part of the revenue of the public utility, for the purchase, acquisition, or construction of which utility or the making of any additions and betterments thereto or extensions thereof such outstanding warrants or bonds were issued, may, without submitting the matter to the voters, provide for the issuance of funding or refunding bonds with which to take up, cancel, retire, and refund such outstanding warrants or bonds, or any part thereof, at maturity thereof, or before the maturity thereof, if they are subject to call for prior redemption.

[1965 c 7 § 35.92.110. Prior: 1935 c 81 § 1; RRS § 9492-1. Formerly RCW 80.40.110.]

RCW 35.92.120 Funding or refunding bonds--Bonds not general obligation.

Such funding or refunding bonds shall not be a general indebtedness of the city or town, but shall be payable solely from a special fund created therefor by ordinance. Each bond shall state upon its face that it is payable from a special fund, naming the fund and the ordinance creating it.

[1965 c 7 § 35.92.120. Prior: 1935 c 81 § 2; RRS § 9492-2. Formerly RCW 80.40.120.]

RCW 35.92.130 Funding or refunding bonds--Single issue may refund multiple series.

At the option of the legislative authority of the city or town various series and issues of outstanding warrants or bonds, or parts thereof, issued for the purpose of acquiring or constructing any public utility, or for making any additions or betterments thereto or extensions thereof, may be funded or refunded by a single issue of funding or refunding bonds. No proportion or part of the revenue of any one such public utility shall be pledged for the payment of funding or refunding bonds issued to fund or refund warrants or bonds issued for the acquisition or construction, or the making of additions or betterments to or extensions of, any other public utility.

[1965 c 7 § 35.92.130. Prior: 1935 c 81 § 3; RRS § 9492-3. Formerly RCW 80.40.130.]

RCW 35.92.140 Funding or refunding bonds--Issuance of bonds--Ordinance.

When the legislative authority of a city or town determines to issue such funding or refunding bonds, it shall provide therefor by ordinance, which shall create a special fund for the sole purpose of paying the bonds and the interest thereon, into which fund the ordinance shall bind and obligate the city or town to set aside and pay a fixed amount without regard to any fixed proportion out of the gross revenue of the public utility as provided therein. In creating such special fund, the legislative authority shall have due regard to the cost of operation and maintenance of the utility as constructed or added to, and to any proportion or part of the revenue thereof previously pledged as a fund for the payment of bonds, warrants, or other indebtedness, and shall not bind and obligate the city or town to set aside into the fund a greater amount of the revenue of the utility than in its judgment will be available above the cost of maintenance and operation and the amount or proportion of the revenue thereof so previously pledged.

[1965 c 7 § 35.92.140. Prior: 1935 c 81 § 4, part; RRS § 9492-4, part. Formerly RCW 80.40.140.]

RCW 35.92.150 Funding or refunding bonds--Terms of bonds.

(1) Such funding or refunding bonds, together with the interest thereon, issued against the special fund shall be a valid claim of the owner thereof only as against such fund, and the amount of the revenue of the utility pledged thereto, and shall not constitute an indebtedness of the city or town within the meaning of constitutional or statutory provisions and limitations. They shall be sold in such manner as the corporate authorities shall deem for the best interest of the municipality. The effective rate of interest on the bonds shall not exceed the effective rate of interest on warrants or bonds to be funded or refunded thereby. Interest on the bonds shall be paid semiannually. The bonds shall be executed in such manner and payable at such time and place as the legislative authority shall by ordinance determine. Nothing in this chapter shall prevent a city or town from funding or refunding any of its indebtedness in any other manner provided by law. Such bonds may be of any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 69; 1965 c 7 § 35.92.150. Prior: 1935 c 81 § 4, part; RRS § 9492-4, part. Formerly RCW 80.40.150.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 35.92.160 Funding or refunding bonds--Recourse of bond owners.

When such funding or refunding bonds have been issued and the city or town fails to set aside and pay into the special fund from which they are payable, the amount without regard to any fixed proportion out of the gross revenue of the public utility which the city or town has, by

ordinance, bound and obligated itself to set aside and pay into the special fund, the owner of any funding or refunding bond may bring action against the city or town and compel such setting aside and payment.

[1983 c 167 § 70; 1965 c 7 § 35.92.160. Prior: 1935 c 81 § 5; RRS § 9492-5. Formerly RCW 80.40.160.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 35.92.170 City may extend water system outside limits.

When a city or town owns or operates a municipal waterworks system and desires to extend such utility beyond its corporate limits it may acquire, construct and maintain any addition to or extension of the system, and dispose of and distribute water to any other municipality, water-sewer district, community, or person desiring to purchase it.

[1999 c 153 § 40; 1965 c 7 § 35.92.170. Prior: 1933 ex.s. c 17 § 1; RRS § 9502-1. Cf. 1917 c 12 § 1. Formerly RCW 80.40.170.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

Water-sewer districts: Title 57 RCW.

RCW 35.92.180 City may extend water system outside limits--May acquire property outside city.

A city or town may construct, purchase, or acquire any waterworks, pipe lines, distribution systems and any extensions thereof, necessary to furnish such outside service.

[1965 c 7 § 35.92.180. Prior: 1933 ex.s. c 17 § 2; RRS § 9502-2. Cf. 1917 c 12 § 1. Formerly RCW 80.40.180.]

RCW 35.92.190 City may extend water system outside limits--Cannot condemn irrigation system.

No city or town may exercise the power of eminent domain to take or damage any waterworks, storage reservoir, site, pipe line distribution system or any extension thereof, or any water right, water appropriation, dam, canal, plant, or any interest in, or to any of the above used, operated, held, or owned by an irrigation district.

[1965 c 7 § 35.92.190. Prior: 1933 ex.s. c 17 § 2A; RRS § 9502-2A. Formerly RCW 80.40.190.]

Notes:

Eminent domain by cities: Chapter 8.12 RCW.

RCW 35.92.200 City may extend water system outside limits--Contracts for outside service.

A city or town may enter into a firm contract with any outside municipality, community, corporation, or person, for furnishing them with water without regard to whether said water shall

be considered as surplus or not and regardless of the source from which such water is obtained, which contract may fix the terms upon which the outside distribution systems will be installed and the rates at which and the manner in which payment shall be made for the water supplied or for the service rendered.

[1965 c 7 § 35.92.200. Prior: 1961 c 125 § 1; 1957 c 288 § 8; 1933 ex.s. c 17 § 3; RRS § 9502-3. Cf. 1917 c 12 § 1. Formerly RCW 80.40.200.]

RCW 35.92.220 Acquisition of water rights--Consolidation of irrigation assessment districts.

(1) A city or town, situated within or served by, an irrigation project, or projects, owned or operated by the United States government, a water users' association, associations, corporation, or corporations or another city or town or towns, where the legislative authority deems it feasible to furnish water for irrigation and domestic purposes, or either, and where the water used for irrigation and domestic purposes or either, is appurtenant or may become appurtenant to the land located within such city or town, may purchase, lease, or otherwise acquire water or water rights for the purpose of furnishing the city or town and the inhabitants thereof with a supply of water for irrigation and domestic purposes, or either; purchase, construct, or otherwise acquire systems and means of distribution and delivery of water within and without the limits of the city or town, or for the delivery of water where the owner of land within the city or town owns a water right appurtenant to his or her land, with full power to maintain, repair, reconstruct, regulate, and control the same, and if private property is necessary for such purposes, the city or town may condemn and purchase or purchase and acquire property, enter into any contract, and order any and all work to be done that is necessary to carry out such purposes, and it may do so either by the entire city or town or by assessment districts, consisting of the whole or any portion thereof, as the legislative authority of the city or town may determine.

(2) The legislative authority of any city or town may by ordinance authorize the consolidation of separate irrigation assessment districts, previously established pursuant to this section, for the purposes of construction or rehabilitation of improvements, or of ongoing administration, service, repair, and reconstruction of irrigation systems. The separate irrigation assessment districts to be consolidated need not be adjoining, vicinal, or neighboring. If the legislative authority orders the creation of such consolidated irrigation assessment districts, the money received and on hand from assessments levied within the original districts shall be deposited in a consolidated fund to be used by the municipality for future expenses within the consolidated district.

[1995 c 89 § 1; 1965 c 130 § 1; 1965 c 7 § 35.92.220. Prior: 1915 c 112 § 1; RRS § 9495. Formerly RCW 80.40.220.]

RCW 35.92.230 Acquisition of water rights--Special assessments.

For the purpose of paying for a water right purchased by the city or town from the United

States government where the purchase price has not been fully paid; paying annual maintenance or annual rental charge to the United States government or any corporation or individual furnishing the water for irrigation and domestic purposes, or either; paying assessments made by any water users' association; paying the cost of constructing or acquiring any system or means of distribution or delivery of water for such purposes; and for the upkeep, repair, reconstruction, operation, and maintenance thereof; accumulating reasonable operating fund reserves to pay for system upkeep, repair, operation, and maintenance, in such amount as is determined by the city or town legislative authority; accumulating reasonable capital fund reserves in an amount not to exceed the total estimated cost of system construction, reconstruction, or refurbishment, over such period of time as is determined by the city or town legislative authority; and for any expense incidental to such purposes, the city or town may levy and collect special assessments against the property within any district created pursuant to RCW 35.92.220, to pay the whole or any part of any such costs and expenses.

[1995 c 89 § 2; 1965 c 130 § 2; 1965 c 7 § 35.92.230. Prior: 1915 c 112 § 2; RRS § 9496. Formerly RCW 80.40.230.]

RCW 35.92.240 Acquisition of water rights--Levy of assessments.

All such assessments shall be levied upon the several parcels of land located within the local improvement district in accordance to the special benefits conferred on such property in proportion to the surface area, one square foot of surface to be the unit of assessment: PROVIDED, That where the water right is acquired or a special improvement is made for a portion of any district, the cost of the water right or the cost of such special improvement shall be levied in the same manner upon such portion of the district as shall be specially benefited thereby: PROVIDED FURTHER, That whenever a special improvement is made for a portion of any district, the land assessed for the cost thereof shall be entitled to an equitable reduction in the annual assessments in proportion to the reduced cost of operation on account of the construction of the improvement.

[1965 c 7 § 35.92.240. Prior: 1915 c 112 § 3; RRS § 9497. Formerly RCW 80.40.240.]

RCW 35.92.250 Acquisition of water rights--District property need not be contiguous.

One local improvement district may be established for any or all of the purposes embraced herein even though the area assessed for such purposes may not coincide or be contiguous: PROVIDED, That whenever the legislative body of the city or town decides to construct a special improvement in a distribution system, a separate local improvement district may be formed for such portion and bonds may be issued therefor as provided in the general local improvement law.

[1965 c 7 § 35.92.250. Prior: 1915 c 112 § 4; RRS § 9498. Formerly RCW 80.40.250.]

Notes:

Creation of local improvement districts: Chapter 35.43 RCW.

Issuance of bonds to pay for local improvements: Chapters 35.45, 35.48 RCW.

RCW 35.92.260 Acquisition of water rights--Mode of assessment.

When a city or town makes local improvements for any of the purposes specified in RCW 35.92.220 and RCW 35.92.230, as now or hereafter amended, the proceedings relative to the creation of districts, financing of improvements, levying and collecting assessments and all other procedure shall be had, and the legislative authority shall proceed in accordance with the provisions of the laws relating to local improvement districts in cities of the first class: PROVIDED, That when the improvement is initiated upon petition, the petition shall set forth the fact that the signers are the owners according to the records in the office of the county auditor, of property to an aggregate amount of a majority of the surface area within the limits of the assessment district to be created: PROVIDED FURTHER, That when an assessment is made for any purpose other than the construction or reconstruction of any system or means of distribution or delivery of water, it shall not be necessary for the legislative authority to be furnished with a statement of the aggregate assessed valuation of the real estate exclusive of improvements in the district according to the valuation last placed upon it for purposes of general taxation, or the estimated amount of the cost of the improvement to be borne by each tract of land or other property, but a statement by the engineer or other officer, showing the estimated cost of the improvement per square foot, shall be sufficient: PROVIDED FURTHER, That when the legislative authority of a city or town shall deem it necessary to levy special assessments for the purposes specified in RCW 35.92.230, as now or hereafter amended, other than for the purpose of paying the costs of acquiring, constructing or reconstructing any system or means of distribution or delivery of water for irrigation or domestic purposes, the legislative authority for such city or town may hold a single hearing on the assessment rolls for all irrigation local improvement districts within the city or town. Such legislative authority shall fix the date of such hearing and shall direct the city or town clerk to give notice thereof, in the form prescribed by RCW 35.44.080, by publication thereof in a legal newspaper of general circulation in the city or town, once, not less than fifteen days prior to the date fixed for hearing; and by mailing, not less than fifteen days prior to the date fixed for hearing, notice thereof to the owner or reputed owner of each item of property described on the assessment roll whose name appears on such roll at the address of such owner or reputed owner shown on the tax rolls of the county treasurer for each such item of property: PROVIDED FURTHER, That when an assessment roll is once prepared and does not include the cost of purchase, construction, or reconstruction of works of delivery or distribution and the legislative authority of such city or town decides to raise a similar amount the ensuing year, it shall not be necessary to prepare a new assessment roll, but the legislative authority may pass a resolution of intention estimating the cost for the ensuing year to be the same as the preceding year, and directing the clerk to give notice stating the estimated cost per square foot of all land within the district and refer persons interested to the books of the treasurer, and fixing the date for a hearing on such assessment roll. Notice of such hearing shall be given by the city or town clerk in the form and manner required in the preceding proviso. The treasurer shall be present at the hearing and shall note any changes on his books.

The legislative authority shall have the same right to make changes in the assessment roll as in an original assessment, and after all changes have been made it shall, by ordinance, confirm the assessment and direct the treasurer to extend it on the books of his office.

[1965 c 130 § 3; 1965 c 7 § 35.92.260. Prior: 1915 c 112 § 5; RRS § 9499. Formerly RCW 80.40.260.]

RCW 35.92.263 Acquisition of water rights--Water rights acquired by purchase of shares in water users' association or corporation--Authority to acquire and hold shares.

Whenever the public interest, welfare, convenience and necessity require that a city or town acquire water rights for the purposes set forth in RCW 35.92.220, as now or hereafter amended, and that such water rights be acquired through the purchases of shares in a water users' association or corporation, such city or town shall have full authority and power to acquire, or to hold in trust, such shares as shall be necessary for said purposes.

[1965 c 130 § 4.]

RCW 35.92.265 Acquisition of water rights--Existing local improvement districts validated--Debts, obligations, assessments, etc., declared legal and valid.

Each and all of the respective areas of land heretofore organized into local improvement assessment districts for irrigation or domestic water supply purposes including all areas annexed thereto, under the provisions of chapter 112, Laws of 1915, codified as RCW 35.92.220-35.92.260, whether organized by or within a city or town other than a city of the first class or by or within a city of the first class, are hereby validated and declared to be duly existing local improvement districts having the respective boundaries set forth in their organization or annexation proceedings as shown by the files in the office of the clerk of the city or town in which formed. All debts, contracts and obligations heretofore made or incurred by or in favor of any such local improvement district and any and all assessments or levies and all other things and proceedings done or taken by the city or town within, and by which such districts were organized, under or in pursuance of such organization, and under or in pursuance of the levy and collection of special assessments by the city or town to pay the whole or any part of the cost and expense or upkeep, repair, reconstruction, operation and maintenance of such local improvement districts and any expense incident to said purposes are hereby declared legal and valid and in full force and effect.

[1965 c 130 § 5.]

RCW 35.92.270 Passenger transportation systems--Authority to make studies--Contracts with and acquisition of privately owned systems.

Every passenger transportation system owned by a municipal corporation may:

(1) Engage in planning, studies and surveys with respect to areas within and beyond the corporate boundaries of such municipal corporation, in order to develop a sound factual basis for

any possible future adjustment or expansion of such municipally owned passenger transportation system;

(2) Purchase or lease privately owned passenger transportation systems: PROVIDED, That such purchases shall not, per se, extend the area of service of such municipally owned passenger transportation system;

(3) Contract with privately owned passenger transportation systems in order to provide adequate service in the service area of the municipal transportation system.

[1965 c 7 § 35.92.270. Prior: 1957 c 114 § 1. Formerly RCW 80.40.270.]

RCW 35.92.275 Assumption of obligations of private pension plan when urban transportation system acquired.

See RCW 54.04.160.

RCW 35.92.280 Cities over 150,000, joint undertaking with P.U.D. as to electric utility properties--"Electric utility properties" defined.

As used in RCW 35.92.280 through 35.92.310 "electric utility properties" shall mean any and all permits, licenses, property rights, water rights and any and all works, plants, dams, powerhouses, transmission lines, switchyards, substations, property and facilities of every kind and character which may be used, or may be useful, in the generation and transmission of electric power and energy, produced by water power, steam or any other methods.

[1965 c 7 § 35.92.280. Prior: 1957 c 287 § 1. Formerly RCW 80.40.280.]

RCW 35.92.290 Cities over 150,000, joint undertaking with P.U.D. as to electric utility properties--Agreements.

Any city or town with a population over one hundred fifty thousand within the state of Washington owning an electric public utility is authorized to cooperate with any public utility district within this state in the joint acquisition, purchase, construction, ownership, maintenance and operation, within or without the respective limits of any such city or town or public utility district, of electric utility properties. The respective governing bodies of any such city or town and of any such public utility district desiring to cooperate in the joint ownership, maintenance and operation of electric utility properties pursuant to the authority contained in RCW 35.92.280 through 35.92.310, shall by mutual agreement provide for such joint ownership, maintenance and operation. Such agreement shall prescribe the rights and property interest which the parties thereto shall have in such electric utility properties, which property interest may be either divided or undivided; and shall further provide for the rights of the parties thereto in the ownership and disposition of the power and energy produced by such electric utility properties, and for the operation and management thereof.

[1965 c 7 § 35.92.290. Prior: 1957 c 287 § 2. Formerly RCW 80.40.290.]

RCW 35.92.300 Cities over 150,000, joint undertaking with P.U.D. as to electric utility properties--Financing.

Any city or town and any public utility district cooperating under the provisions of RCW 35.92.280 through 35.92.310 may, without an election or other proceedings under any existing law, contribute money and property, both real and personal, to any joint undertaking pursuant hereto, and may issue and sell revenue bonds to pay its respective share of the costs of acquisition and construction of such electric utility properties. Such bonds shall be issued under the provisions of applicable laws authorizing the issuance of revenue bonds for the acquisition and construction of electric public utility properties by cities, towns and public utility districts, as the case may be.

[1965 c 7 § 35.92.300. Prior: 1957 c 287 § 3. Formerly RCW 80.40.300.]

Notes:

Revenue bonds and warrants issued by

cities and towns to finance acquisition of public utilities: RCW 35.92.100.

public utility districts: Chapter 54.24 RCW.

RCW 35.92.310 Cities over 150,000, joint undertaking with P.U.D. as to electric utility properties--Authority granted is additional power.

The authority and power granted by RCW 35.92.280 through 35.92.310 is an additional grant of power to cities, towns, and public utility districts to acquire and operate electric public utilities, and the provisions hereof shall be construed liberally to effectuate the authority herein conferred, and no restriction or limitation prescribed in any other law shall prohibit the cities, towns and public utility districts of this state from exercising the authority herein conferred: PROVIDED, That nothing in RCW 35.92.280 through 35.92.310 shall authorize any public utility district or city cooperating under the provisions of RCW 35.92.280 through 35.92.310 to condemn any property owned or operated by any privately owned utility.

[1965 c 7 § 35.92.310. Prior: 1957 c 287 § 4. Formerly RCW 80.40.310.]

RCW 35.92.350 Electrical construction or improvement--Bid proposals--Contract proposal forms--Conditions for issuance--Refusal--Appeal.

Any city or town owning an electrical utility shall require that bid proposals upon any electrical construction or improvement shall be made upon contract proposal form supplied by the governing authority of such utility, and in no other manner. The governing authority shall, before furnishing any person, firm or corporation desiring to bid upon any electrical work with a contract proposal form, require from such person, firm or corporation, answers to questions contained in a standard form of questionnaire and financial statement, including a complete statement of the financial ability and experience of such person, firm, or corporation in performing electrical work. Such questionnaire shall be sworn to before a notary public or other

person authorized to take acknowledgment of deeds, and shall be submitted once a year and at such other times as the governing authority may require. Whenever the governing authority is not satisfied with the sufficiency of the answers contained in such questionnaire and financial statement or whenever the governing authority determines that such person, firm, or corporation does not meet all of the requirements hereinafter set forth it may refuse to furnish such person, firm or corporation with a contract proposal form and any bid proposal of such person, firm or corporation must be disregarded. In order to obtain a contract proposal form, a person, firm or corporation shall have all of the following requirements:

(1) Adequate financial resources, or the ability to secure such resources;

(2) The necessary experience, organization, and technical qualifications to perform the proposed contract;

(3) The ability to comply with the required performance schedule taking into consideration all of its existing business commitments;

(4) A satisfactory record of performance, integrity, judgment, and skills; and

(5) Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

Such refusal shall be conclusive unless appeal therefrom to the superior court of the county where the utility district is situated or Thurston county be taken within fifteen days, which appeal shall be heard summarily within ten days after the same is taken and on five days' notice thereof to the governing authority of the utility.

[1971 ex.s. c 220 § 1.]

RCW 35.92.355 Energy conservation--Legislative findings.

The conservation of energy in all forms and by every possible means is found and declared to be a public purpose of highest priority. The legislature further finds and declares that all municipal corporations, quasi municipal corporations, and other political subdivisions of the state which are engaged in the generation, sale, or distribution of energy should be granted the authority to develop and carry out programs which will conserve resources, reduce waste, and encourage more efficient use of energy by consumers.

In order to establish the most effective state-wide program for energy conservation, the legislature hereby encourages any company, corporation, or association engaged in selling or furnishing utility services to assist their customers in the acquisition and installation of materials and equipment, for compensation or otherwise, for the conservation or more efficient use of energy. The use of appropriate tree plantings for energy conservation is encouraged as part of these programs.

[1993 c 204 § 5; 1979 ex.s. c 239 § 1.]

Notes:

Findings--1993 c 204: See note following RCW 35.92.390.

Effective date--Contingency--1979 ex.s. c 239: See note following RCW 35.92.360.

RCW 35.92.360 Energy conservation plan--Financing authorized for energy conservation projects in structures or equipment--Limitations.

Any city or town engaged in the generation, sale, or distribution of energy is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of structures or equipment in financing the acquisition and installation of materials and equipment, for compensation or otherwise, for the conservation or more efficient use of energy in such structures or equipment pursuant to an energy conservation plan adopted by the city or town if the cost per unit of energy saved or produced by the use of such materials and equipment is less than the cost per unit of energy produced by the next least costly new energy resource which the city or town could acquire to meet future demand. Any financing authorized under this chapter shall only be used for conservation purposes in existing structures, and such financing shall not be used for any purpose which results in a conversion from one energy source to another. Except where otherwise authorized, such assistance shall be limited to:

(1) Providing an inspection of the structure or equipment, either directly or through one or more inspectors under contract, to determine and inform the owner of the estimated cost of purchasing and installing conservation materials and equipment for which financial assistance will be approved and the estimated life cycle savings in energy costs that are likely to result from the installation of such materials or equipment;

(2) Providing a list of businesses who sell and install such materials and equipment within or in close proximity to the service area of the city or town, each of which businesses shall have requested to be included and shall have the ability to provide the products in a workmanlike manner and to utilize such materials in accordance with the prevailing national standards.

(3) Arranging to have approved conservation materials and equipment installed by a private contractor whose bid is acceptable to the owner of the residential structure and verifying such installation; and

(4) Arranging or providing financing for the purchase and installation of approved conservation materials and equipment. Such materials and equipment shall be purchased from a private business and shall be installed by a private business or the owner.

(5) Pay back shall be in the form of incremental additions to the utility bill, billed either together with use charge or separately. Loans shall not exceed one hundred twenty months in length.

[1989 c 268 § 1; 1979 ex.s. c 239 § 2.]

Notes:

Effective date--Contingency--1979 ex.s. c 239: "This 1979 act shall take effect on the same date as the proposed amendment to Article VIII of the state Constitution, authorizing the use of public moneys or credit to promote conservation or more efficient use of energy, is validly submitted and is approved and ratified by the voters at a general election held in November, 1979. If the proposed amendment is not so approved and ratified, this 1979 act shall be null and void in its entirety." [1979 ex.s. c 239 § 4.] The referenced constitutional amendment (1979 Substitute Senate Joint Resolution No. 120) was approved by the voters on November 6, 1979. See Article VIII, section 10 of the state Constitution.

RCW 35.92.365 Tariff for irrigation pumping service--Authority to buy back electricity.

The council or board may approve a tariff for irrigation pumping service that allows the municipal utility to buy back electricity from customers to reduce electricity usage by those customers during the municipal utility's particular irrigation season.

[2001 c 122 § 3.]

NOTES:

Effective date--2001 c 122: See note following RCW 80.28.310.

RCW 35.92.370 Lease of real property under electrical transmission lines for private gardening purposes.

A city or town owning facilities for the purpose of furnishing the city or town and its inhabitants with electricity may lease for private gardening purposes the real property under its electrical transmission and distribution lines for a nominal rent to any person who has an income of less than ten thousand dollars per year.

[1981 c 100 § 1.]

RCW 35.92.380 Waiver or delay of collection of tap-in charges, connection or hookup fees for low income persons.

Whenever a city or town waives or delays collection of tap-in charges, connection fees, or hookup fees for low income persons, or class of low income persons, to connect to lines or pipes used by the city or town to provide utility service, the waiver or delay shall be pursuant to a program established by ordinance. As used in this section, the provision of "utility service" includes, but is not limited to, water, sanitary or storm sewer service, electricity, gas, other means of power, and heat.

[1980 c 150 § 1.]

RCW 35.92.390 Municipal utilities encouraged to provide customers with landscaping information and to request voluntary donations for urban forestry.

(1) Municipal utilities under this chapter are encouraged to provide information to their customers regarding landscaping that includes tree planting for energy conservation.

(2) Municipal utilities under this chapter are encouraged to request voluntary donations from their customers for the purposes of urban forestry. The request may be in the form of a check-off on the billing statement or other form of request for a voluntary donation.

[1993 c 204 § 2.]

Notes:

Findings--1993 c 204: "The legislature finds that large-scale reduction of tree cover increases the temperature of urban areas, known as the "heat island effect." Planting trees in urban areas for shading and cooling

mitigates the urban heat island effect and reduces energy consumption. Tree planting also can benefit the environment by combating global climate change, reducing soil erosion, and improving air quality. Urban forestry programs can improve urban aesthetics that will improve public and private property values.

The legislature also finds that urban forestry programs should consider the relationship between urban forests and public service facilities such as water, sewer, natural gas, telephone, and electric power lines. Urban forestry programs should promote the use of appropriate tree species that will not interfere with or cause damage to such public service facilities." [1993 c 204 § 1.]

RCW 35.92.400 Provision of water services and facilities--Contract with Canadian corporation.

A city or town contiguous with Canada may contract with a Canadian corporation for the purchase of water and for the construction, purchase, maintenance, and supply of waterworks to furnish the city or town and other areas within its water service area, and inhabitants thereof, and residents of Canada with an ample supply of water.

[1999 c 61 § 1.]

RCW 35.92.410 Provision of sewer services and facilities--Contract with Canadian corporation.

A city or town contiguous with Canada may contract with a Canadian corporation for the discharge of sewage from all or any portion of the city's or town's sewer service area into the sewer system of the Canadian corporation. A city or town contiguous with Canada may contract with a Canadian corporation for the construction, operation, or maintenance of sewers and sewage treatment and disposal facilities for their joint use and benefit upon such terms and conditions and for such period of time as the contracting parties may determine, which may include vesting one of the contracting parties with the sole authority to construct, operate, or maintain the facilities with the other contracting party or parties paying an agreed-upon portion of the expenses to the party with sole authority to construct, operate, or maintain the facilities.

[1999 c 61 § 2.]

Chapter 35.94 RCW
SALE OR LEASE OF MUNICIPAL UTILITIES

Sections

35.94.010 Authority to sell or let.
35.94.020 Procedure.
35.94.030 Execution of lease or conveyance.
35.94.040 Lease or sale of land or property originally acquired for public utility purposes.
35.94.050 Application of chapter to certain service provider agreements under chapter 70.150 RCW.

RCW 35.94.010 Authority to sell or let.

A city may lease for any term of years or sell and convey any public utility works, plant, or system owned by it or any part thereof, together with all or any equipment and appurtenances thereof.

[1965 c 7 § 35.94.010. Prior: 1917 c 137 § 1; RRS § 9512. Cf. 1907 c 86 §§ 1-3; 1897 c 106 §§ 1-4. Formerly RCW 80.48.010.]

RCW 35.94.020 Procedure.

The legislative authority of the city, if it deems it advisable to lease or sell the works, plant, or system, or any part thereof, shall adopt a resolution stating whether it desires to lease or sell. If it desires to lease, the resolution shall state the general terms and conditions of the lease, but not the rent. If it desires to sell the general terms of sale shall be stated, but not the price. The resolution shall direct the city clerk, or other proper official, to publish the resolution not less than once a week for four weeks in the official newspaper of the city, together with a notice calling for sealed bids to be filed with the clerk or other proper official not later than a certain time, accompanied by a certified check payable to the order of the city, for such amount as the resolution shall require, or a deposit of a like sum in money. Each bid shall state that the bidder agrees that if his bid is accepted and he fails to comply therewith within the time hereinafter specified, the check or deposit shall be forfeited to the city. If bids for a lease are called for, bidders shall bid the amount to be paid as the rent for each year of the term of the lease. If bids for a sale are called for, the bids shall state the price offered. The legislative authority of the city may reject any or all bids and accept any bid which it deems best. At the first meeting of the legislative authority of the city held after the expiration of the time fixed for receiving bids, or at some later meeting, the bids shall be considered. In order for the legislative authority to declare it advisable to accept any bid it shall be necessary for two-thirds of all the members elected to the legislative authority to vote in favor of a resolution making the declaration. If the resolution is adopted it shall be necessary, in order that the bid be accepted, to enact an ordinance accepting it and directing the execution of a lease or conveyance by the mayor and city clerk or other proper official. The ordinance shall not take effect until it has been submitted to the voters of the city for their approval or rejection at the next general election or at a special election called for that purpose, and a majority of the voters voting thereon have approved it. If approved it shall take effect as soon as the result of the vote is proclaimed by the mayor. If it is so submitted and fails of approval, it shall be rejected and annulled. The mayor shall proclaim the vote as soon as it is properly certified.

[1985 c 469 § 40; 1965 c 7 § 35.94.020. Prior: 1917 c 137 § 2; RRS § 9513. Cf. 1907 c 86 §§ 1-3; 1897 c 106 §§ 1-4. Formerly RCW 80.48.020.]

Notes:
Elections: Title 29 RCW.

RCW 35.94.030 Execution of lease or conveyance.

Upon the taking effect of the ordinance the mayor and the city clerk or other proper

official shall execute, in the name and on behalf of the city, the lease or conveyance directed thereby. The lessee or grantee shall accept and execute the instrument within ten days after notice of its execution by the city or forfeit to the city, the amount of the check or deposit accompanying his bid: PROVIDED, That if litigation in good faith is instituted within ten days to determine the rights of the parties, no forfeiture shall take place unless the lessee or grantee fails for five days after the termination of the litigation in favor of the city to accept and execute the lease or conveyance.

[1965 c 7 § 35.94.030. Prior: 1917 c 137 § 3; RRS § 9514. Cf. 1907 c 86 §§ 1-3; 1897 c 106 §§ 1-4. Formerly RCW 80.48.030.]

RCW 35.94.040 Lease or sale of land or property originally acquired for public utility purposes.

Whenever a city shall determine, by resolution of its legislative authority, that any lands, property, or equipment originally acquired for public utility purposes is surplus to the city's needs and is not required for providing continued public utility service, then such legislative authority by resolution and after a public hearing may cause such lands, property, or equipment to be leased, sold, or conveyed. Such resolution shall state the fair market value or the rent or consideration to be paid and such other terms and conditions for such disposition as the legislative authority deems to be in the best public interest.

The provisions of RCW 35.94.020 and 35.94.030 shall not apply to dispositions authorized by this section.

[1973 1st ex.s. c 95 § 1.]

RCW 35.94.050 Application of chapter to certain service provider agreements under chapter 70.150 RCW.

This chapter does not apply to dispositions of utility property in connection with an agreement entered into pursuant to chapter 70.150 RCW provided there is compliance with the procurement procedure under RCW 70.150.040.

[1986 c 244 § 11.]

Notes:

Severability--1986 c 244: See RCW 70.150.905.

Chapter 35.95 RCW
PUBLIC TRANSPORTATION SYSTEMS IN MUNICIPALITIES

Sections

35.95.010 Declaration of intent and purpose.
35.95.020 Definitions.
35.95.030 Appropriation of funds for transportation systems authorized--Referendum.

35.95.040 Levy and collection of excise taxes authorized--Business and occupation tax--Excise tax on residents--Appropriation and use of proceeds--Voter approval.
35.95.050 Collection of tax--Billing.
35.95.060 Funds derived from taxes--Restrictions on classification, etc.
35.95.070 Purchase of leased public transportation system--Purchase price.
35.95.080 Referendum rights not impaired.
35.95.090 Corporate authorities may refer ordinance levying tax to voters.
35.95.100 Public transportation systems.
35.95.900 Severability--1965 ex.s. c 111.

Notes:
Contracts between political subdivisions for services or use of public transportation systems: RCW 39.33.050.
Local sales and use taxes for financing public transportation systems: RCW 82.14.045 through 82.14.060.
Public transportation systems: RCW 35.58.272 through 35.58.2794.

RCW 35.95.010 Declaration of intent and purpose.

We, the legislature find that an increasing number of municipally owned, or leased, and operated transportation systems in the urban areas of the state of Washington, as in the nation, are finding it impossible, from the revenues derived from tolls, tariffs and fares, to maintain the financial solvency of such systems, and as a result thereof such municipalities have been forced to subsidize such systems to the detriment of other essential public services.

All persons in a community benefit from a solvent and adequate public transportation system, either directly or indirectly, and the responsibility of financing the operation, maintenance, and capital needs of such systems is a community obligation and responsibility which should be shared by all.

We further find and declare that the maintenance and operation of an adequate public transportation system is an absolute necessity and is essential to the economic, industrial and cultural growth, development and prosperity of a municipality and of the state and nation, and to protect the health and welfare of the residents of such municipalities and the public in general.

We further find and declare that the appropriation of general funds and levying and collection of taxes by such municipalities as authorized in the succeeding sections of this chapter is necessary, and any funds so derived and expended are for a public purpose for which public funds may properly be used.

[1969 ex.s. c 255 § 1; 1965 ex.s. c 111 § 1.]

Notes:

Construction--Severability--1969 ex.s. c 255: See notes following RCW 35.58.272.

RCW 35.95.020 Definitions.

The following terms however used or referred to in this chapter, shall have the following meanings, unless a different meaning is required by the context:

(1) "Corporate authority" shall mean the council or other legislative body of a

municipality.

(2) "Municipality" shall mean any incorporated city, town, county pursuant to RCW 36.57.100 and 36.57.110, any county transportation authority created pursuant to chapter 36.57 RCW, any public transportation benefit area created pursuant to chapter 36.57A RCW, or any metropolitan municipal corporation created pursuant to RCW 35.58.010, et seq: PROVIDED, That the term "municipality" shall mean in respect to any county performing the public transportation function pursuant to RCW 36.57.100 and 36.57.110 only that portion of the unincorporated area lying wholly within such unincorporated transportation benefit area.

(3) "Person" shall mean any individual, firm, partnership, corporation, company, association, joint stock association, school district or political subdivision of the state, fraternal, benevolent, religious or charitable society, club or organization, and shall include any trustee, receiver, assignee, or other person acting in a similar representative capacity. The term "person" shall not be construed to include the United States nor the state of Washington.

[1975 1st ex.s. c 270 § 3; 1969 ex.s. c 255 § 2; 1967 ex.s. c 145 § 65; 1965 ex.s. c 111 § 2.]

Notes:

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

Severability--Construction--1969 ex.s. c 255: See notes following RCW 35.58.272.

RCW 35.95.030 Appropriation of funds for transportation systems authorized--Referendum.

The corporate authorities of any municipality are authorized to appropriate general funds for the operation, maintenance, and capital needs of municipally owned or leased and municipally operated public transportation systems subject to the right of referendum as provided by statute or charter.

[1965 ex.s. c 111 § 3.]

RCW 35.95.040 Levy and collection of excise taxes authorized--Business and occupation tax--Excise tax on residents--Appropriation and use of proceeds--Voter approval.

The corporate authorities of a municipality are authorized to adopt ordinances for the levy and collection of excise taxes and/or for the imposition of an additional tax for the act or privilege of engaging in business activities. Such business and occupation tax shall be imposed in such amounts as fixed and determined by the corporate authorities of the municipality and shall be measured by the application of rates against value of products, gross proceeds of sales, or gross income of the business, as the case may be. The terms "business", "engaging in business", "gross proceeds of sales", and "gross income of the business" shall for the purpose of this chapter have the same meanings as defined and set forth in chapter 82.04 RCW or as said chapter may hereafter be amended.

The excise taxes other than the business and occupation tax above provided for shall be

levied and collected from all persons within the municipality in such amounts as shall be fixed and determined by the corporate authorities of the municipality: PROVIDED, That such excise tax shall not exceed one dollar per month for each housing unit. For the purposes of this section, the term "housing unit" shall mean a building or portion thereof designed for or used as the residence or living quarters of one or more persons living together, or of one family.

All taxes herein authorized shall be taxes other than a retail sales tax defined in chapter 82.08 RCW and a use tax defined in chapter 82.12 RCW, and the municipality shall appropriate and use the proceeds derived from all taxes authorized herein only for the operation, maintenance and capital needs of its municipally owned or leased and municipally operated public transportation system.

Before any county transportation authority established pursuant to chapter 36.57 RCW or any public transportation benefit area authority established pursuant to chapter 36.57A RCW may impose any of the excise taxes authorized pursuant to this section, the authorization for imposition of such taxes shall be approved by the voters residing within such respective area.

The county on behalf of an unincorporated transportation benefit area established pursuant to RCW 36.57.100 and 36.57.110 may impose any of the excise taxes authorized pursuant to this section only within the boundaries of such unincorporated transportation benefit area.

[1975 1st ex.s. c 270 § 4; 1965 ex.s. c 111 § 4.]

Notes:

Severability--Effective date--1975 1st ex.s. c 270: See notes following RCW 35.58.272.

Municipal taxation of motor carriers of freight for hire: RCW 35.21.840.

RCW 35.95.050 Collection of tax--Billing.

The tax levied under the provisions of RCW 35.95.040 shall be billed and collected at such times and in the manner fixed and determined by the corporate authorities in an ordinance levying the tax: PROVIDED, That the tax shall be designated and identified as a tax to be used solely for the operation, maintenance, and capital needs of the municipally owned or leased and municipally operated public transit system: AND PROVIDED FURTHER, That the corporate authorities may in connection with municipally owned or leased transit systems enter into contracts covering the operation and maintenance of such systems, including the employment of personnel.

[1967 ex.s. c 145 § 66; 1965 ex.s. c 111 § 5.]

Notes:

Severability--1967 ex.s. c 145: See RCW 47.98.043.

RCW 35.95.060 Funds derived from taxes--Restrictions on classification, etc.

No funds derived from any tax levied under the provisions of this chapter shall, for any purpose whatsoever, be classified as or constitute income, earnings, or revenue of the public

transportation system for which the tax is levied nor of any other public utility owned or leased and operated by such municipality; nor shall such funds constitute or be classified as any part of the rate structure or rate charged for the public utility.

[1965 ex.s. c 111 § 6.]

RCW 35.95.070 Purchase of leased public transportation system--Purchase price.

In the event the corporate authorities of any municipality during the term of a lease or any renewal thereof of a public transportation system desire to purchase the said system, the purchase price shall be no greater than the fair market value of the said system at the commencement of the lease.

[1965 ex.s. c 111 § 7.]

Notes:
Authority to acquire and operate transportation facilities: RCW 35.92.060.

RCW 35.95.080 Referendum rights not impaired.

Nothing contained in this chapter nor the provisions of any city charter shall prevent a referendum on any ordinance or action adopted or taken by any municipality under the provisions of this chapter.

[1965 ex.s. c 111 § 8.]

RCW 35.95.090 Corporate authorities may refer ordinance levying tax to voters.

The corporate authorities of a municipality adopting an ordinance for the levy and collection of an excise tax or additional tax as provided in RCW 35.95.040 may refer such ordinance to the voters of the municipality before making such ordinance effective.

[1967 ex.s. c 145 § 67.]

Notes:
Severability--1967 ex.s. c 145: See RCW 47.98.043.

RCW 35.95.100 Public transportation systems.

See RCW 35.58.272 through 35.58.2794.

RCW 35.95.900 Severability--1965 ex.s. c 111.

If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected.

[1965 ex.s. c 111 § 9.]

Chapter 35.96 RCW
ELECTRIC AND COMMUNICATION FACILITIES--CONVERSION TO UNDERGROUND

Sections

35.96.010 Declaration of public interest and purpose.
35.96.020 Definitions.
35.96.030 Conversion of electric and communication facilities to underground facilities authorized--Local improvement districts--Special assessments.
35.96.040 Contracts for conversion--Authorized--Provisions.
35.96.050 Notice to owners to convert service lines to underground--Objections--Hearing--Time limitation for conversion.
35.96.060 Application of provisions relating to local improvements in cities and towns to chapter.
35.96.070 Validation of preexisting debts, contracts, obligations, etc., made or incurred incidental to conversion of electric and communication facilities to underground facilities.
35.96.080 Authority granted deemed alternative and additional.
35.96.900 Severability--1967 c 119.

Notes:

Counties, conversion of overhead electric and communication facilities to underground facilities: RCW 36.88.410 through 36.88.480.

Local improvements for underground utilities transmission lines: RCW 35.43.040(12).

RCW 35.96.010 Declaration of public interest and purpose.

It is hereby found and declared that the conversion of overhead electric and communication facilities to underground facilities is substantially beneficial to the public safety and welfare, is in the public interest and is a public purpose, notwithstanding any resulting incidental private benefit to any electric or communication utility affected by such conversion.

[1967 c 119 § 2.]

RCW 35.96.020 Definitions.

As used in this chapter, unless specifically defined otherwise, or unless the context indicates otherwise:

"Conversion area" means that area in which existing overhead electric and communication facilities are to be converted to underground facilities pursuant to the provisions of this chapter.

"Electric utility" means any publicly or privately owned utility engaged in the business of furnishing electric energy to the public in all or part of the conversion area and includes electrical companies as defined by RCW 80.04.010 and public utility districts.

"Communication utility" means any utility engaged in the business of affording

telephonic, telegraphic, cable television or other communication service to the public in all or part of the conversion area and includes telephone companies and telegraph companies as defined by RCW 80.04.010.

[1967 c 119 § 3.]

RCW 35.96.030 Conversion of electric and communication facilities to underground facilities authorized--Local improvement districts--Special assessments.

Every city or town shall have the power to convert existing overhead electric and communication facilities to underground facilities pursuant to RCW 35.43.190 where such facilities are owned or operated by the city or town. Where such facilities are not so owned or operated, every city or town shall have the power to contract with electric and communication utilities, as hereinafter provided, for the conversion of existing overhead electric and communication facilities to underground facilities. To provide funds to pay the whole or any part of the cost of any such conversion, either where the existing overhead electric and communication facilities are owned or operated by the city or town or where they are not so owned or operated, every city or town shall have the power to create local improvement districts and to levy and collect special assessments against the real property specially benefited by such conversion. For the purpose of ascertaining the amount to be assessed against each lot or parcel of land within any local improvement district established pursuant to this chapter, in addition to other methods provided by law for apportioning special benefits, the legislative authority of any city or town may apportion all or part of the special benefits accruing on a square footage basis or on a per lot basis.

[1967 c 119 § 4.]

RCW 35.96.040 Contracts for conversion--Authorized--Provisions.

Every city or town shall have the power to contract with electric and communication utilities for the conversion of existing overhead electric and communication facilities to underground facilities including all work incidental to such conversion. Such contracts may include, among other provisions, any of the following:

(1) For the supplying and approval by electric and communication utilities of plans and specifications for such conversion;

(2) For the payment to the electric and communication utilities for any work performed or services rendered by it in connection with the conversion project;

(3) For the payment to the electric and communication utilities for the value of the overhead facilities removed pursuant to the conversion;

(4) For ownership of the underground facilities by the electric and communication utilities.

[1967 c 119 § 5.]

RCW 35.96.050 Notice to owners to convert service lines to underground--Objections--Hearing--Time limitation for conversion.

When service from the underground electric and communication facilities is available in all or part of a conversion area, the city or town shall mail a notice to the owners of all structures or improvements served from the existing overhead facilities in the area, which notice shall state that:

(1) Service from the underground facilities is available;

(2) All electric and communication service lines from the existing overhead facilities within the area to any structure or improvement must be disconnected and removed within ninety days after the date of the mailing of the notice;

(3) Should such owner fail to convert such service lines from overhead to underground within ninety days after the date of the mailing of the notice, the city or town will order the electric and communication utilities to disconnect and remove the service lines;

(4) Should the owner object to the disconnection and removal of the service lines he may file his written objections thereto with the city or town clerk within thirty days after the date of the mailing of the notice and failure to so object within such time will constitute a waiver of his right thereafter to object to such disconnection and removal.

If the owner of any structure or improvement served from the existing overhead electric and communication facilities within a conversion area shall fail to convert to underground the service lines from such overhead facilities to such structure or improvement within ninety days after the mailing to him of the notice, the city or town shall order the electric and communication utilities to disconnect and remove all such service lines: PROVIDED, That if the owner has filed his written objections to such disconnection and removal with the city or town clerk within thirty days after the mailing of the notice then the city or town shall not order such disconnection and removal until after the hearing on such objections.

Upon the timely filing by the owner of objections to the disconnection and removal of the service lines, the legislative authority of such city or town, or a committee thereof, shall conduct a hearing to determine whether the removal of all or any part of the service lines is in the public benefit. The hearing shall be held at such time as the legislative authority of such city or town may establish for hearings on the objections and shall be held in accordance with the regularly established procedure set by the legislative authority of the city or town. If the hearing is before a committee, the committee shall following the hearing report its recommendation to the legislative authority of the city or town for final action. The determination reached by the legislative authority shall be final in the absence of an abuse of discretion.

[1967 c 119 § 6.]

RCW 35.96.060 Application of provisions relating to local improvements in cities and towns to chapter.

Unless otherwise provided in this chapter, the general provisions relating to local improvements in cities and towns including but not limited to chapters 35.43, 35.44, 35.45,

35.48, 35.49, 35.50, 35.53 and 35.54 RCW shall apply to local improvements authorized by this chapter.

[1967 c 119 § 7.]

RCW 35.96.070 Validation of preexisting debts, contracts, obligations, etc., made or incurred incidental to conversion of electric and communication facilities to underground facilities.

All debts, contracts and obligations heretofore made or incurred by or in favor of any city or town incident to the conversion of overhead electric and communication facilities to underground facilities and all bonds, warrants, or other obligations issued by any such city or town, or by any local improvement district created to effect such conversion and any and all assessments heretofore levied in any such local improvement district, and all other things and proceedings relating thereto are hereby declared to be legal and valid and of full force and effect from the date thereof.

[1967 c 119 § 8.]

RCW 35.96.080 Authority granted deemed alternative and additional.

The authority granted by this chapter shall be considered an alternative and additional method for converting existing overhead electric and communication facilities to underground facilities, and for paying all or part of the cost thereof, and shall not be construed as a restriction or limitation upon any other authority for or method of converting any such facilities or placing such facilities underground or paying all or part of the cost thereof, including, but not limited to, existing authority or methods under chapter 35.43 RCW and chapter 35.44 RCW.

[1967 c 119 § 10.]

RCW 35.96.900 Severability--1967 c 119.

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

[1967 c 119 § 9.]

Chapter 35.97 RCW
HEATING SYSTEMS

Sections

35.97.010 Definitions.
35.97.020 Heating systems authorized.
35.97.030 Heating systems--General powers of municipalities.

35.97.040 Heating systems--Specific powers of municipalities.
35.97.050 Heating systems--Authorized by legislative authority of municipality--Competitive bidding.
35.97.060 Municipality may impose rates and charges--Classification of customers.
35.97.070 Municipality may shut off heat for nonpayment--Late payment charges authorized.
35.97.080 Connection charges authorized.
35.97.090 Local improvement district--Assessments--Bonds and warrants.
35.97.100 Special funds authorized.
35.97.110 Revenue bonds--Form, terms, etc.
35.97.120 Revenue warrants.
35.97.130 Revenue bonds and warrants--Holder may enforce.
35.97.900 Severability--1983 c 216.

RCW 35.97.010 Definitions.

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

(1) "Biomass energy system" means a system that provides for the production or collection of organic materials such as wood and agricultural residues and municipal solid waste that are primarily organic materials and the conversion or use of that material for the production of heat or substitute fuels through several processes including, but not limited to, burning, pyrolysis, or anaerobic digestion.

(2) "Cogeneration" means the sequential generation of two or more forms of energy from a common fuel or energy source.

(3) "Cogeneration facility" means any machinery, equipment, structure, process, or property or any part thereof, installed or acquired for the primary purpose of cogeneration by a person or corporation.

(4) "Geothermal heat" means the natural thermal energy of the earth.

(5) "Waste heat" means the thermal energy which otherwise would be released to the environment from an industrial process, electric generation, or other process.

(6) "Heat" means thermal energy.

(7) "Heat source" includes but is not limited to (a) any integral part of a heat production or heat rejection system of an industrial facility, cogeneration facility, or electric power generation facility, (b) geothermal well or spring, (c) biomass energy system, (d) solar collection facility, and (e) hydrothermal resource or heat extraction process.

(8) "Municipality" means a county, city, town, irrigation district which distributes electricity, water-sewer district, port district, or metropolitan municipal corporation.

(9) "Heating facilities or heating systems" means all real and personal property, or interests therein, necessary or useful for: (a) The acquisition, production, or extraction of heat; (b) the storage of heat; (c) the distribution of heat from its source to the place of utilization; (d) the extraction of heat at the place of utilization from the medium by which the heat is distributed; (e) the distribution of heat at the place of utilization; and (f) the conservation of heat.

(10) "Hydrothermal resource" means the thermal energy available in wastewater, sewage effluent, wells, or other water sources, natural or manmade.

[1999 c 153 § 41; 1987 c 522 § 4; 1983 c 216 § 2.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

RCW 35.97.020 Heating systems authorized.

(1) Counties, cities, towns, irrigation districts which distribute electricity, sewer districts, water districts, port districts, and metropolitan municipal corporations are authorized pursuant to this chapter to establish heating systems and supply heating services from Washington's heat sources.

(2) Nothing in this chapter authorizes any municipality to generate, transmit, distribute, or sell electricity.

[1989 c 11 § 7; 1987 c 522 § 3; 1983 c 216 § 1.]

Notes:

Severability--1989 c 11: See note following RCW 9A.56.220.

RCW 35.97.030 Heating systems--General powers of municipalities.

A municipality may construct, purchase, acquire, add to, extend, maintain, and operate a system of heating facilities, within or without its limits, for the purpose of supplying its inhabitants and other persons with heat, with full power to regulate and control the use, distribution, and price of supplying heat, and to enter into agreements for the maintenance and operation of heating facilities under terms and conditions determined by the legislative authority of the municipality. The provision of heat and heating facilities and the establishment and operation of heating systems by a municipality under this chapter are hereby declared to be a public use and a public and strictly municipal purpose. However, nothing in this chapter shall be construed to restrain or limit the authority of any individual, partnership, corporation, or private utility from establishing and operating heating systems.

[1983 c 216 § 3.]

RCW 35.97.040 Heating systems--Specific powers of municipalities.

In addition to the general powers under RCW 35.97.030, and not by way of limitation, municipalities have the following specific powers:

(1) The usual powers of a corporation, to be exercised for public purposes;

(2) To acquire by purchase, gift, or condemnation property or interests in property within and without the municipality, necessary for the construction and operation of heating systems, including additions and extensions of heating systems. No municipality may acquire any heat source by condemnation. To the extent judged economically feasible by the municipality, public property and rights of way shall be utilized in lieu of private property acquired by condemnation. The municipality shall determine in cooperation with existing users that addition of district heating facilities to any public property or rights of way shall not be a hazard or interference

with existing uses or, if so, that the cost for any relocation of facilities of existing users shall be a cost and expense of installing the heating facility;

(3) To acquire, install, add to, maintain, and operate heating facilities at a heat source or to serve particular consumers of heat, whether such facilities are located on property owned by the municipality, by the consumer of heat, or otherwise;

(4) To sell, lease, or otherwise dispose of heating facilities;

(5) To contract for the operation of heating facilities;

(6) To apply and qualify for and receive any private or federal grants, loans, or other funds available for carrying out the objects of the municipality under this chapter;

(7) Full and exclusive authority to sell and regulate and control the use, distribution, rates, service, charges, and price of all heat supplied by the municipality and to carry out any other powers and duties under this chapter free from the jurisdiction and control of the utilities and transportation commission;

(8) To utilize fuels other than the heat sources described in RCW 35.97.020 on a standby basis, to meet start up and emergency requirements, to meet peak demands, or to supplement those heat sources as necessary to provide a reliable and economically feasible supply of heat;

(9) To the extent permitted by the state Constitution, to make loans for the purpose of enabling suppliers or consumers of heat to finance heating facilities;

(10) To enter into cooperative agreements providing for the acquisition, construction, ownership, financing, use, control, and regulation of heating systems and heating facilities by more than one municipality or by one or more municipalities on behalf of other municipalities.

[1983 c 216 § 4.]

RCW 35.97.050 Heating systems--Authorized by legislative authority of municipality--Competitive bidding.

If the legislative authority of a municipality deems it advisable that the municipality purchase, acquire, or construct a heating system, or make any additions or extensions to a heating system, the legislative authority shall so provide by an ordinance or a resolution specifying and adopting the system or plan proposed, declaring the estimated cost thereof, as near as may be, and specifying the method of financing and source of funds. Any construction, alteration, or improvement of a heating system by any municipality shall be in compliance with the appropriate competitive bidding requirements in Titles 35, 36, 53, 57, or 87 RCW.

[1999 c 153 § 42; 1996 c 230 § 1603; 1983 c 216 § 5.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

Part headings not law--Effective date--1996 c 230: See notes following RCW 57.02.001.

RCW 35.97.060 Municipality may impose rates and charges--Classification of customers.

A municipality may impose rates, charges, or rentals for heat, service, and facilities

provided to customers of the system if the rates charged are uniform for the same class of customers or service. In classifying customers served or service furnished, the legislative authority may consider: The difference in cost of service to the various customers; location of the various customers within or without the municipality; the difference in cost of maintenance, operation, repair, and replacement of the various parts of the system; the different character of the service furnished various customers; the quantity and quality of the heat furnished; the time heat is used; the demand on the system; capital contributions made to the system including, but not limited to, assessments or the amount of capital facilities provided for use by the customer; and any other matters which present a reasonable difference as a ground for distinction.

[1983 c 216 § 6.]

RCW 35.97.070 Municipality may shut off heat for nonpayment--Late payment charges authorized.

If prompt payment of a heating rate, charge, or rental is not made, a municipality after reasonable notice may shut off the heating supply to the building, place, or premises to which the municipality supplied the heating. A municipality may also make an additional charge for late payment.

[1983 c 216 § 7.]

RCW 35.97.080 Connection charges authorized.

A municipality may charge property owners seeking to connect to the heating system, as a condition to granting the right to connect and in addition to the cost of the connection, such reasonable connection charge as the legislative authority determines to be proper in order that the property owners bear their pro rata share of the cost of the system. Potential customers shall not be compelled to subscribe or connect to the heating system. The cost of connection to the system shall include the cost of acquisition and installation of heating facilities necessary or useful for the connection, including any heating facilities located or installed on the property being served. Connection charges may, in the discretion of the municipality, be made payable in installments over a period of not more than thirty years or the estimated life of the facilities installed, whichever is less. Installments, if any, shall bear interest and penalties at such rates and be payable at such times and in such manner as the legislative authority of the municipality may provide.

[1983 c 216 § 8.]

RCW 35.97.090 Local improvement district--Assessments--Bonds and warrants.

For the purpose of paying all or a portion of the cost of heating facilities, a municipality may form local improvement districts or utility local improvement districts, foreclose on, levy, and collect assessments, reassessments, and supplemental assessments; and issue local

improvement district bonds and warrants in the manner provided by law for cities or towns.

[1983 c 216 § 9.]

RCW 35.97.100 Special funds authorized.

For the purpose of providing funds for defraying all or a portion of the costs of planning, purchase, leasing, condemnation, or other acquisition, construction, reconstruction, development, improvement, extension, repair, maintenance, or operation of a heating system, and the implementation of the powers in RCW 35.97.030 and 35.97.040, a municipality may authorize, by ordinance or resolution, the creation of a special fund or funds into which the municipality shall be obligated to set aside and pay all or any designated proportion or amount of any or all revenues derived from the heating system, including any utility local improvement district assessments, any grants received to pay the cost of the heating system, and any municipal license fees specified in the ordinance or resolution creating such special fund.

[1983 c 216 § 10.]

RCW 35.97.110 Revenue bonds--Form, terms, etc.

If the legislative authority of a municipality deems it advisable to finance all or a portion of the costs of planning, purchase, leasing, condemnation, or other acquisition, construction, reconstruction, development, improvement, and extension of a heating system, or for the implementation of the powers in RCW 35.97.030 and 35.97.040, or for working capital, interest during construction and for a period of up to one year thereafter, debt service and other reserves, and the costs of issuing revenue obligations, a municipality may issue revenue bonds against the special fund or fund created from revenues or assessments. The revenue bonds so issued may be issued in one or more series and shall be dated, shall bear interest at such rate or rates, and shall mature at such time or times as may be determined by the legislative authority of the municipality, and may be made redeemable before maturity at such price or prices and under such terms and conditions as may be fixed by the legislative authority of the municipality prior to the issuance of the bonds. The legislative authority of the municipality shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest. If an officer whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be such officer before the delivery of the bonds, the signature shall for all purposes have the same effect as if the officer had remained in office until the delivery. The bonds may be issued in coupon or in registered form or both, and provisions may be made for the registration of any coupon bonds as to the principal alone and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. Bonds may be sold at public or private sale for such price and bearing interest at such fixed or variable rate as may be determined by the legislative authority of the municipality.

The principal of and interest on any revenue bonds shall be secured by a pledge of the revenues and receipts derived from the heating system, including any amounts pledged to be paid

into a special fund under RCW 35.97.100, and may be secured by a mortgage covering all or any part of the system, including any enlargements of and additions to such system thereafter made. The revenue bonds shall state upon their face that they are payable from a special fund, naming it and the ordinance creating it, and that they do not constitute a general indebtedness of the municipality. The ordinance or resolution under which the bonds are authorized to be issued and any such mortgage may contain agreements and provisions respecting the maintenance of the system, the fixing and collection of rates and charges, the creation and maintenance of special funds from such revenues, the rights and remedies available in the event of default, and other matters improving the marketability of the revenue bonds, all as the legislative authority of the municipality deems advisable. Any revenue bonds issued under this chapter may be secured by a trust agreement by and between the municipality and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the state. Any such trust agreement or ordinance or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bond owners as may be reasonable and proper and not in violation of law. Any such trust agreement may set forth the rights and remedies of the bond owners and of the trustee and may restrict the individual right of action by bond owners as is customary in trust agreements or trust indentures.

[1983 c 216 § 11.]

RCW 35.97.120 Revenue warrants.

Revenue warrants may be issued and such warrants and interest thereon may be payable out of the special fund or refunded through the proceeds of the sale of refunding revenue warrants or revenue bonds. Every revenue warrant and the interest thereon issued against the special fund is a valid claim of the owner thereof only as against that fund and the amount of revenue pledged to the fund, and does not constitute an indebtedness of the authorized municipality. Every revenue warrant shall state on its face that it is payable from a special fund, naming it and the ordinance or resolution creating it.

[1983 c 216 § 12.]

RCW 35.97.130 Revenue bonds and warrants--Holder may enforce.

If a municipality fails to set aside and pay into the special fund created for the payment of revenue bonds and warrants the amount which it has obligated itself in the ordinance or resolution creating the fund to set aside and pay therein, the holder of any bond or warrant issued against the bond may bring suit against the municipality to compel it to do so.

[1983 c 216 § 13.]

RCW 35.97.900 Severability--1983 c 216.

If any provision of this act or its application to any person or circumstance is held

invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1983 c 216 § 15.]

Chapter 35.98 RCW
CONSTRUCTION

Sections

35.98.010 Continuation of existing law.
35.98.020 Title, chapter, section headings not part of law.
35.98.030 Invalidity of part of title not to affect remainder.
35.98.040 Repeals and saving.
35.98.050 Emergency--1965 c 7.

RCW 35.98.010 Continuation of existing law.

The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments.

[1965 c 7 § 35.98.010.]

RCW 35.98.020 Title, chapter, section headings not part of law.

Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law.

[1965 c 7 § 35.98.020.]

RCW 35.98.030 Invalidity of part of title not to affect remainder.

If any provision, section, or chapter of this title or its application to any person or circumstance is held invalid, the remainder of the provision, section, chapter, or title, or the application thereof to other persons or circumstances is not affected.

[1965 c 7 § 35.98.030.]

RCW 35.98.040 Repeals and saving.

See 1965 c 7 § 35.98.040.

RCW 35.98.050 Emergency--1965 c 7.

This act is necessary for the immediate preservation of the public peace, health and

safety, the support of the state government and its existing institutions and shall take effect immediately.

[1965 c 7 § 35.98.050.]

Chapter 35.99 RCW
TELECOMMUNICATIONS, CABLE TELEVISION SERVICE--USE OF RIGHT OF WAY

Sections

35.99.010 Definitions.
35.99.020 Permits for use of right of way.
35.99.030 Master, use permits--Injunctive relief--Notice--Service providers' duties.
35.99.040 Local regulations, ordinances--Limitations.
35.99.050 Personal wireless services--Limitations on moratoria--Dispute resolution.
35.99.060 Relocation of facilities--Notice--Reimbursement.
35.99.070 Additional ducts or conduits--City or town may require.
35.99.080 Existing franchises or contracts not preempted.

RCW 35.99.010 Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Cable television service" means the one-way transmission to subscribers of video programming and other programming service and subscriber interaction, if any, that is required for the selection or use of the video programming or other programming service.

(2) "Facilities" means all of the plant, equipment, fixtures, appurtenances, antennas, and other facilities necessary to furnish and deliver telecommunications services and cable television services, including but not limited to poles with crossarms, poles without crossarms, wires, lines, conduits, cables, communication and signal lines and equipment, braces, guys, anchors, vaults, and all attachments, appurtenances, and appliances necessary or incidental to the distribution and use of telecommunications services and cable television services.

(3) "Master permit" means the agreement in whatever form whereby a city or town may grant general permission to a service provider to enter, use, and occupy the right of way for the purpose of locating facilities. This definition is not intended to limit, alter, or change the extent of the existing authority of a city or town to require a franchise nor does it change the status of a service provider asserting an existing state-wide grant based on a predecessor telephone or telegraph company's existence at the time of the adoption of the Washington state Constitution to occupy the right of way. For the purposes of this subsection, a franchise, except for a cable television franchise, is a master permit. A master permit does not include cable television franchises.

(4) "Personal wireless services" means commercial mobile services, unlicensed wireless

services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

(5) "Right of way" means land acquired or dedicated for public roads and streets, but does not include:

(a) State highways;

(b) Land dedicated for roads, streets, and highways not opened and not improved for motor vehicle use by the public;

(c) Structures, including poles and conduits, located within the right of way;

(d) Federally granted trust lands or forest board trust lands;

(e) Lands owned or managed by the state parks and recreation commission; or

(f) Federally granted railroad rights of way acquired under 43 U.S.C. Sec. 912 and related provisions of federal law that are not open for motor vehicle use.

(6) "Service provider" means every corporation, company, association, joint stock association, firm, partnership, person, city, or town owning, operating, or managing any facilities used to provide and providing telecommunications or cable television service for hire, sale, or resale to the general public. Service provider includes the legal successor to any such corporation, company, association, joint stock association, firm, partnership, person, city, or town.

(7) "Telecommunications service" means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means for hire, sale, or resale to the general public. For the purpose of this subsection, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. For the purpose of this chapter, telecommunications service excludes the over-the-air transmission of broadcast television or broadcast radio signals.

(8) "Use permit" means the authorization in whatever form whereby a city or town may grant permission to a service provider to enter and use the specified right of way for the purpose of installing, maintaining, repairing, or removing identified facilities.

[2000 c 83 § 1.]

RCW 35.99.020 Permits for use of right of way.

A city or town may grant, issue, or deny permits for the use of the right of way by a service provider for installing, maintaining, repairing, or removing facilities for telecommunications services or cable television services pursuant to ordinances, consistent with chapter 83, Laws of 2000.

[2000 c 83 § 2.]

RCW 35.99.030 Master, use permits--Injunctive relief--Notice--Service providers' duties.

(1) Cities and towns may require a service provider to obtain a master permit. A city or town may request, but not require, that a service provider with an existing state-wide grant to

occupy the right of way obtain a master permit for wireline facilities.

(a) The procedures for the approval of a master permit and the requirements for a complete application for a master permit shall be available in written form.

(b) Where a city or town requires a master permit, the city or town shall act upon a complete application within one hundred twenty days from the date a service provider files the complete application for the master permit to use the right of way, except:

(i) With the agreement of the applicant; or

(ii) Where the master permit requires action of the legislative body of the city or town and such action cannot reasonably be obtained within the one hundred twenty day period.

(2) A city or town may require that a service provider obtain a use permit. A city or town must act on a request for a use permit by a service provider within thirty days of receipt of a completed application, unless a service provider consents to a different time period or the service provider has not obtained a master permit requested by the city or town.

(a) For the purpose of this section, "act" means that the city makes the decision to grant, condition, or deny the use permit, which may be subject to administrative appeal, or notifies the applicant in writing of the amount of time that will be required to make the decision and the reasons for this time period.

(b) Requirements otherwise applicable to holders of master permits shall be deemed satisfied by a holder of a cable franchise in good standing.

(c) Where the master permit does not contain procedures to expedite approvals and the service provider requires action in less than thirty days, the service provider shall advise the city or town in writing of the reasons why a shortened time period is necessary and the time period within which action by the city or town is requested. The city or town shall reasonably cooperate to meet the request where practicable.

(d) A city or town may not deny a use permit to a service provider with an existing state-wide grant to occupy the right of way for wireline facilities on the basis of failure to obtain a master permit.

(3) The reasons for a denial of a master permit shall be supported by substantial evidence contained in a written record. A service provider adversely affected by the final action denying a master permit, or by an unreasonable failure to act on a master permit as set forth in subsection (1) of this section, may commence an action within thirty days to seek relief, which shall be limited to injunctive relief.

(4) A service provider adversely affected by the final action denying a use permit may commence an action within thirty days to seek relief, which shall be limited to injunctive relief. In any appeal of the final action denying a use permit, the standard for review and burden of proof shall be as set forth in RCW 36.70C.130.

(5) A city or town shall:

(a) In order to facilitate the scheduling and coordination of work in the right of way, provide as much advance notice as reasonable of plans to open the right of way to those service providers who are current users of the right of way or who have filed notice with the clerk of the city or town within the past twelve months of their intent to place facilities in the city or town. A city is not liable for damages for failure to provide this notice. Where the city has failed to

provide notice of plans to open the right of way consistent with this subsection, a city may not deny a use permit to a service provider on the basis that the service provider failed to coordinate with another project.

(b) Have the authority to require that facilities are installed and maintained within the right of way in such a manner and at such points so as not to inconvenience the public use of the right of way or to adversely affect the public health, safety, and welfare.

(6) A service provider shall:

(a) Obtain all permits required by the city or town for the installation, maintenance, repair, or removal of facilities in the right of way;

(b) Comply with applicable ordinances, construction codes, regulations, and standards subject to verification by the city or town of such compliance;

(c) Cooperate with the city or town in ensuring that facilities are installed, maintained, repaired, and removed within the right of way in such a manner and at such points so as not to inconvenience the public use of the right of way or to adversely affect the public health, safety, and welfare;

(d) Provide information and plans as reasonably necessary to enable a city or town to comply with subsection (5) of this section, including, when notified by the city or town, the provision of advance planning information pursuant to the procedures established by the city or town;

(e) Obtain the written approval of the facility or structure owner, if the service provider does not own it, prior to attaching to or otherwise using a facility or structure in the right of way;

(f) Construct, install, operate, and maintain its facilities at its expense; and

(g) Comply with applicable federal and state safety laws and standards.

(7) Nothing in this section shall be construed as:

(a) Creating a new duty upon city [cities] or towns to be responsible for construction of facilities for service providers or to modify the right of way to accommodate such facilities;

(b) Creating, expanding, or extending any liability of a city or town to any third-party user of facilities or third-party beneficiary; or

(c) Limiting the right of a city or town to require an indemnification agreement as a condition of a service provider's facilities occupying the right of way.

(8) Nothing in this section creates, modifies, expands, or diminishes a priority of use of the right of way by a service provider or other utility, either in relation to other service providers or in relation to other users of the right of way for other purposes.

[2000 c 83 § 3.]

RCW 35.99.040 Local regulations, ordinances--Limitations.

(1) A city or town shall not adopt or enforce regulations or ordinances specifically relating to use of the right of way by a service provider that:

(a) Impose requirements that regulate the services or business operations of the service provider, except where otherwise authorized in state or federal law;

(b) Conflict with federal or state laws, rules, or regulations that specifically apply to the

design, construction, and operation of facilities or with federal or state worker safety or public safety laws, rules, or regulations;

(c) Regulate the services provided based upon the content or kind of signals that are carried or are capable of being carried over the facilities, except where otherwise authorized in state or federal law; or

(d) Unreasonably deny the use of the right of way by a service provider for installing, maintaining, repairing, or removing facilities for telecommunications services or cable television services.

(2) Nothing in this chapter, including but not limited to the provisions of subsection (1)(d) of this section, limits the authority of a city or town to regulate the placement of facilities through its local zoning or police power, if the regulations do not otherwise:

(a) Prohibit the placement of all wireless or of all wireline facilities within the city or town;

(b) Prohibit the placement of all wireless or of all wireline facilities within city or town rights of way, unless the city or town is less than five square miles in size and has no commercial areas, in which case the city or town may make available land other than city or town rights of way for the placement of wireless facilities; or

(c) Violate section 253 of the telecommunications act of 1996, P.L. 104-104 (110 Stat. 56).

(3) This section does not amend, limit, repeal, or otherwise modify the authority of cities or towns to regulate cable television services pursuant to federal law.

[2000 c 83 § 4.]

RCW 35.99.050 Personal wireless services--Limitations on moratoria--Dispute resolution.

A city or town shall not place or extend a moratorium on the acceptance and processing of applications, permitting, construction, maintenance, repair, replacement, extension, operation, or use of any facilities for personal wireless services, except as consistent with the guidelines for facilities siting implementation, as agreed to on August 5, 1998, by the federal communications commission's local and state government advisory committee, the cellular telecommunications industry association, the personal communications industry association, and the American mobile telecommunications association. Any city or town implementing such a moratorium shall, at the request of a service provider impacted by the moratorium, participate with the service provider in the informal dispute resolution process included with the guidelines for facilities siting implementation.

[2000 c 83 § 5.]

RCW 35.99.060 Relocation of facilities--Notice--Reimbursement.

(1) Cities and towns may require service providers to relocate authorized facilities within the right of way when reasonably necessary for construction, alteration, repair, or improvement

of the right of way for purposes of public welfare, health, or safety.

(2) Cities shall notify service providers as soon as practicable of the need for relocation and shall specify the date by which relocation shall be completed. In calculating the date that relocation must be completed, cities shall consult with affected service providers and consider the extent of facilities to be relocated, the services requirements, and the construction sequence for the relocation, within the city's overall project construction sequence and constraints, to safely complete the relocation. Service providers shall complete the relocation by the date specified, unless the city, or a reviewing court, establishes a later date for completion, after a showing by the service provider that the relocation cannot be completed by the date specified using best efforts and meeting safety and service requirements.

(3) Service providers may not seek reimbursement for their relocation expenses from the city or town requesting relocation under subsection (1) of this section except:

(a) Where the service provider had paid for the relocation cost of the same facilities at the request of the city or town within the past five years, the service provider's share of the cost of relocation will be paid by the city or town requesting relocation;

(b) Where aerial to underground relocation of authorized facilities is required by the city or town under subsection (1) of this section, for service providers with an ownership share of the aerial supporting structures, the additional incremental cost of underground compared to aerial relocation, or as provided for in the approved tariff if less, will be paid by the city or town requiring relocation; and

(c) Where the city or town requests relocation under subsection (1) of this section solely for aesthetic purposes, unless otherwise agreed to by the parties.

(4) Where a project in subsection (1) of this section is primarily for private benefit, the private party or parties shall reimburse the cost of relocation in the same proportion to their contribution to the costs of the project. Service providers will not be precluded from recovering their costs associated with relocation required under subsection (1) of this section, provided that the recovery is consistent with subsection (3) of this section and other applicable laws.

(5) A city or town may require the relocation of facilities at the service provider's expense in the event of an unforeseen emergency that creates an immediate threat to the public safety, health, or welfare.

[2000 c 83 § 6.]

RCW 35.99.070 Additional ducts or conduits--City or town may require.

A city or town may require that a service provider that is constructing, relocating, or placing ducts or conduits in public rights of way provide the city or town with additional duct or conduit and related structures necessary to access the conduit, provided that:

(1) The city or town enters into a contract with the service provider consistent with RCW 80.36.150. The contract rates to be charged should recover the incremental costs of the service provider. If the city or town makes the additional duct or conduit and related access structures available to any other entity for the purposes of providing telecommunications or cable television service for hire, sale, or resale to the general public, the rates to be charged, as set

forth in the contract with the entity that constructed the conduit or duct, shall recover at least the fully allocated costs of the service provider. The service provider shall state both contract rates in the contract. The city or town shall inform the service provider of the use, and any change in use, of the requested duct or conduit and related access structures to determine the applicable rate to be paid by the city or town.

(2) Except as otherwise agreed by the service provider and the city or town, the city or town shall agree that the requested additional duct or conduit space and related access structures will not be used by the city or town to provide telecommunications or cable television service for hire, sale, or resale to the general public.

(3) The city or town shall not require that the additional duct or conduit space be connected to the access structures and vaults of the service provider.

(4) The value of the additional duct or conduit requested by a city or town shall not be considered a public works construction contract.

(5) This section shall not affect the provision of an institutional network by a cable television provider under federal law.

[2000 c 83 § 7.]

RCW 35.99.080 Existing franchises or contracts not preempted.

Chapter 83, Laws of 2000 shall not preempt specific provisions in existing franchises or contracts between cities or towns and service providers.

[2000 c 83 § 9.]

Title 35A RCW
OPTIONAL MUNICIPAL CODE

Chapters

35A.01 Interpretation of terms.
35A.02 Procedure for incorporated municipality to become a noncharter code city.
35A.03 Incorporation as noncharter code city.
35A.05 Consolidation of code cities.
35A.06 Adoption and abandonment of noncharter code city classification or plan of government.
35A.07 Procedure for city operating under charter to become a charter code city.
35A.08 Procedure for adoption of charter as charter code city.
35A.09 Amendment or revision of charters of charter code cities.
35A.10 Adoption and abandonment of charter code city classification.
35A.11 Laws governing noncharter code cities and charter code cities--Powers.
35A.12 Mayor-council plan of government.
35A.13 Council-manager plan of government.
35A.14 Annexation by code cities.

35A.15 Disincorporation.
35A.16 Reduction of city limits.
35A.21 Provisions affecting all code cities.
35A.24 Aeronautics.
35A.27 Libraries, museums and historical activities.
35A.28 Schools.
35A.29 Municipal elections in code cities.
35A.31 Accident claims and funds.
35A.33 Budgets in code cities.
35A.34 Biennial budgets.
35A.35 Intergovernmental relations.
35A.36 Execution of bonds by proxy in code cities.
35A.37 Funds, special purpose.
35A.38 Emergency services.
35A.39 Public documents and records.
35A.40 Fiscal provisions applicable to code cities.
35A.41 Public employment.
35A.42 Public officers and agencies, meetings, duties and powers.
35A.43 Local improvements in code cities.
35A.44 Census.
35A.46 Motor vehicles.
35A.47 Highways and streets.
35A.49 Labor and safety regulations.
35A.56 Local service districts.
35A.57 Inclusion of code cities in metropolitan municipal corporations.
35A.58 Boundaries and plats.
35A.60 Liens.
35A.63 Planning and zoning in code cities.
35A.64 Public property, real and personal.
35A.65 Publication and printing.
35A.66 Health and safety--Alcohol.
35A.67 Recreation and parks.
35A.68 Cemeteries and morgues.
35A.69 Food and drug.
35A.70 Health and safety.
35A.74 Welfare.
35A.79 Property and materials.
35A.80 Public utilities.
35A.81 Public transportation.
35A.82 Taxation--Excises.
35A.84 Taxation--Property.

35A.88 Harbors and navigation.
35A.90 Construction.

Notes:
Acquisition of open space, land, or rights to future development by counties, cities, or metropolitan municipal corporations, tax levy: RCW 84.34.200 through 84.34.240, 84.52.010. See also RCW 64.04.130.
Boundary review board, extension of water and sewer service beyond corporate boundaries to go before: RCW 36.93.090.
Credit card use by local governments: RCW 43.09.2855.
Labor relations consultants: RCW 43.09.230.
Local adopt-a-highway programs: RCW 47.40.105.
Pollution control--Municipal bonding authority: Chapter 70.95A RCW.
Public bodies may retain collection agencies to collect public debts--Fees: RCW 19.16.500.
School districts agreements with other governmental entities for transportation of students or the public or for other noncommon school purposes--Limitations: RCW 28A.160.120.
Senior citizens programs--Authorization to establish and administer: RCW 36.39.060.

Chapter 35A.01 RCW
INTERPRETATION OF TERMS

Sections
35A.01.010 Purpose and policy of this title--Interpretation.
35A.01.020 Noncharter code city.
35A.01.030 Charter code city.
35A.01.035 Code city.
35A.01.040 Sufficiency of petitions.
35A.01.050 The general law.
35A.01.060 Optional municipal code--This title.
35A.01.070 Definitions--Change of plan or classification of municipal government.
35A.01.080 "Councilman" defined.

RCW 35A.01.010 Purpose and policy of this title--Interpretation.

The purpose and policy of this title is to confer upon two optional classes of cities created hereby the broadest powers of local self-government consistent with the Constitution of this state. Any specific enumeration of municipal powers contained in this title or in any other general law shall not be construed in any way to limit the general description of power contained in this title, and any such specifically enumerated powers shall be construed as in addition and supplementary to the powers conferred in general terms by this title. All grants of municipal power to municipalities electing to be governed under the provisions of this title, whether the grant is in specific terms or in general terms, shall be liberally construed in favor of the municipality.

[1967 ex.s. c 119 § 35A.01.010.]

RCW 35A.01.020 Noncharter code city.

A noncharter code city is one, regardless of population, which has initially incorporated as a noncharter code city, subject to the provisions of this title, or is an incorporated municipality which has elected, under the procedure prescribed in this title, to be classified as a noncharter code city and to be governed according to the provisions of this title under one of the optional forms of government provided for noncharter code cities.

[1967 ex.s. c 119 § 35A.01.020.]

RCW 35A.01.030 Charter code city.

A charter code city is one having at least ten thousand inhabitants at the time of its organization or reorganization which has either initially incorporated as a charter code city and has adopted a charter under the procedure prescribed in this title; or which, as an incorporated municipality, has elected to be classified as a charter code city and to be governed according to the provisions of this title and of its adopted charter.

[1967 ex.s. c 119 § 35A.01.030.]

RCW 35A.01.035 Code city.

The term "code city" means any noncharter code city or charter code city.

[1967 ex.s. c 119 § 35A.01.035.]

RCW 35A.01.040 Sufficiency of petitions.

Wherever in this title petitions are required to be signed and filed, the following rules shall govern the sufficiency thereof:

(1) A petition may include any page or group of pages containing an identical text or prayer intended by the circulators, signers or sponsors to be presented and considered as one petition and containing the following essential elements when applicable, except that the elements referred to in (d) and (e) of this subsection are essential for petitions referring or initiating legislative matters to the voters, but are directory as to other petitions:

(a) The text or prayer of the petition which shall be a concise statement of the action or relief sought by petitioners and shall include a reference to the applicable state statute or city ordinance, if any;

(b) If the petition initiates or refers an ordinance, a true copy thereof;

(c) If the petition seeks the annexation, incorporation, withdrawal, or reduction of an area for any purpose, an accurate legal description of the area proposed for such action and if practical, a map of the area;

(d) Numbered lines for signatures with space provided beside each signature for the name and address of the signer and the date of signing;

(e) The warning statement prescribed in subsection (2) of this section.

(2) Petitions shall be printed or typed on single sheets of white paper of good quality and each sheet of petition paper having a space thereon for signatures shall contain the text or prayer of the petition and the following warning:

WARNING

Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

Each signature shall be executed in ink or indelible pencil and shall be followed by the name and address of the signer and the date of signing.

(3) The term "signer" means any person who signs his or her own name to the petition.

(4) To be sufficient a petition must contain valid signatures of qualified registered voters or property owners, as the case may be, in the number required by the applicable statute or ordinance. Within three working days after the filing of a petition, the officer with whom the petition is filed shall transmit the petition to the county auditor for petitions signed by registered voters, or to the county assessor for petitions signed by property owners for determination of sufficiency. The officer whose duty it is to determine the sufficiency of the petition shall proceed to make such a determination with reasonable promptness and shall file with the officer receiving the petition for filing a certificate stating the date upon which such determination was begun, which date shall be referred to as the terminal date. Additional pages of one or more signatures may be added to the petition by filing the same with the appropriate filing officer prior to such terminal date. Any signer of a filed petition may withdraw his or her signature by a written request for withdrawal filed with the receiving officer prior to such terminal date. Such written request shall so sufficiently describe the petition as to make identification of the person and the petition certain. The name of any person seeking to withdraw shall be signed exactly the same as contained on the petition and, after the filing of such request for withdrawal, prior to the terminal date, the signature of any person seeking such withdrawal shall be deemed withdrawn.

(5) Petitions containing the required number of signatures shall be accepted as prima facie valid until their invalidity has been proved.

(6) A variation on petitions between the signatures on the petition and that on the voter's permanent registration caused by the substitution of initials instead of the first or middle names, or both, shall not invalidate the signature on the petition if the surname and handwriting are the same.

(7) Signatures, including the original, of any person who has signed a petition two or more times shall be stricken.

(8) Signatures followed by a date of signing which is more than six months prior to the

date of filing of the petition shall be stricken.

(9) When petitions are required to be signed by the owners of property, the determination shall be made by the county assessor. Where validation of signatures to the petition is required, the following shall apply:

(a) The signature of a record owner, as determined by the records of the county auditor, shall be sufficient without the signature of his or her spouse;

(b) In the case of mortgaged property, the signature of the mortgagor shall be sufficient, without the signature of his or her spouse;

(c) In the case of property purchased on contract, the signature of the contract purchaser, as shown by the records of the county auditor, shall be deemed sufficient, without the signature of his or her spouse;

(d) Any officer of a corporation owning land within the area involved who is duly authorized to execute deeds or encumbrances on behalf of the corporation, may sign on behalf of such corporation, and shall attach to the petition a certified excerpt from the bylaws of such corporation showing such authority;

(e) When property stands in the name of a deceased person or any person for whom a guardian has been appointed, the signature of the executor, administrator, or guardian, as the case may be, shall be equivalent to the signature of the owner of the property.

(10) The officer who is responsible for determining the sufficiency of the petition shall do so in writing and transmit the written certificate to the officer with whom the petition was originally filed.

[1996 c 286 § 7; 1985 c 281 § 26; 1967 ex.s. c 119 § 35A.01.040.]

Notes:

Severability--1985 c 281: See RCW 35.10.905.

RCW 35A.01.050 The general law.

For the purposes of this optional municipal code, "the general law" means any provision of state law, not inconsistent with this title, enacted before or after the enactment of this title, which is by its terms applicable or available to all cities or towns. Except when expressly provided to the contrary, whenever in this optional municipal code reference is made to "the general law", or to specific provisions of the Revised Code of Washington, it shall mean "the general law, or such specific provisions of the Revised Code of Washington as now enacted or as the same may hereafter be amended".

[1967 ex.s. c 119 § 35A.01.050.]

RCW 35A.01.060 Optional municipal code--This title.

References contained in this title to "Optional Municipal Code", "this title", "this code" or to any specific chapter, section, or provision thereof shall refer to the whole or appropriate part of Title 35A RCW, as now or hereafter amended.

[1967 ex.s. c 119 § 35A.01.060.]

RCW 35A.01.070 Definitions--Change of plan or classification of municipal government.

Where used in this title with reference to procedures established by this title in regard to a change of plan or classification of government, unless a different meaning is plainly required by the context:

(1) "Classify" means a change from a city of the first or second class, an unclassified city, or a town, to a code city.

(2) "Classification" means either that portion of the general law under which a city or a town operates under Title 35 RCW as a first or second class city, unclassified city, or town, or otherwise as a code city.

(3) "Organize" means to provide for officers after becoming a code city, under the same general plan of government under which the city operated prior to becoming a code city, pursuant to RCW 35A.02.055.

(4) "Organization" means the general plan of government under which a city operates.

(5) "Plan of government" means a mayor-council form of government under chapter 35A.12 RCW, council-manager form of government under chapter 35A.13 RCW, or a mayor-council, council-manager, or commission form of government in general that is retained by a noncharter code city as provided in RCW 35A.02.130, without regard to variations in the number of elective offices or whether officers are elective or appointive.

(6) "Reclassify" means changing from a code city to the classification, if any, held by such a city immediately prior to becoming a code city.

(7) "Reclassification" means changing from city or town operating under Title 35 RCW to a city operating under Title 35A RCW, or vice versa; a change in classification.

(8) "Reorganize" means changing the plan of government under which a city or town operates to a different general plan of government. A city or town shall not be deemed to have reorganized simply by increasing or decreasing the number of members of its legislative body.

(9) "Reorganization" means a change in general plan of government under which a city operates, but an increase or decrease in the number of members of its legislative body shall not be deemed to constitute a reorganization.

[2001 c 33 § 1. Prior: 1994 c 223 § 24; 1994 c 81 § 66; 1979 ex.s. c 18 § 1.]

NOTES:

Severability--1979 ex.s. c 18: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 18 § 36.]

RCW 35A.01.080 "Councilman" defined.

As used in this title, the term "councilman" or "councilmen" means councilmember or councilmembers.

[1981 c 213 § 2.]

Chapter 35A.02 RCW
PROCEDURE FOR INCORPORATED MUNICIPALITY TO BECOME A NONCHARTER CODE CITY

Sections

35A.02.010 Adoption of noncharter code city classification authorized.
35A.02.020 Petition method--Direct.
35A.02.025 Referendum.
35A.02.030 Resolution method.
35A.02.035 Referendum.
35A.02.040 Certification of ordinance--Transcript of record to secretary of state.
35A.02.050 Election of new officers.
35A.02.055 Election of new officers--Exception where same general plan of government is retained.
35A.02.060 Petition for election.
35A.02.070 Resolution for election.
35A.02.080 Election of officers upon approval of plan of government by voters.
35A.02.090 Alternative plan of government.
35A.02.120 Effective date of reclassification and reorganization.
35A.02.130 Adoption of classification of noncharter code city without change of governmental plan.
35A.02.140 Petition or resolution pending--Restriction--Exception.

Notes:
Incorporation subject to approval by boundary review board: RCW 36.93.090.

RCW 35A.02.010 Adoption of noncharter code city classification authorized.

Any incorporated city or town may become a noncharter code city in accordance with, and be governed by, the provisions of this title relating to noncharter code cities and may select one of the plans of government authorized by this title. A city or town adopting and organizing under the optional municipal code shall not be deemed to have reorganized and to have abandoned its existing general plan of government, upon changing classification and becoming a noncharter code city, solely because organizing under a plan of government authorized in this title changes the number of elective offices or changes the terms thereof, or because an office becomes appointive rather than elective, or because that city or town has come under the optional municipal code, or because of any combination of these factors.

[1979 ex.s. c 18 § 2; 1967 ex.s. c 119 § 35A.02.010.]

Notes:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 35A.02.020 Petition method--Direct.

When a petition is filed, signed by registered voters of an incorporated city or town, in number equal to not less than fifty percent of the votes cast at the last general municipal election, seeking the adoption by the city or town of the classification of noncharter code city, either under its existing authorized plan of government or naming one of the plans of government authorized for noncharter code cities, the county auditor shall promptly proceed to determine the sufficiency of the petition under the rules set forth in RCW 35A.01.040. If the petition is found to be sufficient, the county auditor shall file with the legislative body a certificate of sufficiency of the petition. Thereupon the legislative body of such city or town shall, by resolution, declare that the inhabitants of the city or town have decided to adopt the classification of noncharter code city and to be governed under the provisions of this title. If a prayer for reorganization is included in the petition such resolution shall also declare that the inhabitants of the city or town have decided to reorganize under the plan of government specified in the petition. The legislative body shall cause such resolution to be published at least once in a newspaper of general circulation within the city or town not later than ten days after the passage of the resolution. Upon the expiration of the ninetieth day from, but excluding the date of, first publication of the resolution, if no timely and sufficient referendum petition has been filed pursuant to RCW 35A.02.025, as now or hereafter amended, as determined by RCW 35A.29.170, the legislative body at its next regular meeting shall effect the decision of the inhabitants, as expressed in the petition, by passage of an ordinance adopting for the city the classification of noncharter code city, and if the petition also sought governmental reorganization by adoption of one of the plans of government authorized for noncharter code cities involving a different general plan of government from that under which the city is operating, then the legislative body shall provide at that time for such reorganization by ordinance and for election of all new officers pursuant to RCW 35A.02.050, as now or hereafter amended.

[1990 c 259 § 2; 1979 ex.s. c 18 § 3; 1967 ex.s. c 119 § 35A.02.020.]

Notes:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 35A.02.025 Referendum.

Upon the filing of a referendum petition in the manner provided in RCW 35A.29.170 signed by qualified electors in number equal to not less than ten percent of the votes cast in the last general municipal election, such resolution as authorized by RCW 35A.02.020 shall be referred to the voters for confirmation or rejection in the next general municipal election if one is to be held within one hundred and eighty days from the date of filing of the referendum petition, or at a special election to be called for that purpose in accordance with RCW 29.13.020.

[1979 ex.s. c 18 § 4; 1967 ex.s. c 119 § 35A.02.025.]

Notes:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 35A.02.030 Resolution method.

When a majority of the legislative body of an incorporated city or town determines that it would serve the best interests and general welfare of such municipality to change the classification of such city or town to that of noncharter code city, such legislative body may, by resolution, declare its intention to adopt for the city or town the classification of noncharter code city. If the legislative body so determines, such resolution may also contain a declaration of intention to reorganize the municipal government under one of the plans of government authorized in this title, naming such plan; but it shall also be lawful for the legislative body of any incorporated city or town which is governed under a plan of government authorized prior to the time this title takes effect to adopt for the city or town the classification of noncharter code city while retaining the same general plan of government under which such city or town is then operating. Within ten days after the passage of the resolution, the legislative body shall cause it to be published at least once in a newspaper of general circulation within the city or town. Upon the expiration of the ninetieth day from, but excluding the date of first publication of the resolution, if no timely and sufficient referendum petition has been filed pursuant to RCW 35A.02.035, as determined by RCW 35A.29.170, the intent expressed in such resolution shall at the next regular meeting of the legislative body be effected by an ordinance adopting for the city or town the classification of noncharter code city; and, if the resolution includes a declaration of intention to reorganize, the legislative body shall provide at that time for such reorganization by ordinance.

[1979 ex.s. c 18 § 5; 1967 ex.s. c 119 § 35A.02.030.]

Notes:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 35A.02.035 Referendum.

Upon the filing of a referendum petition in the manner provided in RCW 35A.29.170 signed by qualified electors of an incorporated city or town in number equal to not less than ten percent of the votes cast in the last general municipal election, such resolution shall be referred for approval or rejection by the voters at an election as specified in RCW 35A.02.025.

[1967 ex.s. c 119 § 35A.02.035.]

RCW 35A.02.040 Certification of ordinance--Transcript of record to secretary of state.

When one or more ordinances are passed under RCW 35A.02.020 or 35A.02.030, as now or hereafter amended, the clerk of the city or town shall forward to the secretary of state a certified copy of any such ordinance. Upon the filing in the office of the secretary of state of a certified copy of an ordinance adopting the classification of noncharter code city, such city or town shall thereafter be classified as a noncharter code city; except that if there is also filed with the secretary of state a certified copy of an ordinance providing for reorganization of the

municipal government of such city or town under a different general plan of government, such reclassification and reorganization shall not be effective until the election, qualification, and assumption of office under RCW 35A.02.050 as now or hereafter amended of at least a quorum of all new officers under the plan of government so adopted.

[1979 ex.s. c 18 § 6; 1970 ex.s. c 52 § 1; 1967 ex.s. c 119 § 35A.02.040.]

Notes:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 35A.02.050 Election of new officers.

The first election of officers where required for reorganization under a different general plan of government newly adopted in a manner provided in RCW 35A.02.020, 35A.02.030, 35A.06.030, or 35A.06.060, as now or hereafter amended, shall be at the next general municipal election if one is to be held more than ninety days but not more than one hundred and eighty days after certification of a reorganization ordinance or resolution, or otherwise at a special election to be held for that purpose in accordance with RCW 29.13.020. In the event that the first election of officers is to be held at a general municipal election, such election shall be preceded by a primary election pursuant to RCW 29.21.010 and 29.13.070. In the event that the first election of all officers is to be held at a special election rather than at a general election, and notwithstanding any provisions of any other law to the contrary, such special election shall be preceded by a primary election to be held on a date authorized by RCW 29.13.010, and the persons nominated at that primary election shall be voted upon at the next succeeding special election that is authorized by RCW 29.13.010: PROVIDED, That in the event the ordinances calling for reclassification or reclassification and reorganization under the provisions of Title 35A RCW have been filed with the secretary of state pursuant to RCW 35A.02.040 in an even-numbered year at least ninety days prior to a state general election then the election of new officers shall be concurrent with the state primary and general election and shall be conducted as set forth in general election law.

Upon reorganization, candidates for all offices shall file or be nominated for and successful candidates shall be elected to specific council positions. The initial terms of office for those elected at a first election of all officers shall be as follows: (1) A simple majority of the persons who are elected as councilmembers receiving the greatest numbers of votes and the mayor in a city with a mayor-council plan of government shall be elected to four-year terms of office, if the election is held in an odd-numbered year, or three-year terms of office, if the election is held in an even-numbered year; and (2) the other persons who are elected as councilmembers shall be elected to two-year terms of office, if the election is held in an odd-numbered year, or one-year terms of office, if the election is held in an even-numbered year. The newly elected officials shall take office immediately when they are elected and qualified, but the length of their terms of office shall be calculated from the first day of January in the year following the election. Thereafter, each person elected as a councilmember or mayor in a city with a mayor-council plan of government shall be elected to a four-year term of office. Each

councilmember and mayor in a city with a mayor-council plan of government shall serve until a successor is elected and qualified and assumes office as provided in RCW 29.04.170.

The former officers shall, upon the election and qualification of new officers, deliver to the proper officers of the reorganized noncharter code city all books of record, documents and papers in their possession belonging to such municipal corporation before the reorganization thereof.

[1994 c 223 § 25; 1979 ex.s. c 18 § 7; 1971 ex.s. c 251 § 1; 1970 ex.s. c 52 § 2; 1967 ex.s. c 119 § 35A.02.050.]

Notes:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

Severability--1971 ex.s. c 251: See RCW 35A.90.050.

RCW 35A.02.055 Election of new officers--Exception where same general plan of government is retained.

Where a city elects to become a noncharter code city under one of the optional plans of government provided in Title 35A RCW for code cities which involves the same general plan of government as that under which the city operated prior to the choice and where with the change in classification the number of councilmanic positions in a city remains the same or increases from five to seven, the procedures for the first election of officers which appear in RCW 35A.02.050 shall not be followed. When membership in a city council remains the same or is increased upon becoming a noncharter code city, the terms of incumbent council members shall not be affected. If the number of council members is increased from five to seven, the city council shall, by majority vote, pursuant to RCW 35A.12.050 and 35A.13.020, appoint two persons to serve in these offices until the next municipal general election, at which election one person shall be elected for a two-year term and one person shall be elected for a four-year term.

A first election of all officers upon a change in classification to a noncharter code city is also not required where the change in classification otherwise retains the same general or specific plan of government and where the change in classification results in a decrease in the number of councilmanic positions in a city.

If the membership in a city council is decreased from seven to five members upon adopting the classification of noncharter code city, this decrease in the number of council members shall be determined in the following manner: The council members shall determine by lot which two councilmanic positions shall be eliminated upon the expiration of their terms of office. The terms of the remaining council members shall not be affected.

[1979 ex.s. c 18 § 8.]

Notes:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 35A.02.060 Petition for election.

When a petition which is sufficient under the rules set forth in RCW 35A.01.040 is filed

with the legislative body of an incorporated city or town, signed by qualified electors of such municipality in number equal to not less than ten percent of the votes cast at the last general municipal election, seeking adoption by the city or town of the classification of noncharter code city and the reorganization of the city or town under one of the plans of government authorized in this title, the county auditor shall file with the legislative body thereof a certificate of sufficiency of such petition. Thereupon, the legislative body shall cause such proposal to be submitted to the voters at the next general municipal election if one is to be held within one hundred eighty days after certification of the sufficiency of the petition, or at a special election to be held for that purpose not less than ninety days nor more than one hundred and eighty days from such certification of sufficiency. Ballot titles for elections under this chapter shall be prepared by the city attorney as provided in *RCW 35A.29.120.

[1990 c 259 § 3; 1967 ex.s. c 119 § 35A.02.060.]

Notes:

***Reviser's note:** RCW 35A.29.120 was repealed by 1994 c 223 § 92.

RCW 35A.02.070 Resolution for election.

The legislative body of an incorporated city or town may, by resolution, submit to the voters in the next general municipal election if one is to be held within one hundred and eighty days after passage of the resolution, or in a special election to be called for that purpose not less than ninety days nor more than one hundred and eighty days after passage of the resolution, a proposal that the city or town adopt the classification of noncharter code city and organize under one of the plans of government authorized in this title, naming such plan.

[1967 ex.s. c 119 § 35A.02.070.]

RCW 35A.02.080 Election of officers upon approval of plan of government by voters.

If the majority of votes cast at an election for organization under a plan provided in this title favor the plan, the city or town shall elect in accordance with RCW 35A.02.050 the officers for the positions created. The former officers of the municipality shall, upon the election and qualification of the new officers, deliver to the proper officers of the new noncharter code city all books of record, documents and papers in their possession belonging to such municipal corporation before reorganization.

[1971 ex.s. c 251 § 2; 1967 ex.s. c 119 § 35A.02.080.]

Notes:

Severability--1971 ex.s. c 251: See RCW 35A.90.050.

RCW 35A.02.090 Alternative plan of government.

Proposals for each of the plans of government authorized by this title may be placed on the ballots in the same election by timely petition as provided in this chapter. When the ballot contains alternative proposals for each of the plans of government the ballot shall clearly state

that voters may vote for only one of the plans of government.

[1971 ex.s. c 251 § 3; 1967 ex.s. c 119 § 35A.02.090.]

Notes:

Severability--1971 ex.s. c 251: See RCW 35A.90.050.

RCW 35A.02.120 Effective date of reclassification and reorganization.

Upon the filing of the certified copy of the resolution with the secretary of state, the county auditor shall issue certificates of election to the successful candidates for the offices under the plan of government for which a majority of the votes were cast, and upon the issuance of such certificates, such city or town shall become a noncharter code city governed under the plan of government chosen by the voters, under the provisions of this title and with the powers conferred by this title.

[1967 ex.s. c 119 § 35A.02.120.]

RCW 35A.02.130 Adoption of classification of noncharter code city without change of governmental plan.

Any incorporated city or town governed under a plan of government authorized prior to the time this title takes effect may become a noncharter code city without changing such plan of government by the use of the petition-for-election or resolution-for-election procedures provided in RCW 35A.02.060 and 35A.02.070 to submit to the voters a proposal that such municipality adopt the classification of noncharter code city while retaining its existing plan of government, and upon a favorable vote on the proposal, such municipality shall be classified as a noncharter code city and retain its old plan of government, such reclassification to be effective upon the filing of the record of such election with the office of the secretary of state. Insofar as the provisions of *RCW 35A.02.100 and 35A.02.110 are applicable to an election on such a reclassification proposal they shall apply to such election.

[1994 c 223 § 26; 1994 c 81 § 67; 1967 ex.s. c 119 § 35A.02.130.]

Notes:

***Reviser's note:** RCW 35A.02.100 and 35A.02.110 were repealed by 1994 c 223 § 92.

RCW 35A.02.140 Petition or resolution pending--Restriction--Exception.

While proceedings are pending under any petition or resolution relating to reclassification of a municipality or reorganization of the government thereof pursuant to this chapter, no resolution shall be passed for the purpose of initiating other such proceedings or submitting other such proposals to the voters at an election thereunder; and no petition for reclassification or reorganization of such municipality shall be accepted for filing pending such proceedings, except that a timely and sufficient petition seeking to place on the ballot for such election a proposal for an alternative plan of government authorized by this title, as provided in RCW 35A.02.090, may be filed and acted upon.

[1967 ex.s. c 119 § 35A.02.140.]

Chapter 35A.03 RCW
INCORPORATION AS NONCHARTER CODE CITY

Sections

35A.03.001 Actions subject to review by boundary review board.
35A.03.005 Incorporation to be governed by chapter 35.02 RCW.

RCW 35A.03.001 Actions subject to review by boundary review board.

Actions taken under chapter 35A.03 RCW may be subject to potential review by a boundary review board under chapter 36.93 RCW.

[1989 c 84 § 36.]

RCW 35A.03.005 Incorporation to be governed by chapter 35.02 RCW.

Noncharter code cities shall be incorporated as provided in chapter 35.02 RCW.

[1986 c 234 § 36.]

Chapter 35A.05 RCW
CONSOLIDATION OF CODE CITIES

Sections

35A.05.001 Actions subject to review by boundary review board.
35A.05.005 Consolidation of code cities.

RCW 35A.05.001 Actions subject to review by boundary review board.

Actions taken under chapter 35A.05 RCW may be subject to potential review by a boundary review board under chapter 36.93 RCW.

[1989 c 84 § 37.]

RCW 35A.05.005 Consolidation of code cities.

Code cities shall consolidate as provided in chapter 35.10 RCW.

[1985 c 281 § 14.]

Notes:

Severability--1985 c 281: See RCW 35.10.905.

Chapter 35A.06 RCW
ADOPTION AND ABANDONMENT OF NONCHARTER CODE CITY CLASSIFICATION OR PLAN OF GOVERNMENT

Sections

35A.06.010 Each optional plan of government declared complete form of government.
35A.06.020 Laws applicable to noncharter code cities.
35A.06.030 Abandonment of plan of government of a noncharter code city.
35A.06.040 Abandonment--Resolution or petition for election.
35A.06.050 Abandonment--Election.
35A.06.060 Abandonment--Reorganization under plan adopted--Effective date.
35A.06.070 Abandonment of noncharter code city classification without reorganization.

RCW 35A.06.010 Each optional plan of government declared complete form of government.

Each of the optional plans of government authorized by chapter 35A.12 RCW and chapter 35A.13 RCW, with any amendments thereto, is declared to be a complete and separate plan of government authorized by the legislature for submission to the voters of a municipality or for adoption by resolution of the legislative body thereof in the manner provided herein, and is additional to the plans of government existing prior to the time this title takes effect.

[1967 ex.s. c 119 § 35A.06.010.]

RCW 35A.06.020 Laws applicable to noncharter code cities.

The classifications of municipalities as first class cities, second class cities, unclassified cities, and towns, and the restrictions, limitations, duties, and obligations specifically imposed by law upon such classes of cities and towns, shall have no application to noncharter code cities, but every noncharter code city, by adopting such classification, has elected to be governed by the provisions of this title, with the powers granted hereby. However, any code city that retains its old plan of government is subject to the laws applicable to that old plan of government until the city abandons its old plan of government and reorganizes and adopts a plan of government under chapter 35A.12 or 35A.13 RCW.

[1997 c 361 § 17; 1995 c 134 § 11. Prior: 1994 c 223 § 27; 1994 c 81 § 68; 1967 ex.s. c 119 § 35A.06.020.]

RCW 35A.06.030 Abandonment of plan of government of a noncharter code city.

By use of the resolution for election or petition for election methods described in RCW

35A.06.040, any noncharter code city which has operated for more than six consecutive years under one of the optional plans of government authorized by this title, or for more than a combined total of six consecutive years under a particular plan of government both as a code city and under the same general plan under Title 35 RCW immediately prior to becoming a code city, may abandon such organization and may reorganize and adopt another plan of government authorized for noncharter code cities, but only after having been a noncharter code city for more than one year or a city after operating for more than six consecutive years under a particular plan of government as a noncharter code city: PROVIDED, That these limitations shall not apply to a city seeking to adopt a charter.

In reorganization under a different general plan of government as a noncharter code city, officers shall serve the remainder of their terms. If a city with a mayor-council plan of government is reorganized with a council-manager plan of government, the mayor shall serve as a councilmember for the remainder of his or her term. If a city with a council-manager plan of government is reorganized with a mayor-council plan of government, the mayor shall be elected as provided in RCW 35A.02.050. When a noncharter code city adopts a plan of government other than those authorized under Title 35A RCW, such city ceases to be governed under this optional municipal code, shall be classified as a city or town of the class selected in the proceeding for adoption of such new plan, with the powers granted to such class under the general law, and shall elect officers as provided in RCW 35A.02.050.

[2001 c 33 § 2; 1994 c 223 § 28; 1994 c 81 § 69; 1979 ex.s. c 18 § 14; 1971 ex.s. c 251 § 13; 1967 ex.s. c 119 § 35A.06.030.]

NOTES:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

Severability--1971 ex.s. c 251: See RCW 35A.90.050.

RCW 35A.06.040 Abandonment--Resolution or petition for election.

Upon the passage of a resolution of the legislative body of a noncharter code city, or upon the filing of a sufficient petition with the county auditor signed by registered voters in number equal to not less than ten percent of the votes cast at the last general municipal election therein, proposing abandonment by the city of the plan of government under which it is then operating and adoption of another plan, naming such plan, the sufficiency of the petition for abandonment shall be determined, an election ordered and conducted, and the results declared generally as provided in chapter 35A.02 RCW insofar as such provisions are applicable. If the resolution or petition proposes a plan of government other than those authorized in chapters 35A.12 RCW and 35A.13 RCW of this title, the resolution or petition shall specify the class under which such city will be classified upon adoption of such plan.

[1990 c 259 § 4; 1967 ex.s. c 119 § 35A.06.040.]

Notes:

Sufficiency of petition in code city: RCW 35A.01.040.

RCW 35A.06.050 Abandonment--Election.

The proposal for abandonment of a plan of government as authorized in RCW 35A.06.030 and for adoption of the plan named in the resolution or petition shall be voted upon at the next general municipal election if one is to be held within one hundred and eighty days or otherwise at a special election called for that purpose in accordance with RCW 29.13.020. The ballot title and statement of the proposition shall be prepared by the city attorney as provided in RCW *29.27.060 and 35A.29.120.

[1994 c 223 § 29; 1979 ex.s. c 18 § 15; 1967 ex.s. c 119 § 35A.06.050.]

Notes:

***Reviser's note:** RCW 29.27.060 was repealed by 2000 c 197 § 15.

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 35A.06.060 Abandonment--Reorganization under plan adopted--Effective date.

If a majority of votes cast at the election favor abandonment of the general plan of government under which the noncharter code city is then organized and reorganization under the different general plan proposed in the resolution or petition, the officers to be elected shall be those prescribed by the plan of government so adopted, and they shall be elected as provided in RCW 35A.06.030. If the city is adopting a plan of government other than those authorized under this title, the officers shall be elected at the next succeeding general municipal election. Upon the election, qualification, and assumption of office by such officers the reorganization of the government of such municipality shall be complete and such municipality shall thereafter be governed under such plan. If the plan so adopted is not a plan authorized for noncharter code cities, upon the election, qualification, and assumption of office by such officers the municipality shall cease to be a noncharter code city governed under the provisions of this optional municipal code and shall revert to the classification selected and shall be governed by the general laws relating to municipalities of such class with the powers conferred by law upon municipalities of such class. Such change of classification shall not affect the then existing property rights or liabilities of the municipal corporation.

[2001 c 33 § 3; 1979 ex.s. c 18 § 16; 1967 ex.s. c 119 § 35A.06.060.]

NOTES:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 35A.06.070 Abandonment of noncharter code city classification without reorganization.

By means of the procedures set forth in this chapter, insofar as they apply, any noncharter code city which has been governed under the provisions of this title for more than six years may abandon the classification of noncharter code city and elect to be governed under the general law relating to cities or towns of the classification held by such city immediately prior to becoming a noncharter code city, if any, or relating to cities or towns of the highest class for which it is

qualified by population, with the powers conferred by law upon such class, while retaining the plan of government under which it is then organized. A change of classification approved by a majority of the voters voting on such proposition shall become effective upon the filing of the record of such election with the office of the secretary of state.

[1967 ex.s. c 119 § 35A.06.070.]

Chapter 35A.07 RCW
PROCEDURE FOR CITY OPERATING UNDER CHARTER TO BECOME A CHARTER CODE CITY

Sections

35A.07.010 Adoption of charter code city classification authorized.
35A.07.020 Petition method--Direct.
35A.07.025 Referendum.
35A.07.030 Resolution method.
35A.07.035 Referendum.
35A.07.040 Certification of ordinance--Transcript of record to secretary of state.
35A.07.050 Petition for election.
35A.07.060 Resolution for election.
35A.07.070 Election on reclassification--Effective date of reclassification upon favorable vote.

RCW 35A.07.010 Adoption of charter code city classification authorized.

Any city having ten thousand inhabitants which is governed under a charter may become a charter code city by a procedure prescribed in this chapter and be governed under this title, with the powers conferred hereby.

[1967 ex.s. c 119 § 35A.07.010.]

RCW 35A.07.020 Petition method--Direct.

When a petition is filed, signed by registered voters of a charter city in number equal to not less than fifty percent of the votes cast at the last general municipal election, seeking the adoption by the charter city of the classification of charter code city the legislative body of such city shall direct the county auditor to determine the sufficiency of the petition under the rules set forth in RCW 35A.01.040. If the petition is found to be sufficient, the county auditor shall file with the legislative body a certificate of sufficiency of the petition. Thereupon the legislative body of the charter city shall, by resolution, declare that the inhabitants of such city have decided to adopt the classification of charter code city and to be governed under this title. The legislative body shall cause such resolution to be published at least once in a newspaper of general circulation within the city not later than ten days after the passage of the resolution. Upon the expiration of the ninetieth day from, but excluding the date of first publication of the resolution,

if no timely and sufficient referendum petition has been filed, as determined by RCW 35A.29.170, the legislative body shall effect the decision of the inhabitants, as expressed in the petition, by passage of an ordinance adopting for the city the classification of charter code city.

[1990 c 259 § 5; 1967 ex.s. c 119 § 35A.07.020.]

RCW 35A.07.025 Referendum.

Upon the filing of a referendum petition in the manner provided in RCW 35A.29.170 signed by qualified electors in number equal to not less than ten percent of the votes cast in the last general municipal election, the resolution authorized by RCW 35A.07.020 shall be referred to the voters for confirmation or rejection in the next general municipal election, if one is to be held within one hundred and eighty days from the date of filing of the referendum petition, or at a special election to be called for that purpose not less than ninety days nor more than one hundred and eighty days from the filing of such referendum petition.

[1967 ex.s. c 119 § 35A.07.025.]

RCW 35A.07.030 Resolution method.

When a majority of the legislative body of a charter city determines that it would serve the best interests and general welfare of such city to become a charter code city, such legislative body may, by resolution, declare its intention to adopt for the city the classification of charter code city and to be governed under the provisions of this title, with the powers conferred hereby. Within ten days after the passage of the resolution, the legislative body shall cause it to be published at least once in a newspaper of general circulation within the city. Upon the expiration of the ninetieth day from, but excluding the date of first publication of the resolution, if no timely and sufficient referendum petition has been filed, as determined by RCW 35A.29.170, the intent expressed in such resolution shall be effected by passage of an ordinance adopting for the city the classification of charter code city.

[1967 ex.s. c 119 § 35A.07.030.]

RCW 35A.07.035 Referendum.

Upon the filing of a referendum petition in the manner provided in RCW 35A.29.170 signed by qualified electors in number equal to not less than ten percent of the votes cast in the last general municipal election, the resolution authorized by RCW 35A.07.030 shall be referred to the voters for approval or rejection at an election as specified in RCW 35A.07.025.

[1967 ex.s. c 119 § 35A.07.035.]

RCW 35A.07.040 Certification of ordinance--Transcript of record to secretary of state.

When an ordinance is passed as provided in RCW 35A.07.020 or 35A.07.030, the clerk

of the charter city shall forward to the secretary of state a certified copy thereof. Upon the filing of the certified copy of the ordinance in the office of the secretary of state, such city shall be classified as a charter code city and shall thereafter be governed under the provisions of this optional municipal code and have the powers conferred hereby.

[1967 ex.s. c 119 § 35A.07.040.]

RCW 35A.07.050 Petition for election.

When a petition which is sufficient under the rules set forth in RCW 35A.01.040 is filed with the legislative body of a charter city, signed by registered voters of such city in number equal to not less than ten percent of the votes cast at the last general municipal election, seeking adoption by the city of the classification of charter code city, the county auditor shall file with the legislative body thereof a certificate of sufficiency of such petition. Thereupon the legislative body shall cause such proposal to be submitted to the voters at the next general municipal election if one is to be held within one hundred eighty days, or at a special election to be held for that purpose not less than ninety days nor more than one hundred and eighty days after the filing of such petition. Ballot titles for such election shall be prepared by the city attorney as provided in *RCW 35A.29.120.

[1990 c 259 § 6; 1967 ex.s. c 119 § 35A.07.050.]

Notes:

***Reviser's note:** RCW 35A.29.120 was repealed by 1994 c 223 § 92.

RCW 35A.07.060 Resolution for election.

The legislative body of a charter city may, by resolution, submit to the voters at an election held within the time period specified in RCW 35A.07.050 a proposal that the city adopt the classification of charter code city and be governed under the provisions of this title with the powers conferred hereby.

[1967 ex.s. c 119 § 35A.07.060.]

RCW 35A.07.070 Election on reclassification--Effective date of reclassification upon favorable vote.

Notice of elections under this chapter shall be given, the election conducted, and the result declared generally as provided in chapter 35A.02 RCW, insofar as such provisions are applicable. If a majority of votes cast on the proposition are in favor of adoption of the classification of charter code city, upon the certification of the record of election to the office of the secretary of state, such city shall become a charter code city and shall be governed under the provisions of this title and have the powers conferred on charter code cities.

[1967 ex.s. c 119 § 35A.07.070.]

Chapter 35A.08 RCW
PROCEDURE FOR ADOPTION OF CHARTER AS CHARTER CODE CITY

Sections

35A.08.010 Adoption of charter authorized.
35A.08.020 Determining population.
35A.08.030 Resolution or petition for election.
35A.08.040 Election on question--Election of charter commission.
35A.08.050 Organization of charter commission--Vacancies--Duties.
35A.08.060 Expenses of commission members--Consultants and assistants.
35A.08.070 Public hearing.
35A.08.080 Submission of charter--Election of officers--Publication.
35A.08.090 Conduct of elections.
35A.08.100 Ballot titles.
35A.08.110 Certificates of election to officers--Effective date of becoming charter code city.
35A.08.120 Authentication of charter.

RCW 35A.08.010 Adoption of charter authorized.

Any city having a population of ten thousand or more inhabitants may become a charter code city and be governed under the provisions of this title by adopting a charter for its own government in the manner prescribed in this chapter. Once any city, having ten thousand population, has adopted such a charter, any subsequent decrease in population below ten thousand shall not affect its status as a charter code city.

[1967 ex.s. c 119 § 35A.08.010.]

RCW 35A.08.020 Determining population.

For the purposes of this chapter, the population of a city shall be the number of residents shown by the figures released for the most recent official state or federal census, by a population determination made under the direction of the office of financial management, or by a city census conducted in the following manner:

(1) The legislative authority of any such city may provide by ordinance for the appointment by the mayor thereof, of such number of persons as may be designated in the ordinance to make an enumeration of all persons residing within the corporate limits of the city. The enumerators so appointed, before entering upon their duties, shall take an oath for the faithful performance thereof and within five days after their appointment proceed, within their respective districts, to make an enumeration of all persons residing therein, with their names and places of residence.

(2) Immediately upon the completion of the enumeration, the enumerators shall make return thereof upon oath to the legislative authority of the city, who at its next meeting or as soon thereafter as practicable, shall canvass and certify the returns.

(3) If it appears therefrom that the whole number of persons residing within the corporate limits of the city is ten thousand or more, the mayor and clerk under the corporate seal of the city shall certify the number so ascertained to the secretary of state, who shall file it in his office. This certificate when so filed shall be conclusive evidence of the population of the city.

[1979 c 151 § 32; 1967 ex.s. c 119 § 35A.08.020.]

Notes:
Population determinations, office of financial management: Chapter 43.62 RCW.

RCW 35A.08.030 Resolution or petition for election.

The legislative body of any city having ten thousand or more inhabitants may, by resolution, provide for submission to the voters of the question whether the city shall become a charter code city and be governed in accordance with a charter to be adopted by the voters under the provisions of this title. The legislative body must provide for such an election upon receipt of a sufficient petition therefor signed by qualified electors in number equal to not less than ten percent of the votes cast at the last general municipal election therein. The question may be submitted to the voters at the next general municipal election if one is to be held within one hundred and eighty days or at a special election held for that purpose not less than ninety nor more than one hundred and eighty days after the passage of the resolution or the filing of the certificate of sufficiency of the petition. At such election provision shall also be made for the election of fifteen freeholders who, upon a favorable vote on the question, shall constitute the charter commission charged with the duty of framing a charter for submission to the voters. If the vote in favor of adopting a charter receives forty percent or less of the total vote on the question of charter adoption, no new election on the question of charter adoption may be held for a period of two years from the date of the election in which the charter proposal failed.

[2001 c 33 § 4; 1967 ex.s. c 119 § 35A.08.030.]

NOTES:
Sufficiency of petition in code city: RCW 35A.01.040.

RCW 35A.08.040 Election on question--Election of charter commission.

The election on the question whether to adopt a charter and become a charter code city and the nomination and election of the members of the charter commission shall be conducted, and the result declared, according to the laws regulating and controlling elections in the city. Candidates for election to the charter commission must be nominated by petition signed by ten registered voters of the city and residents therein for a period of at least two years preceding the election. A nominating petition shall be filed within the time allowed for filing declarations of candidacy and shall be verified by an affidavit of one or more of the signers to the effect that the affiant believes that the candidate and all of the signers are registered voters of the city and he signed the petition in good faith for the purpose of endorsing the person named therein for election to the charter commission. A written acceptance of the nomination by the nominee shall be affixed to the petition when filed with the county auditor. Nominating petitions need not be in

the form prescribed in RCW 35A.01.040. Any nominee may withdraw his nomination by a written statement of withdrawal filed at any time not later than five days before the last day allowed for filing nominations. The positions on the charter commission shall be designated by consecutive numbers one through fifteen, and the positions so designated shall be considered as separate offices for all election purposes. A nomination shall be made for a specific numbered position.

[1990 c 259 § 7; 1967 ex.s. c 119 § 35A.08.040.]

RCW 35A.08.050 Organization of charter commission--Vacancies--Duties.

Within ten days after its election the charter commission shall hold its first meeting, elect one of the members as chairman, and adopt such rules for the conduct of its business as it may deem advisable. In the event of a vacancy in the charter commission, the remaining members shall fill it by appointment thereto of some properly qualified person. A majority shall constitute a quorum for transaction of business but final charter recommendations shall require a majority vote of the whole membership of the commission. The commission shall study the plan of government of the city, compare it with other available plans of government, and determine whether, in its judgment, the government of the city could be strengthened, made more responsive or accountable to the people, or whether its operation could be made more economical or more efficient by amendment of the existing plan or adoption of another plan of government. The commission shall consider the plans of government described in this title but shall not be limited to such plans in its recommendations for the government of the city and may frame a charter for any plan it deems suitable for the good government of the city; except that the provisions of such charter shall not be valid if inconsistent with the Constitution of this state, the provisions of this title, or the general laws of the state, insofar as they are applicable to cities governed under this title.

[1967 ex.s. c 119 § 35A.08.050.]

RCW 35A.08.060 Expenses of commission members--Consultants and assistants.

Members of the charter commission shall serve without compensation but shall be reimbursed by the city from any funds for their necessary expenses incurred in the performance of their duties. The legislative body may, in its discretion, make a reasonable appropriation of the city funds to provide for public information and discussion concerning the purposes and progress of the commission's work and/or to provide technical or clerical assistance to the commission in its work. Within the limits of any such appropriation and privately contributed funds and services as may be available to it, the charter commission may appoint one or more consultants and clerical or other assistants to serve at the pleasure of the commission and may fix a reasonable compensation to be paid such consultants and assistants.

[1967 ex.s. c 119 § 35A.08.060.]

RCW 35A.08.070 Public hearing.

The charter commission shall hold at least one public hearing in the course of its deliberations, may hold committee meetings and may sponsor public forums and promote public education and discussion respecting its work.

[1967 ex.s. c 119 § 35A.08.070.]

RCW 35A.08.080 Submission of charter--Election of officers--Publication.

Within one hundred and eighty days from the date of its first meeting, the charter commission, or a majority thereof, shall frame a charter for the city and submit the charter to the legislative body of the city, which, within five days thereafter shall initiate proceedings for the submission of the proposed charter to the qualified electors of the city at the next general election if one is to be held within one hundred and eighty days or at a special election to be held for that purpose not less than ninety nor more than one hundred and eighty days after submission of the charter to the legislative body. The legislative body shall cause the proposed charter to be published in a newspaper of general circulation in the city at least once each week for four weeks next preceding the day of submitting the same to the electors for their approval. At this election the first officers to serve under the provisions of the proposed charter shall also be elected. If the election is from wards, the division into wards as specified in the proposed charter shall govern; in all other respects the then existing laws relating to such elections shall govern. The notice of election shall specify the objects for which the election is held and shall be given as required by law.

[1967 ex.s. c 119 § 35A.08.080.]

RCW 35A.08.090 Conduct of elections.

The election upon the question of becoming a charter code city and framing a charter and the election of the charter commission, and the election upon the adoption or rejection of the proposed charter and the officers to be elected thereunder, the returns of both elections, the canvassing thereof, and the declaration of the result shall be governed by the laws regulating and controlling elections in the city.

[1967 ex.s. c 119 § 35A.08.090.]

RCW 35A.08.100 Ballot titles.

Ballot titles for elections under this chapter shall be prepared by the city attorney as provided in *RCW 35A.29.120. The ballot statement in the election for adopting or rejecting the proposed charter shall clearly state that, upon adoption of the proposed charter, the city would be governed by its charter and by this title.

[1967 ex.s. c 119 § 35A.08.100.]

Notes:

***Reviser's note:** RCW 35A.29.120 was repealed by 1994 c 223 § 92.

RCW 35A.08.110 Certificates of election to officers--Effective date of becoming charter code city.

If a majority of the votes cast at the election upon the adoption of the proposed charter favor it, certificates of election shall be issued to each officer elected at that election. Within ten days after the issuance of the certificates of election, the newly elected officers shall qualify as provided in the charter, and on the tenth day thereafter at twelve o'clock noon of that day or on the next business day if the tenth day is a Saturday, Sunday or holiday, the officers so elected and qualified shall enter upon the duties of the offices to which they were elected and at such time the charter shall be authenticated, recorded, attested and go into effect, and the city shall thereafter be classified as a charter code city. When so authenticated, recorded and attested, the charter shall become the organic law of the city and supersede any existing charter and amendments thereto and all special laws inconsistent therewith.

[1967 ex.s. c 119 § 35A.08.110.]

RCW 35A.08.120 Authentication of charter.

The authentication of the charter shall be by certificate of the mayor in substance as follows:

"I, ..., mayor of the city of . . . . . ., do hereby certify that in accordance with the provisions of the Constitution and statutes of the state of Washington, the city of . . . . . caused fifteen freeholders to be elected on the . . . . . day of . . . . . ., 19. . . as a charter commission to prepare a charter for the city; that due notice of that election was given in the manner provided by law and that the following persons were declared elected to prepare and propose a charter for the city, to wit:

. . . . . .

That thereafter on the . . . . day of . . . . . ., 19. . . the charter commission returned a proposed charter for the city of . . . . . signed by the following members thereof: . . . . . .

That thereafter the proposed charter was published in . . . . . (indicate name of newspaper in which published), for at least once each week for four weeks next preceding the day of submitting the same to the electors for their approval.

(Indicate dates of publication.)

That thereafter on the . . . . day of . . . . . ., 19. . ., at an election duly called and held, the proposed charter was submitted to the qualified electors thereof, and the returns canvassed resulting as follows: For the proposed charter . . . . votes; against the proposed charter, ... votes; majority for the proposed charter, ... votes; whereupon the charter was declared adopted by a majority of the qualified electors voting at the election.

I further certify that the foregoing is a full, true and complete copy of the proposed charter so voted upon and adopted as aforesaid.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix the corporate seal of the said city at my office this . . . . day of . . . . . ., 19. . .

. . . . . .
Mayor of the city of . . . . . .

Attest:
. . . . . .
Clerk of the city of . . . . . (corporate seal)."

Immediately after authentication, the authenticated charter shall be recorded by the city clerk in a book provided for that purpose known as the charter book of the city of . . . . . and when so recorded shall be attested by the clerk and mayor under the corporate seal of the city. All amendments shall be in like manner recorded and attested.

All courts shall take judicial notice of a charter and all amendments thereto when recorded and attested as required in this section.

[1967 ex.s. c 119 § 35A.08.120.]

Chapter 35A.09 RCW
AMENDMENT OR REVISION OF CHARTERS OF CHARTER CODE CITIES

Sections

35A.09.010 Amendment of charter--Initiated by legislative body.
35A.09.020 Petition for submission of charter amendment.
35A.09.030 New or revised charter--Petition--Charter commission.
35A.09.040 Submission of new or revised charter--Election.
35A.09.050 Publication of proposed charter.
35A.09.060 Conduct of elections.
35A.09.070 Effect of favorable vote.

RCW 35A.09.010 Amendment of charter--Initiated by legislative body.

The charter of a charter code city may be amended by proposals therefor submitted by resolution of the legislative authority of such city to the electors thereof at any general election, after publication of such proposed charter amendment in the manner provided in chapter 35A.08 RCW for publication of a proposed charter, and upon notice of election as provided by law. If such proposed charter amendment is ratified by a majority of the qualified electors voting thereon it shall become a part of the charter organic law governing such charter code city.

[1967 ex.s. c 119 § 35A.09.010.]

RCW 35A.09.020 Petition for submission of charter amendment.

Upon the filing with the county auditor of a sufficient petition signed by registered voters of a charter code city, in number equal to at least ten percent of the votes cast at the last general municipal election, seeking the adoption of a specified charter amendment set forth in the petition, providing for any matter within the realm of local affairs, or municipal business, or structure of municipal government, offices, and departments, said amendment shall be submitted to the voters at the next general municipal election if one is to be held within one hundred and eighty days, or at a special election to be held for that purpose not less than ninety days, nor more than one hundred and eighty days after the filing of the certificate of sufficiency of the petition. The proposed charter amendment shall be published as provided in RCW 35A.09.050. Upon approval by a majority of the registered voters voting thereon, such amendment shall become a part of the charter organic law governing such charter code city.

[1990 c 259 § 8; 1967 ex.s. c 119 § 35A.09.020.]

Notes:
Sufficiency of petition in code city: RCW 35A.01.040.

RCW 35A.09.030 New or revised charter--Petition--Charter commission.

On the petition of a number of qualified electors of a charter code city equal to ten percent of the total votes cast at the last preceding municipal general election, the legislative body of such charter code city shall, or without such petition, may, by resolution, cause an election to be held for the election of a charter commission of fifteen freeholders for the purpose of preparing a new or revised charter for the city by altering, revising, adding to, or repealing the existing charter including all amendments thereto. The members of the charter commission shall be qualified and nominated as provided by chapter 35A.08 RCW. At such election the proposition of whether or not a charter commission shall be created at all shall be separately stated on the ballots and unless a majority of the votes cast upon that proposition favor it, no further steps shall be taken in the proceedings.

[1967 ex.s. c 119 § 35A.09.030.]

Notes:
Sufficiency of petition in code city: RCW 35A.01.040.

RCW 35A.09.040 Submission of new or revised charter--Election.

Within ten days after the results of the election authorized by RCW 35A.09.030 have been determined, if a majority of the votes cast favor the proposition, the members of the charter commission elected thereat shall convene and prepare a new or revised charter by altering, revising, adding to, or repealing the existing charter including all amendments thereto and within one hundred and eighty days thereafter file it with the county auditor. The charter commission shall be organized, vacancies filled, alternative plans of government considered, and a public

hearing held all in the manner provided in sections of chapter 35A.08 RCW relating to charter commissions, and the commission members shall be reimbursed for their expenses and may obtain technical and clerical assistance in the manner provided in chapter 35A.08 RCW. Upon the filing of the proposed new, altered, changed, or revised charter with the county auditor, it shall be submitted to the registered voters of the charter code city at an election conducted as provided in RCW 35A.09.060.

[1990 c 259 § 9; 1967 ex.s. c 119 § 35A.09.040.]

RCW 35A.09.050 Publication of proposed charter.

The proposed new, altered, or revised charter shall be published in the newspaper having the largest general circulation within the city at least once each week for four weeks next preceding the day of submitting the same to the electors for their approval.

[1985 c 469 § 41; 1967 ex.s. c 119 § 35A.09.050.]

RCW 35A.09.060 Conduct of elections.

The election of the charter commission and the election upon the proposition of adopting the proposed new, altered, or revised charter, may be general or special elections held within the corresponding time period specified in chapter 35A.08 RCW, and except as herein provided, said elections, the notice specifying the objects thereof, the returns, the canvassing, and the declaration of the result shall be governed by the laws regulating and controlling elections in the charter code city.

[1967 ex.s. c 119 § 35A.09.060.]

RCW 35A.09.070 Effect of favorable vote.

If a majority of the voters voting upon the adoption of the proposed new, altered, or revised charter favor it, it shall become the charter of the charter code city and the organic law thereof, superseding any existing charter; but if any offices are abolished or dispensed with by the new, altered, or revised charter, and any new offices created thereby, such charter shall not go into effect until the election and qualification of such new officers at the next general municipal election if one is to be held within one hundred and eighty days, or at a special election to be held for that purpose not less than ninety days, nor more than one hundred and eighty days after approval of such charter by the voters.

[1967 ex.s. c 119 § 35A.09.070.]

Chapter 35A.10 RCW
ADOPTION AND ABANDONMENT OF CHARTER CODE CITY CLASSIFICATION

Sections

35A.10.010 Laws applicable to charter code cities.
35A.10.020 Abandonment of charter code city classification.
35A.10.030 Resolution or petition for change of classification--Election.
35A.10.040 No subsequent vote for six years.

RCW 35A.10.010 Laws applicable to charter code cities.

The classifications of municipalities which existed prior to the time this title goes into effect—first class cities, second class cities, unclassified cities, and towns—and the restrictions, limitations, duties and obligations specifically imposed by law upon such classes of cities and towns, shall have no application to charter code cities, but every charter code city, by adopting such classification, has elected to be governed by its charter and by the provisions of this title, with the powers thereby granted.

[1994 c 81 § 70; 1967 ex.s. c 119 § 35A.10.010.]

RCW 35A.10.020 Abandonment of charter code city classification.

Any charter code city, which has been so classified under the provisions of this title for more than six years may abandon such classification and elect to be governed according to its charter under the general law relating to charter cities of the classification held by such city immediately prior to becoming a charter code city, if any, or may elect to be governed by the general law relating to charter cities of the highest class, or other class, for which it is qualified by population.

[1967 ex.s. c 119 § 35A.10.020.]

RCW 35A.10.030 Resolution or petition for change of classification--Election.

Upon the passage of a resolution of the legislative body of a charter code city, or upon the filing with the county auditor of a sufficient petition signed by registered voters of a charter code city in number equal to not less than ten percent of the votes cast at the last general municipal election therein, proposing abandonment of the classification of charter code city and that the city be governed under its charter and the general law relating to cities of the classification named in the petition or resolution, the legislative body thereof shall cause the propositions to be submitted to the voters at the next general municipal election if one is to be held within one hundred and eighty days or at a special election to be held for that purpose not less than ninety days nor more than one hundred and eighty days after the passage of the resolution or the filing of the certificate of sufficiency of the petition. Notice of election shall be given, the election conducted, and results declared generally as provided in chapter 35A.02 RCW, insofar as such provisions are applicable. If a majority of the votes cast upon such proposition are in favor of abandonment of the classification of charter code city, upon the

certification of the record of election to the office of the secretary of state, such charter city shall be classified as a city of the class selected and shall be governed by the laws relating thereto.

[1990 c 259 § 10; 1967 ex.s. c 119 § 35A.10.030.]

Notes:
Sufficiency of petition in code city: RCW 35A.01.040.

RCW 35A.10.040 No subsequent vote for six years.

When a proposition for abandonment of the classification of charter code city has been submitted to the voters of the charter code city in an election and has been rejected by a majority of such voters, such proposition shall not again be submitted to the voters for six years thereafter.

[1967 ex.s. c 119 § 35A.10.040.]

Chapter 35A.11 RCW
LAWS GOVERNING NONCHARTER CODE CITIES AND CHARTER CODE CITIES--POWERS

Sections

35A.11.010 Rights, powers and privileges.
35A.11.020 Powers vested in legislative bodies of noncharter and charter code cities.
35A.11.030 Applicability of general law.
35A.11.035 Nonpolluting power generation by individual--Exemption from regulation--Authorization to contract with utility.
35A.11.037 Hydroelectric resources--Separate legal authority--Creation by irrigation districts and cities, towns, or public utility districts.
35A.11.040 Intergovernmental cooperation and action.
35A.11.050 Statement of purpose and policy.
35A.11.060 Participation in Economic Opportunity Act programs.
35A.11.070 Tourist promotion.
35A.11.080 Initiative and referendum--Election to exercise--Restriction or abandonment.
35A.11.090 Initiative and referendum--Effective date of ordinances--Exceptions.
35A.11.100 Initiative and referendum--Exercise of powers.
35A.11.110 Members of legislative bodies authorized to serve as volunteer fire fighters or reserve law enforcement officers.
35A.11.200 Criminal code repeal by city operating municipal court--Agreement covering costs of handling resulting criminal cases--Arbitration.
35A.11.210 Juvenile curfews.

RCW 35A.11.010 Rights, powers and privileges.

Each city governed under this optional municipal code, whether charter or noncharter, shall be entitled "City of . . . . . ." (naming it), and by such name shall have perpetual succession;

may sue and be sued in all courts and proceedings; use a corporate seal approved by its legislative body; and, by and through its legislative body, such municipality may contract and be contracted with; may purchase, lease, receive, or otherwise acquire real and personal property of every kind, and use, enjoy, hold, lease, control, convey or otherwise dispose of it for the common benefit.

[1967 ex.s. c 119 § 35A.11.010.]

RCW 35A.11.020 Powers vested in legislative bodies of noncharter and charter code cities.

The legislative body of each code city shall have power to organize and regulate its internal affairs within the provisions of this title and its charter, if any; and to define the functions, powers, and duties of its officers and employees; within the limitations imposed by vested rights, to fix the compensation and working conditions of such officers and employees and establish and maintain civil service, or merit systems, retirement and pension systems not in conflict with the provisions of this title or of existing charter provisions until changed by the people: PROVIDED, That nothing in this section or in this title shall permit any city, whether a code city or otherwise, to enact any provisions establishing or respecting a merit system or system of civil service for firemen and policemen which does not substantially accomplish the same purpose as provided by general law in chapter 41.08 RCW for firemen and chapter 41.12 RCW for policemen now or as hereafter amended, or enact any provision establishing or respecting a pension or retirement system for firemen or policemen which provides different pensions or retirement benefits than are provided by general law for such classes.

Such body may adopt and enforce ordinances of all kinds relating to and regulating its local or municipal affairs and appropriate to the good government of the city, and may impose penalties of fine not exceeding five thousand dollars or imprisonment for any term not exceeding one year, or both, for the violation of such ordinances, constituting a misdemeanor or gross misdemeanor as provided therein. However, the punishment for any criminal ordinance shall be the same as the punishment provided in state law for the same crime. Such a body alternatively may provide that violation of such ordinances constitutes a civil violation subject to monetary penalty, but no act which is a state crime may be made a civil violation.

The legislative body of each code city shall have all powers possible for a city or town to have under the Constitution of this state, and not specifically denied to code cities by law. By way of illustration and not in limitation, such powers may be exercised in regard to the acquisition, sale, ownership, improvement, maintenance, protection, restoration, regulation, use, leasing, disposition, vacation, abandonment or beautification of public ways, real property of all kinds, waterways, structures, or any other improvement or use of real or personal property, in regard to all aspects of collective bargaining as provided for and subject to the provisions of chapter 41.56 RCW, as now or hereafter amended, and in the rendering of local social, cultural, recreational, educational, governmental, or corporate services, including operating and supplying of utilities and municipal services commonly or conveniently rendered by cities or towns.

In addition and not in limitation, the legislative body of each code city shall have any

authority ever given to any class of municipality or to all municipalities of this state before or after the enactment of this title, such authority to be exercised in the manner provided, if any, by the granting statute, when not in conflict with this title. Within constitutional limitations, legislative bodies of code cities shall have within their territorial limits all powers of taxation for local purposes except those which are expressly preempted by the state as provided in RCW 66.08.120, 82.36.440, 48.14.020, and 48.14.080.

[1993 c 83 § 8; 1986 c 278 § 7; 1984 c 258 § 807; 1969 ex.s. c 29 § 1; 1967 ex.s. c 119 § 35A.11.020.]

Notes:

Effective date--1993 c 83: See note following RCW 35.21.163.

Severability--1986 c 278: See note following RCW 36.01.010.

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

Effective date--1969 ex.s. c 29: "The effective date of this act is July 1, 1969." [1969 ex.s. c 29 § 2.]

RCW 35A.11.030 Applicability of general law.

Powers of eminent domain, borrowing, taxation, and the granting of franchises may be exercised by the legislative bodies of code cities in the manner provided in this title or by the general law of the state where not inconsistent with this title; and the duties to be performed and the procedure to be followed by such cities in regard to the keeping of accounts and records, official bonds, health and safety and other matters not specifically provided for in this title, shall be governed by the general law. For the purposes of this title, "the general law" means any provision of state law, not inconsistent with this title, enacted before or after the passage of this title which is by its terms applicable or available to all cities or towns.

[1967 ex.s. c 119 § 35A.11.030.]

RCW 35A.11.035 Nonpolluting power generation by individual--Exemption from regulation--Authorization to contract with utility.

See chapter 80.58 RCW.

RCW 35A.11.037 Hydroelectric resources--Separate legal authority--Creation by irrigation districts and cities, towns, or public utility districts.

See RCW 87.03.825 through 87.03.840.

RCW 35A.11.040 Intergovernmental cooperation and action.

The legislative body of a code city may exercise any of its powers or perform any of its functions including purchasing, and participate in the financing thereof, jointly or in cooperation, as provided for in chapter 39.34 RCW. The legislative body of a code city shall have power to accept any gift or grant for any public purpose and may carry out any conditions of such gift or grant when not in conflict with state or federal law.

[1979 ex.s. c 18 § 17; 1967 ex.s. c 119 § 35A.11.040.]

Notes:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 35A.11.050 Statement of purpose and policy.

The general grant of municipal power conferred by this chapter and this title on legislative bodies of noncharter code cities and charter code cities is intended to confer the greatest power of local self-government consistent with the Constitution of this state and shall be construed liberally in favor of such cities. Specific mention of a particular municipal power or authority contained in this title or in the general law shall be construed as in addition and supplementary to, or explanatory of the powers conferred in general terms by this chapter.

[1967 ex.s. c 119 § 35A.11.050.]

RCW 35A.11.060 Participation in Economic Opportunity Act programs.

The legislative body of any city or town is hereby authorized and empowered in its discretion by resolution or ordinance passed by a majority of the legislative body, to take whatever action it deems necessary to enable the city or town to participate in the programs set forth in the Economic Opportunity Act of 1964 (Public Law 88-452; 78 Stat. 508), as amended. Such participation may be engaged in as a sole city or town operation or in conjunction or cooperation with the state, any other city or town, county, or municipal corporation, or any private corporation qualified under said Economic Opportunity Act.

[1971 ex.s. c 177 § 4.]

RCW 35A.11.070 Tourist promotion.

See RCW 35.21.700.

RCW 35A.11.080 Initiative and referendum--Election to exercise--Restriction or abandonment.

The qualified electors or legislative body of a noncharter code city may provide for the exercise in their city of the powers of initiative and referendum, upon electing so to do in the manner provided for changing the classification of a city or town in RCW 35A.02.020, 35A.02.025, 35A.02.030, and 35A.02.035, as now or hereafter amended.

The exercise of such powers may be restricted or abandoned upon electing so to do in the manner provided for abandoning the plan of government of a noncharter code city in RCW 35A.06.030, 35A.06.040, 35A.06.050, and 35A.06.060, as now or hereafter amended.

[1979 ex.s. c 18 § 18; 1973 1st ex.s. c 81 § 1.]

Notes:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

Imposition or increase of business and occupation tax--Referendum procedure required--Exclusive procedure: RCW 35.21.706.

Initiative and referendum petitions: RCW 35A.29.170.

RCW 35A.11.090 Initiative and referendum--Effective date of ordinances--Exceptions.

Ordinances of noncharter code cities the qualified electors of which have elected to exercise the powers of initiative and referendum shall not go into effect before thirty days from the time of final passage and are subject to referendum during the interim except:

(1) Ordinances initiated by petition;

(2) Ordinances necessary for immediate preservation of public peace, health, and safety or for the support of city government and its existing public institutions which contain a statement of urgency and are passed by unanimous vote of the council;

(3) Ordinances providing for local improvement districts;

(4) Ordinances appropriating money;

(5) Ordinances providing for or approving collective bargaining;

(6) Ordinances providing for the compensation of or working conditions of city employees; and

(7) Ordinances authorizing or repealing the levy of taxes; which excepted ordinances shall go into effect as provided by the general law or by applicable sections of Title 35A RCW as now or hereafter amended.

[1973 1st ex.s. c 81 § 2.]

RCW 35A.11.100 Initiative and referendum--Exercise of powers.

Except as provided in RCW 35A.11.090, and except that the number of registered voters needed to sign a petition for initiative or referendum shall be fifteen percent of the total number of names of persons listed as registered voters within the city on the day of the last preceding city general election, the powers of initiative and referendum in noncharter code cities shall be exercised in the manner set forth for the commission form of government in RCW 35.17.240 through 35.17.360, as now or hereafter amended.

[1973 1st ex.s. c 81 § 3.]

Notes:

Sufficiency of petition in code city: RCW 35A.01.040.

RCW 35A.11.110 Members of legislative bodies authorized to serve as volunteer fire fighters or reserve law enforcement officers.

Notwithstanding any other provision of law, the legislative body of any code city, by resolution adopted by a two-thirds vote of the full legislative body, may authorize any of its members to serve as volunteer fire fighters or reserve law enforcement officers, or both, and to

receive the same compensation, insurance and other benefits as are applicable to other volunteer fire fighters or reserve law enforcement officers employed by the code city.

[1993 c 303 § 2; 1974 ex.s. c 60 § 2.]

RCW 35A.11.200 Criminal code repeal by city operating municipal court--Agreement covering costs of handling resulting criminal cases--Arbitration.

A code city operating a municipal court may not repeal in its entirety that portion of its municipal code defining crimes unless the municipality has reached an agreement with the appropriate county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall include provisions for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW.

[1984 c 258 § 209.]

Notes:

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

RCW 35A.11.210 Juvenile curfews.

(1) Any code city has the authority to enact an ordinance, for the purpose of preserving the public safety or reducing acts of violence by or against juveniles that are occurring at such rates as to be beyond the capacity of the police to assure public safety, establishing times and conditions under which juveniles may be present on the public streets, in the public parks, or in any other public place during specified hours.

(2) The ordinance shall not contain any criminal sanctions for a violation of the ordinance.

[1994 sp.s. c 7 § 503.]

Notes:

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

Chapter 35A.12 RCW
MAYOR-COUNCIL PLAN OF GOVERNMENT

Sections

35A.12.010 Elective city officers--Size of council.

35A.12.020 Appointive officers--Duties--Compensation.
35A.12.030 Eligibility to hold elective office.
35A.12.040 Elections--Terms of elective officers--Numbering of council positions.
35A.12.050 Vacancies.
35A.12.060 Vacancy for nonattendance.
35A.12.065 Pro tempore appointments.
35A.12.070 Compensation of elective officers--Expenses.
35A.12.080 Oath and bond of officers.
35A.12.090 Appointment and removal of officers--Terms.
35A.12.100 Duties and authority of the mayor--Veto--Tie-breaking vote.
35A.12.110 Council meetings.
35A.12.120 Council--Quorum--Rules--Voting.
35A.12.130 Ordinances--Style--Requisites--Veto.
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35A.12.160 Publication of ordinances or summary--Public notice of hearings and meeting agendas.
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RCW 35A.12.010 Elective city officers--Size of council.

The government of any noncharter code city or charter code city electing to adopt the mayor-council plan of government authorized by this chapter shall be vested in an elected mayor and an elected council. The council of a noncharter code city having less than twenty-five hundred inhabitants shall consist of five members; when there are twenty-five hundred or more inhabitants, the council shall consist of seven members. A city with a population of less than twenty-five hundred at the time of reclassification as an optional municipal code city may choose to maintain a seven-member council. The decision concerning the number of councilmembers shall be made by the council and be incorporated as a section of the ordinance adopting for the city the classification of noncharter code city. If the population of a city after having become a code city decreases from twenty-five hundred or more to less than twenty-five hundred, it shall continue to have a seven member council. If, after a city has become a mayor-council code city, its population increases to twenty-five hundred or more inhabitants, the number of councilmanic offices in such city may increase from five to seven members upon the affirmative vote of a majority of the existing council to increase the number of councilmanic offices in the city. When the population of a mayor-council code city having five councilmanic offices increases to five thousand or more inhabitants, the number of councilmanic offices in the city shall increase from five to seven members. In the event of an increase in the number of councilmanic offices, the city council shall, by majority vote, pursuant to RCW 35A.12.050, appoint two persons to serve in these offices until the next municipal general election, at which election one person shall be elected for a two-year term and one person shall be elected for a four-year term. The number of inhabitants shall be determined by the most recent official state or federal census or determination by the state office of financial management. A charter adopted under the

provisions of this title, incorporating the mayor-council plan of government set forth in this chapter, may provide for an uneven number of councilmembers not exceeding eleven.

A noncharter code city of less than five thousand inhabitants which has elected the mayor-council plan of government and which has seven councilmanic offices may establish a five-member council in accordance with the following procedure. At least six months prior to a municipal general election, the city council shall adopt an ordinance providing for reduction in the number of councilmanic offices to five. The ordinance shall specify which two councilmanic offices, the terms of which expire at the next general election, are to be terminated. The ordinance shall provide for the renumbering of council positions and shall also provide for a two-year extension of the term of office of a retained councilmanic office, if necessary, in order to comply with RCW 35A.12.040.

However, a noncharter code city that has retained its old mayor-council plan of government, as provided in RCW 35A.02.130, is subject to the laws applicable to that old plan of government.

[1997 c 361 § 6; 1994 c 223 § 30; 1994 c 81 § 71; 1985 c 106 § 1; 1983 c 128 § 1; 1979 ex.s. c 18 § 19; 1979 c 151 § 33; 1967 ex.s. c 119 § 35A.12.010.]

Notes:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

Population determinations, office of financial management: Chapter 43.62 RCW.

RCW 35A.12.020 Appointive officers--Duties--Compensation.

The appointive officers shall be those provided for by charter or ordinance and shall include a city clerk and a chief law enforcement officer. The office of city clerk may be merged with that of a city treasurer, if any, with an appropriate title designated therefor. Provision shall be made for obtaining legal counsel for the city, either by appointment of a city attorney on a full-time or part-time basis, or by any reasonable contractual arrangement for such professional services. The authority, duties and qualifications of all appointive officers shall be prescribed by charter or ordinance, consistent with the provisions of this title, and any amendments thereto, and the compensation of appointive officers shall be prescribed by ordinance: PROVIDED, That the compensation of an appointed municipal judge shall be within applicable statutory limits.

[1987 c 3 § 14; 1967 ex.s. c 119 § 35A.12.020.]

Notes:

Severability--1987 c 3: See note following RCW 3.46.020.

RCW 35A.12.030 Eligibility to hold elective office.

No person shall be eligible to hold elective office under the mayor-council plan unless the person is a registered voter of the city at the time of filing his declaration of candidacy and has been a resident of the city for a period of at least one year next preceding his election. Residence and voting within the limits of any territory which has been included in, annexed to,

or consolidated with such city is construed to have been residence within the city. A mayor or councilman shall hold within the city government no other public office or employment except as permitted under the provisions of chapter 42.23 RCW.

[1979 ex.s. c 18 § 20; 1967 ex.s. c 119 § 35A.12.030.]

Notes:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 35A.12.040 Elections--Terms of elective officers--Numbering of council positions.

Officers shall be elected at biennial municipal elections to be conducted as provided in chapter 35A.29 RCW. The mayor and the councilmembers shall be elected for four-year terms of office and until their successors are elected and qualified and assume office in accordance with RCW 29.04.170. At any first election upon reorganization, councilmembers shall be elected as provided in RCW 35A.02.050. Thereafter the requisite number of councilmembers shall be elected biennially as the terms of their predecessors expire and shall serve for terms of four years. The positions to be filled on the city council shall be designated by consecutive numbers and shall be dealt with as separate offices for all election purposes. Election to positions on the council shall be by majority vote from the city at large, unless provision is made by charter or ordinance for election by wards. The mayor and councilmembers shall qualify by taking an oath or affirmation of office and as may be provided by law, charter, or ordinance.

[1994 c 223 § 31; 1979 ex.s. c 18 § 21; 1970 ex.s. c 52 § 3; 1967 ex.s. c 119 § 35A.12.040.]

Notes:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 35A.12.050 Vacancies.

The office of a mayor or councilmember shall become vacant if the person who is elected or appointed to that position fails to qualify as provided by law, fails to enter upon the duties of that office at the time fixed by law without a justifiable reason, or as provided in RCW 35A.12.060 or 42.12.010. A vacancy in the office of mayor or in the council shall be filled as provided in chapter 42.12 RCW.

[1994 c 223 § 32; 1967 ex.s. c 119 § 35A.12.050.]

RCW 35A.12.060 Vacancy for nonattendance.

In addition a council position shall become vacant if the councilmember fails to attend three consecutive regular meetings of the council without being excused by the council.

[1994 c 223 § 33; 1967 ex.s. c 119 § 35A.12.060.]

RCW 35A.12.065 Pro tempore appointments.

Biennially at the first meeting of a new council, or periodically, the members thereof, by majority vote, may designate one of their number as mayor pro tempore or deputy mayor for such period as the council may specify, to serve in the absence or temporary disability of the mayor; or, in lieu thereof, the council may, as the need may arise, appoint any qualified person to serve as mayor pro tempore in the absence or temporary disability of the mayor. In the event of the extended excused absence or disability of a councilman, the remaining members by majority vote may appoint a councilman pro tempore to serve during the absence or disability.

[1967 ex.s. c 119 § 35A.12.065.]

RCW 35A.12.070 Compensation of elective officers--Expenses.

The salaries of the mayor and the councilmen shall be fixed by ordinance and may be revised from time to time by ordinance, but any increase in the compensation attaching to an office shall not be applicable to the term then being served by the incumbent if such incumbent is a member of the city legislative body fixing his own compensation or as mayor in a mayor-council code city casts a tie-breaking vote relating to such ordinance: PROVIDED, That if the mayor of such a city does not cast such a vote, his salary may be increased during his term of office.

Until the first elective officers under this mayor-council plan of government may lawfully be paid the compensation provided by such salary ordinance, such officers shall be entitled to be compensated in the same manner and in the same amount as the compensation paid to officers of such city performing comparable services immediately prior to adoption of this mayor-council plan.

Until a salary ordinance can be passed and become effective as to elective officers of a newly incorporated code city, such first officers shall be entitled to compensation as follows: In cities having less than five thousand inhabitants, the mayor shall be entitled to a salary of one hundred and fifty dollars per calendar month and a councilman shall be entitled to twenty dollars per meeting for not more than two meetings per month; in cities having more than five thousand but less than fifteen thousand inhabitants, the mayor shall be entitled to a salary of three hundred and fifty dollars per calendar month and a councilman shall be entitled to one hundred and fifty dollars per calendar month; in cities having more than fifteen thousand inhabitants, the mayor shall be entitled to a salary of twelve hundred and fifty dollars per calendar month and a councilman shall be entitled to four hundred dollars per calendar month: PROVIDED, That such interim compensation shall remain in effect only until a salary ordinance is passed and becomes effective as to such officers, and the amounts herein provided shall not be construed as fixing the usual salary of such officers. The mayor and councilmen shall receive reimbursement for their actual and necessary expenses incurred in the performance of the duties of their office, or the council by ordinance may provide for a per diem allowance. Procedure for approval of claims for expenses shall be as provided by ordinance.

[1971 ex.s. c 251 § 5; 1967 ex.s. c 119 § 35A.12.070.]

Notes:

Severability--1971 ex.s. c 251: See RCW 35A.90.050.
Limitations on salaries: State Constitution Art. 11 § 8.

RCW 35A.12.080 Oath and bond of officers.

Any officer before entering upon the performance of his duties may be required to take an oath or affirmation as prescribed by charter or by ordinance for the faithful performance of his duties. The oath or affirmation shall be filed with the county auditor. The clerk, treasurer, if any, chief of police, and such other officers or employees as may be designated by ordinance or by charter shall be required to furnish annually an official bond conditioned on the honest and faithful performance of their official duties. The terms and penalty of official bonds and the surety therefor shall be prescribed by ordinance or charter and the bond shall be approved by the chief administrative officer of the city. The premiums on such bonds shall be paid by the city. When the furnishing of an official bond is required of an officer or employee, compliance with such provisions shall be an essential part of qualification for office.

[1986 c 167 § 20; 1967 ex.s. c 119 § 35A.12.080.]

Notes:

Severability--1986 c 167: See note following RCW 29.01.055.

RCW 35A.12.090 Appointment and removal of officers--Terms.

The mayor shall have the power of appointment and removal of all appointive officers and employees subject to any applicable law, rule, or regulation relating to civil service. The head of a department or office of the city government may be authorized by the mayor to appoint and remove subordinates in such department or office, subject to any applicable civil service provisions. All appointments of city officers and employees shall be made on the basis of ability and training or experience of the appointees in the duties they are to perform, from among persons having such qualifications as may be prescribed by ordinance or by charter, and in compliance with provisions of any merit system applicable to such city. Confirmation by the city council of appointments of officers and employees shall be required only when the city charter, or the council by ordinance, provides for confirmation of such appointments. Confirmation of mayoral appointments by the council may be required by the council in any instance where qualifications for the office or position have not been established by ordinance or charter provision. Appointive offices shall be without definite term unless a term is established for such office by law, charter or ordinance.

[1987 c 3 § 15; 1967 ex.s. c 119 § 35A.12.090.]

Notes:

Severability--1987 c 3: See note following RCW 3.46.020.

RCW 35A.12.100 Duties and authority of the mayor--Veto--Tie-breaking vote.

The mayor shall be the chief executive and administrative officer of the city, in charge of

all departments and employees, with authority to designate assistants and department heads. The mayor may appoint and remove a chief administrative officer or assistant administrative officer, if so provided by ordinance or charter. He shall see that all laws and ordinances are faithfully enforced and that law and order is maintained in the city, and shall have general supervision of the administration of city government and all city interests. All official bonds and bonds of contractors with the city shall be submitted to the mayor or such person as he may designate for approval or disapproval. He shall see that all contracts and agreements made with the city or for its use and benefit are faithfully kept and performed, and to this end he may cause any legal proceedings to be instituted and prosecuted in the name of the city, subject to approval by majority vote of all members of the council. The mayor shall preside over all meetings of the city council, when present, but shall have a vote only in the case of a tie in the votes of the councilmen with respect to matters other than the passage of any ordinance, grant, or revocation of franchise or license, or any resolution for the payment of money. He shall report to the council concerning the affairs of the city and its financial and other needs, and shall make recommendations for council consideration and action. He shall prepare and submit to the council a proposed budget, as required by chapter 35A.33 RCW. The mayor shall have the power to veto ordinances passed by the council and submitted to him as provided in RCW 35A.12.130 but such veto may be overridden by the vote of a majority of all council members plus one more vote. The mayor shall be the official and ceremonial head of the city and shall represent the city on ceremonial occasions, except that when illness or other duties prevent the mayor's attendance at an official function and no mayor pro tempore has been appointed by the council, a member of the council or some other suitable person may be designated by the mayor to represent the city on such occasion.

[1979 ex.s. c 18 § 22; 1967 ex.s. c 119 § 35A.12.100.]

Notes:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 35A.12.110 Council meetings.

The city council and mayor shall meet regularly, at least once a month, at a place and at such times as may be designated by the city council. All final actions on resolutions and ordinances must take place within the corporate limits of the city. Special meetings may be called by the mayor or any three members of the council by written notice delivered to each member of the council at least twenty-four hours before the time specified for the proposed meeting. All actions that have heretofore been taken at special council meetings held pursuant to this section, but for which the number of hours of notice given has been at variance with requirements of RCW 42.30.080, are hereby validated. All council meetings shall be open to the public except as permitted by chapter 42.30 RCW. No ordinance or resolution shall be passed, or contract let or entered into, or bill for the payment of money allowed at any meeting not open to the public, nor at any public meeting the date of which is not fixed by ordinance, resolution, or rule, unless public notice of such meeting has been given by such notice to each local newspaper

of general circulation and to each local radio or television station, as provided in RCW 42.30.080 as now or hereafter amended. Meetings of the council shall be presided over by the mayor, if present, or otherwise by the mayor pro tempore, or deputy mayor if one has been appointed, or by a member of the council selected by a majority of the council members at such meeting. Appointment of a council member to preside over the meeting shall not in any way abridge his right to vote on matters coming before the council at such meeting. In the absence of the clerk, a deputy clerk or other qualified person appointed by the clerk, the mayor, or the council, may perform the duties of clerk at such meeting. A journal of all proceedings shall be kept, which shall be a public record.

[1993 c 199 § 3; 1979 ex.s. c 18 § 23; 1967 ex.s. c 119 § 35A.12.110.]

Notes:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 35A.12.120 Council--Quorum--Rules--Voting.

At all meetings of the council a majority of the councilmen shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The council shall determine its own rules and order of business, and may establish rules for the conduct of council meetings and the maintenance of order. At the desire of any member, any question shall be voted upon by roll call and the ayes and nays shall be recorded in the journal.

The passage of any ordinance, grant or revocation of franchise or license, and any resolution for the payment of money shall require the affirmative vote of at least a majority of the whole membership of the council.

[1967 ex.s. c 119 § 35A.12.120.]

RCW 35A.12.130 Ordinances--Style--Requisites--Veto.

The enacting clause of all ordinances shall be as follows: "The city council of the city of . . . . . do ordain as follows:" No ordinance shall contain more than one subject and that must be clearly expressed in its title.

No ordinance or any section or subsection thereof shall be revised or amended unless the new ordinance sets forth the revised ordinance or the amended section or subsection at full length.

No ordinance shall take effect until five days after the date of its publication unless otherwise provided by statute or charter, except that an ordinance passed by a majority plus one of the whole membership of the council, designated therein as a public emergency ordinance necessary for the protection of public health, public safety, public property or the public peace, may be made effective upon adoption, but such ordinance may not levy taxes, grant, renew, or extend a franchise, or authorize the borrowing of money.

Every ordinance which passes the council in order to become valid must be presented to the mayor; if he approves it, he shall sign it, but if not, he shall return it with his written objections to the council and the council shall cause his objections to be entered at large upon the journal and proceed to a reconsideration thereof. If upon reconsideration a majority plus one of the whole membership, voting upon a call of ayes and nays, favor its passage, the ordinance shall become valid notwithstanding the mayor's veto. If the mayor fails for ten days to either approve or veto an ordinance, it shall become valid without his approval. Ordinances shall be signed by the mayor and attested by the clerk.

[1967 ex.s. c 119 § 35A.12.130.]

RCW 35A.12.140 Adoption of codes by reference.

Ordinances may by reference adopt Washington state statutes and state, county, or city codes, regulations, or ordinances or any standard code of technical regulations, or portions thereof, including, for illustrative purposes but not limited to, fire codes and codes or ordinances relating to the construction of buildings, the installation of plumbing, the installation of electric wiring, health and sanitation, the slaughtering, processing, and selling of meats and meat products for human consumption, the production, pasteurizing, and sale of milk and milk products, or other subjects, together with amendments thereof or additions thereto, on the subject of the ordinance. Such Washington state statutes or codes or other codes or compilations so adopted need not be published in a newspaper as provided in RCW 35A.12.160, but the adopting ordinance shall be so published and a copy of any such adopted statute, ordinance, or code, or portion thereof, with amendments or additions, if any, in the form in which it was adopted, shall be filed in the office of the city clerk for use and examination by the public. While any such statute, code, or compilation is under consideration by the council prior to adoption, not less than one copy thereof shall be filed in the office of the city clerk for examination by the public.

[1995 c 71 § 1; 1982 c 226 § 2; 1967 ex.s. c 119 § 35A.12.140.]

Notes:

Effective date--1982 c 226: See note following RCW 35.21.180.

RCW 35A.12.150 Ordinances--Authentication and recording.

The city clerk shall authenticate by his signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the council. Such book, or copies of ordinances and resolutions, shall be available for inspection by the public at reasonable times and under reasonable conditions.

[1967 ex.s. c 119 § 35A.12.150.]

RCW 35A.12.160 Publication of ordinances or summary--Public notice of hearings and meeting agendas.

Promptly after adoption, the text of each ordinance or a summary of the content of each

ordinance shall be published at least once in the city's official newspaper.

For purposes of this section, a summary shall mean a brief description which succinctly describes the main points of the ordinance. Publication of the title of an ordinance authorizing the issuance of bonds, notes, or other evidences of indebtedness shall constitute publication of a summary of that ordinance. When the city publishes a summary, the publication shall include a statement that the full text of the ordinance will be mailed upon request.

An inadvertent mistake or omission in publishing the text or a summary of the content of an ordinance shall not render the ordinance invalid.

In addition to the requirement that a city publish the text or a summary of the content of each adopted ordinance, every city shall establish a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. Such procedure may include, but not be limited to, written notification to the city's official newspaper, publication of a notice in the official newspaper, posting of upcoming council meeting agendas, or such other processes as the city determines will satisfy the intent of this requirement.

[1994 c 273 § 15; 1988 c 168 § 7; 1987 c 400 § 3; 1985 c 469 § 42; 1967 ex.s. c 119 § 35A.12.160.]

RCW 35A.12.170 Audit and allowance of demands against city.

All demands against a code city shall be presented and audited in accordance with such regulations as may be prescribed by charter or ordinance; and upon the allowance of a demand, the clerk shall draw a warrant upon the treasurer for it, which warrant shall be countersigned by the mayor, or such person as he may designate, and shall specify the fund from which it is to be paid; or, payment may be made by a bank check when authorized by the legislative body of the code city under authority granted by RCW 35A.40.020, which check shall bear the signatures of the officers designated by the legislative body as required signatories of checks of such city, and shall specify the fund from which it is to be paid.

[1967 ex.s. c 119 § 35A.12.170.]

RCW 35A.12.180 Optional division of city into wards.

At any time not within three months previous to a municipal general election the council of a noncharter code city organized under this chapter may divide the city into wards or change the boundaries of existing wards. No change in the boundaries of wards shall affect the term of any councilmember, and councilmembers shall serve out their terms in the wards of their residences at the time of their elections: PROVIDED, That if this results in one ward being represented by more councilmembers than the number to which it is entitled those having the shortest unexpired terms shall be assigned by the council to wards where there is a vacancy, and the councilmembers so assigned shall be deemed to be residents of the wards to which they are assigned for purposes of those positions being vacant. The representation of each ward in the city council shall be in proportion to the population as nearly as is practicable.

Wards shall be redrawn as provided in chapter 29.70 RCW. Wards shall be used as follows: (1) Only a resident of the ward may be a candidate for, or hold office as, a

councilmember of the ward; and (2) only voters of the ward may vote at a primary to nominate candidates for a councilmember of the ward. Voters of the entire city may vote at the general election to elect a councilmember of a ward, unless the city had prior to January 1, 1994, limited the voting in the general election for any or all council positions to only voters residing within the ward associated with the council positions. If a city had so limited the voting in the general election to only voters residing within the ward, then the city shall be authorized to continue to do so.

[1994 c 223 § 34; 1967 ex.s. c 119 § 35A.12.180.]

RCW 35A.12.190 Powers of council.

The council of any code city organized under the mayor-council plan of government provided in this chapter shall have the powers and authority granted to the legislative bodies of cities governed by this title, as more particularly described in chapter 35A.11 RCW.

[1967 ex.s. c 119 § 35A.12.190.]

Chapter 35A.13 RCW
COUNCIL-MANAGER PLAN OF GOVERNMENT

Sections

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RCW 35A.13.010 City officers--Size of council.

The councilmembers shall be the only elective officers of a code city electing to adopt the council-manager plan of government authorized by this chapter, except where statutes provide for an elective municipal judge. The council shall appoint an officer whose title shall be "city manager" who shall be the chief executive officer and head of the administrative branch of the city government. The city manager shall be responsible to the council for the proper administration of all affairs of the code city. The council of a noncharter code city having less than twenty-five hundred inhabitants shall consist of five members; when there are twenty-five hundred or more inhabitants the council shall consist of seven members: PROVIDED, That if the population of a city after having become a code city decreases from twenty-five hundred or more to less than twenty-five hundred, it shall continue to have a seven member council. If, after a city has become a council-manager code city its population increases to twenty-five hundred or more inhabitants, the number of councilmanic offices in such city may increase from five to seven members upon the affirmative vote of a majority of the existing council to increase the number of councilmanic offices in the city. When the population of a council-manager code city having five councilmanic offices increases to five thousand or more inhabitants, the number of councilmanic offices in the city shall increase from five to seven members. In the event of an increase in the number of councilmanic offices, the city council shall, by majority vote, pursuant to RCW 35A.13.020, appoint two persons to serve in these offices until the next municipal general election, at which election one person shall be elected for a two-year term and one person shall be elected for a four-year term. The number of inhabitants shall be determined by the most recent official state or federal census or determination by the state office of financial management. A charter adopted under the provisions of this title, incorporating the council-manager plan of government set forth in this chapter may provide for an uneven number of councilmembers not exceeding eleven.

A noncharter code city of less than five thousand inhabitants which has elected the council-manager plan of government and which has seven councilmanic offices may establish a five-member council in accordance with the following procedure. At least six months prior to a municipal general election, the city council shall adopt an ordinance providing for reduction in the number of councilmanic offices to five. The ordinance shall specify which two councilmanic offices, the terms of which expire at the next general election, are to be terminated. The ordinance shall provide for the renumbering of council positions and shall also provide for a two-year extension of the term of office of a retained councilmanic office, if necessary, in order to comply with RCW 35A.12.040.

However, a noncharter code city that has retained its old council-manager plan of government, as provided in RCW 35A.02.130, is subject to the laws applicable to that old plan of government.

[1994 c 223 § 35; 1994 c 81 § 72; 1987 c 3 § 16; 1985 c 106 § 2; 1983 c 128 § 2; 1979 ex.s. c 18 § 24; 1979 c 151 § 34; 1967 ex.s. c 119 § 35A.13.010.]

Notes:

Severability--1987 c 3: See note following RCW 3.46.020.

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

Population determinations, office of financial management: Chapter 43.62 RCW.

RCW 35A.13.020 Election of councilmen--Eligibility--Terms--Vacancies--Forfeiture of office--Council chairman.

In council-manager code cities, eligibility for election to the council, the manner of electing councilmen, the numbering of council positions, the terms of councilmen, the occurrence and the filling of vacancies, the grounds for forfeiture of office, and appointment of a mayor pro tempore or deputy mayor or councilman pro tempore shall be governed by the corresponding provisions of RCW 35A.12.030, 35A.12.040, 35A.12.050, 35A.12.060, and 35A.12.065 relating to the council of a code city organized under the mayor-council plan, except that in council-manager cities where all council positions are at-large positions, the city council may, pursuant to RCW 35A.13.033, provide that the person elected to council position one shall be the council chairman and shall carry out the duties prescribed by RCW 35A.13.030.

[1994 c 223 § 36; 1975 1st ex.s. c 155 § 1; 1967 ex.s. c 119 § 35A.13.020.]

RCW 35A.13.030 Mayor--Election--Chairman to be mayor--Duties.

Biennially at the first meeting of the new council the members thereof shall choose a chairman from among their number unless the chairman is elected pursuant to RCW 35A.13.033. The chairman of the council shall have the title of mayor and shall preside at meetings of the council. In addition to the powers conferred upon him as mayor, he shall continue to have all the rights, privileges, and immunities of a member of the council. The mayor shall be recognized as the head of the city for ceremonial purposes and by the governor for purposes of military law. He shall have no regular administrative duties, but in time of public danger or emergency, if so authorized by ordinance, shall take command of the police, maintain law, and enforce order.

[1975 1st ex.s. c 155 § 2; 1967 ex.s. c 119 § 35A.13.030.]

RCW 35A.13.033 Election on proposition to designate person elected to position one as chairman--Subsequent holders of position one to be chairman.

The city council of a council-manager city may by resolution place before the voters of the city, a proposition to designate the person elected to council position one as the chairman of the council with the powers and duties set forth in RCW 35A.13.030. If a majority of those voting on the proposition cast a positive vote, then at all subsequent general elections at which position one is on the ballot, the person who is elected to position one shall become the chairman upon taking office.

[1975 1st ex.s. c 155 § 3.]

RCW 35A.13.035 Mayor pro tempore or deputy mayor.

Biennially at the first meeting of a new council, or periodically, the members thereof, by majority vote, may designate one of their number as mayor pro tempore or deputy mayor for such period as the council may specify, to serve in the absence or temporary disability of the mayor; or, in lieu thereof, the council may, as the need may arise, appoint any qualified person to serve as mayor pro tempore in the absence or temporary disability of the mayor. In the event of the extended excused absence or disability of a councilman, the remaining members by majority vote may appoint a councilman pro tempore to serve during the absence or disability.

[1969 ex.s. c 81 § 1.]

Notes:

Effective date--1969 ex.s. c 81: "This 1969 amendatory act shall take effect July 1, 1969." [1969 ex.s. c 81 § 7.]

RCW 35A.13.040 Compensation of councilmen--Expenses.

The salaries of the councilmen, including the mayor, shall be fixed by ordinance and may be revised from time to time by ordinance, but any increase or reduction in the compensation attaching to an office shall not become effective until the expiration of the term then being served by the incumbent: PROVIDED, That compensation of councilmen may not be increased or diminished after their election nor may the compensation of the mayor be increased or diminished after the mayor has been chosen by the council.

Until councilmen of a newly-organized council-manager code city may lawfully be paid as provided by salary ordinance, such councilmen shall be entitled to compensation in the same manner and in the same amount as councilmen of such city prior to the adoption of this council-manager plan.

Until a salary ordinance can be passed and become effective as to elective officers of a newly incorporated code city, the first councilmen shall be entitled to compensation as follows: In cities having less than five thousand inhabitants--twenty dollars per meeting for not more than two meetings per month; in cities having more than five thousand but less than fifteen thousand inhabitants--a salary of one hundred and fifty dollars per calendar month; in cities having more than fifteen thousand inhabitants--a salary of four hundred dollars per calendar month. A councilman who is occupying the position of mayor, in addition to his salary as a councilman, shall be entitled, while serving as mayor, to an additional amount per calendar month, or portion thereof, equal to twenty-five percent of the councilmanic salary: PROVIDED, That such interim compensation shall remain in effect only until a salary ordinance is passed and becomes effective as to such officers, and the compensation provided herein shall not be construed as fixing the usual compensation of such officers. Councilmen shall receive reimbursement for their actual and necessary expenses incurred in the performance of the duties of their office, or the council by ordinance may provide for a per diem allowance. Procedure for approval of claims for

expenses shall be as provided by ordinance.

[1979 ex.s. c 18 § 25; 1967 ex.s. c 119 § 35A.13.040.]

Notes:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 35A.13.050 City manager--Qualifications.

The city manager need not be a resident at the time of his appointment, but shall reside in the code city after his appointment unless such residence is waived by the council. He shall be chosen by the council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office. No person elected to membership on the council shall be eligible for appointment as city manager until one year has elapsed following the expiration of the term for which he was elected.

[1967 ex.s. c 119 § 35A.13.050.]

RCW 35A.13.060 City manager may serve two or more cities.

Whether the city manager shall devote his full time to the affairs of one code city shall be determined by the council. A city manager may serve two or more cities in that capacity at the same time.

[1967 ex.s. c 119 § 35A.13.060.]

RCW 35A.13.070 City manager--Bond and oath.

Before entering upon the duties of his office the city manager shall take an oath or affirmation for the faithful performance of his duties and shall execute and file with the clerk of the council a bond in favor of the code city in such sum as may be fixed by the council. The premium on such bond shall be paid by the city.

[1967 ex.s. c 119 § 35A.13.070.]

RCW 35A.13.080 City manager--Powers and duties.

The powers and duties of the city manager shall be:

(1) To have general supervision over the administrative affairs of the code city;

(2) To appoint and remove at any time all department heads, officers, and employees of the code city, except members of the council, and subject to the provisions of any applicable law, rule, or regulation relating to civil service: PROVIDED, That the council may provide for the appointment by the mayor, subject to confirmation by the council, of a city planning commission, and other advisory citizens' committees, commissions, and boards advisory to the city council: PROVIDED FURTHER, That if the municipal judge of the code city is appointed,

such appointment shall be made by the city manager subject to confirmation by the council, for a four year term. The council may cause an audit to be made of any department or office of the code city government and may select the persons to make it, without the advice or consent of the city manager;

(3) To attend all meetings of the council at which his attendance may be required by that body;

(4) To see that all laws and ordinances are faithfully executed, subject to the authority which the council may grant the mayor to maintain law and order in times of emergency;

(5) To recommend for adoption by the council such measures as he may deem necessary or expedient;

(6) To prepare and submit to the council such reports as may be required by that body or as he may deem it advisable to submit;

(7) To keep the council fully advised of the financial condition of the code city and its future needs;

(8) To prepare and submit to the council a proposed budget for the fiscal year, as required by chapter 35A.33 RCW, and to be responsible for its administration upon adoption;

(9) To perform such other duties as the council may determine by ordinance or resolution.

[1987 c 3 § 17; 1967 ex.s. c 119 § 35A.13.080.]

Notes:

Severability--1987 c 3: See note following RCW 3.46.020.

RCW 35A.13.090 Creation of departments, offices, and employment--Compensation.

On recommendation of the city manager or upon its own action, the council may create such departments, offices, and employments as it may find necessary or advisable and may determine the powers and duties of each department or office. Compensation of appointive officers and employees may be fixed by ordinance after recommendations are made by the city manager. The appointive officers shall include a city clerk and a chief of police or other law enforcement officer. Pursuant to recommendation of the city manager, the council shall make provision for obtaining legal counsel for the city, either by appointment of a city attorney on a full time or part time basis, or by any reasonable contractual arrangement for such professional services.

[1967 ex.s. c 119 § 35A.13.090.]

RCW 35A.13.100 City manager--Department heads--Authority.

The city manager may authorize the head of a department or office responsible to him to appoint and remove subordinates in such department or office. Any officer or employee who may be appointed by the city manager, or by the head of a department or office, except one who holds his position subject to civil service, may be removed by the manager or other such

appointing officer at any time subject to any applicable law, rule, or regulation relating to civil service. Subject to the provisions of RCW 35A.13.080 and any applicable civil service provisions, the decision of the manager or other appointing officer, shall be final and there shall be no appeal therefrom to any other office, body, or court whatsoever.

[1967 ex.s. c 119 § 35A.13.100.]

RCW 35A.13.110 City manager--Appointment of subordinates--Qualifications--Terms.

Appointments made by or under the authority of the city manager shall be on the basis of ability and training or experience of the appointees in the duties which they are to perform, and shall be in compliance with provisions of any merit system applicable to such city. Residence within the code city shall not be a requirement. All such appointments shall be without definite term.

[1967 ex.s. c 119 § 35A.13.110.]

RCW 35A.13.120 City manager--Interference by council members.

Neither the council, nor any of its committees or members, shall direct the appointment of any person to, or his removal from, office by the city manager or any of his subordinates. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the manager and neither the council nor any committee or member thereof shall give orders to any subordinate of the city manager, either publicly or privately. The provisions of this section do not prohibit the council, while in open session, from fully and freely discussing with the city manager anything pertaining to appointments and removals of city officers and employees and city affairs.

[1967 ex.s. c 119 § 35A.13.120.]

RCW 35A.13.130 City manager--Removal--Resolution and notice.

The city manager shall be appointed for an indefinite term and may be removed by a majority vote of the council. At least thirty days before the effective date of his removal, the city manager must be furnished with a formal statement in the form of a resolution passed by a majority vote of the city council stating the council's intention to remove him and the reasons therefor. Upon passage of the resolution stating the council's intention to remove the manager, the council by a similar vote may suspend him from duty, but his pay shall continue until his removal becomes effective.

[1967 ex.s. c 119 § 35A.13.130.]

RCW 35A.13.140 City manager--Removal--Reply and hearing.

The city manager may, within thirty days from the date of service upon him of a copy

thereof, reply in writing to the resolution stating the council's intention to remove him. In the event no reply is timely filed, the resolution shall upon the thirty-first day from the date of such service, constitute the final resolution removing the manager and his services shall terminate upon that day. If a reply shall be timely filed with the city clerk, the council shall fix a time for a public hearing upon the question of the manager's removal and a final resolution removing the manager shall not be adopted until a public hearing has been had. The action of the council in removing the manager shall be final.

[1967 ex.s. c 119 § 35A.13.140.]

RCW 35A.13.150 City manager--Substitute.

The council may designate a qualified administrative officer of the city or town to perform the duties of manager:

(1) Upon the adoption of the council-manager plan, pending the selection and appointment of a manager; or

(2) Upon the termination of the services of a manager, pending the selection and appointment of a new manager; or

(3) During the absence, disability, or suspension of the manager.

[1967 ex.s. c 119 § 35A.13.150.]

RCW 35A.13.160 Oath and bond of officers.

All provisions of RCW 35A.12.080 relating to oaths and bonds of officers, shall be applicable to code cities organized under this council-manager plan.

[1967 ex.s. c 119 § 35A.13.160.]

RCW 35A.13.170 Council meetings--Quorum--Rules--Voting.

All provisions of RCW 35A.12.110, as now or hereafter amended, and 35A.12.120, relating to council meetings, a quorum for transaction of business, rules and voting at council meetings, shall be applicable to code cities organized under this council-manager plan.

[1979 ex.s. c 18 § 26; 1967 ex.s. c 119 § 35A.13.170.]

Notes:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 35A.13.180 Adoption of codes by reference.

Ordinances of cities organized under this chapter may adopt codes by reference as provided in RCW 35A.12.140.

[1967 ex.s. c 119 § 35A.13.180.]

RCW 35A.13.190 Ordinances--Style--Requisites--Veto.

The enacting clause of all ordinances shall be as follows: "The city council of the city of . . . . . do ordain as follows:" No ordinance shall contain more than one subject and that must be clearly expressed in its title.

No ordinance or any section or subsection thereof shall be revised or amended unless the new ordinance sets forth the revised ordinance or the amended section or subsection at full length.

No ordinance shall take effect until five days after the date of its publication unless otherwise provided by statute or charter, except that an ordinance passed by a majority plus one of the whole membership of the council, designated therein as a public emergency ordinance necessary for the protection of public health, public safety, public property or the public peace, may be made effective upon adoption, but such ordinance may not levy taxes, grant, renew, or extend a franchise, or authorize the borrowing of money.

[1967 ex.s. c 119 § 35A.13.190.]

RCW 35A.13.200 Authentication, recording and publication of ordinances.

Ordinances of code cities organized under this chapter shall be authenticated, recorded and published as provided in RCW 35A.12.150 and 35A.12.160.

[1967 ex.s. c 119 § 35A.13.200.]

RCW 35A.13.210 Audit and allowance of demands against city.

RCW 35A.12.170 shall apply to the audit and allowance of demands against the city.

[1967 ex.s. c 119 § 35A.13.210.]

RCW 35A.13.220 Optional division of city into wards.

A code city organized under this chapter may be divided into wards as provided in RCW 35A.12.180.

[1967 ex.s. c 119 § 35A.13.220.]

RCW 35A.13.230 Powers of council.

The council of any code city organized under the council-manager plan provided in this chapter shall have the powers and authority granted to legislative bodies of cities governed by this title as more particularly described in chapter 35A.11 RCW, except insofar as such power and authority is vested in the city manager.

[1967 ex.s. c 119 § 35A.13.230.]

Chapter 35A.14 RCW
ANNEXATION BY CODE CITIES

Sections

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Resolution initiating election may provide for inclusion of annexed area into community municipal corporation: RCW 35.13.015.
Water, sewer, or fire districts, annexation of: Chapter 35.13A RCW.

RCW 35A.14.001 Actions subject to review by boundary review board.

Actions taken under chapter 35A.14 RCW may be subject to potential review by a boundary review board under chapter 36.93 RCW.

[1989 c 84 § 38.]

RCW 35A.14.005 Annexations beyond urban growth areas prohibited.

No code city located in a county in which urban growth areas have been designated under RCW 36.70A.110 may annex territory beyond an urban growth area.

[1990 1st ex.s. c 17 § 31.]

Notes:
Severability--Part, section headings not law--1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

RCW 35A.14.010 Authority for annexation--Consent of county commissioners for certain property.

Any portion of a county not incorporated as part of a city or town but lying contiguous to a code city may become a part of the charter code city or noncharter code city by annexation: PROVIDED, That property owned by a county, and used for the purpose of an agricultural fair as provided in chapter 15.76 RCW or chapter 36.37 RCW shall not be subject to annexation without the consent of the majority of the board of county commissioners. An area proposed to be annexed to a charter code city or noncharter code city shall be deemed contiguous thereto even though separated by water or tide or shore lands and, upon annexation of such area, any

such intervening water and/or tide or shore lands shall become a part of such annexing city.

[1967 ex.s. c 119 § 35A.14.010.]

RCW 35A.14.015 Election method--Resolution for election--Contents of resolution.

When the legislative body of a charter code city or noncharter code city shall determine that the best interests and general welfare of such city would be served by the annexation of unincorporated territory contiguous to such city, such legislative body may, by resolution, call for an election to be held to submit to the voters of such territory the proposal for annexation. The resolution shall, subject to RCW 35.02.170, describe the boundaries of the area to be annexed, state the number of voters residing therein as nearly as may be, and shall provide that said city will pay the cost of the annexation election. The resolution may require that there also be submitted to the electorate of the territory sought to be annexed a proposition that all property within the area annexed shall, upon annexation, be assessed and taxed at the same rate and on the same basis as the property of such annexing city is assessed and taxed to pay for all or any portion of the then-outstanding indebtedness of the city to which said area is annexed, which indebtedness has been approved by the voters, contracted for, or incurred prior to, or existing at, the date of annexation. Whenever such city has prepared and filed a proposed zoning regulation for the area to be annexed as provided for in RCW 35A.14.330 and 35A.14.340, the resolution initiating the election may also provide for the simultaneous adoption of the proposed zoning regulation upon approval of annexation by the electorate of the area to be annexed. A certified copy of the resolution shall be filed with the legislative authority of the county in which said territory is located. A certified copy of the resolution shall be filed with the boundary review board as provided for in chapter 36.93 RCW or the county annexation review board established by RCW 35A.14.200, unless such annexation proposal is within the provisions of RCW 35A.14.220.

[1986 c 234 § 29; 1979 ex.s. c 124 § 1; 1975 1st ex.s. c 220 § 14; 1971 ex.s. c 251 § 10; 1967 ex.s. c 119 § 35A.14.015.]

Notes:

Severability--1979 ex.s. c 124: "If any provision of this 1979 act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 124 § 11.]

Legislative finding, intent--1975 1st ex.s. c 220: See note following RCW 35.02.170.

Severability--1971 ex.s. c 251: See RCW 35A.90.050.

RCW 35A.14.020 Election method--Contents of petition--Certification by auditor--Approval or rejection by legislative body--Costs.

When a petition is sufficient under the rules set forth in RCW 35A.01.040, calling for an election to vote upon the annexation of unincorporated territory contiguous to a code city, describing the boundaries of the area proposed to be annexed, stating the number of voters therein as nearly as may be, and signed by qualified electors resident in such territory equal in

number to ten percent of the votes cast at the last state general election therein, it shall be filed with the auditor of the county in which all, or the greatest portion, of the territory is located, and a copy of the petition shall be filed with the legislative body of the code city. If the territory is located in more than a single county, the auditor of the county with whom the petition is filed shall act as the lead auditor and transmit a copy of the petition to the auditor of each other county within which a portion of the territory is located. The auditor or auditors shall examine the petition, and the auditor or lead auditor shall certify the sufficiency of the petition to the legislative authority of the code city.

If the signatures on the petition are certified as containing sufficient valid signatures, the city legislative authority shall, by resolution entered within sixty days thereafter, notify the petitioners, either by mail or by publication in the same manner notice of hearing is required by RCW 35A.14.040 to be published, of its approval or rejection of the proposed action. In approving the proposed action, the legislative body may require that there also be submitted to the electorate of the territory to be annexed, a proposition that all property within the area to be annexed shall, upon annexation, be assessed and taxed at the same rate and on the same basis as the property of such annexing city is assessed and taxed to pay for all or any portion of the then-outstanding indebtedness of the city to which said area is annexed, which indebtedness has been approved by the voters, contracted for, or incurred prior to, or existing at, the date of annexation. Only after the legislative body has completed preparation and filing of a proposed zoning regulation for the area to be annexed as provided for in RCW 35A.14.330 and 35A.14.340, the legislative body in approving the proposed action, may require that the proposed zoning regulation be simultaneously adopted upon the approval of annexation by the electorate of the area to be annexed. The approval of the legislative body shall be a condition precedent to further proceedings upon the petition. The costs of conducting the election called for in the petition shall be a charge against the city concerned. The proposition or questions provided for in this section may be submitted to the voter either separately or as a single proposition.

[1989 c 351 § 4; 1981 c 332 § 6; 1979 ex.s. c 124 § 2; 1967 ex.s. c 119 § 35A.14.020.]

Notes:

Severability--1981 c 332: See note following RCW 35.13.165.

Severability--1979 ex.s. c 124: See note following RCW 35A.14.015.

RCW 35A.14.025 Election method--Creation of community municipal corporation.

The resolution initiating the annexation of territory under RCW 35A.14.015, and the petition initiating the annexation of territory under RCW 35A.14.020, may provide for the simultaneous creation of a community municipal corporation and election of community council members as provided for in chapter 35.14 RCW, as separate ballot measures or as part of the same ballot measure authorizing the annexation, or for the simultaneous inclusion of the annexed area into a named existing community municipal corporation operating under chapter 35.14 RCW, as separate ballot measures or as part of the same ballot measure authorizing the annexation. If the petition so provides for the creation of a community municipal corporation and

election of community council members, the petition shall describe the boundaries of the proposed service area, state the number of voters residing therein as nearly as may be, and pray for the election of community council members by the voters residing in the service area.

The ballots shall contain the words "For annexation and creation of community municipal corporation" and "Against annexation and creation of community municipal corporation," or "For creation of community municipal corporation" and "Against creation of community municipal corporation," as the case may be. Approval of either optional ballot proposition shall be by simple majority vote of the voters voting on the proposition, but the annexation must be authorized before a community municipal corporation is created.

[1993 c 75 § 3.]

RCW 35A.14.030 Filing of petition as approved by city.

Upon approval of the petition for election by the legislative body of the code city to which such territory is proposed to be annexed, the petition shall be filed with the legislative authority of the county in which such territory is located, along with a statement, in the form required by the city, of the provisions, if any there be, relating to assumption of the portion of the debt that the city requires to be assumed by the owners of property of the area proposed to be annexed, and/or the simultaneous adoption of a proposed zoning regulation for the area. A copy of the petition and the statement, if any, shall also be filed with the boundary review board as provided for in chapter 36.93 RCW or the county annexation review board established by RCW 35A.14.160, unless such proposed annexation is within the provisions of RCW 35A.14.220.

[1979 ex.s. c 124 § 3; 1971 ex.s. c 251 § 6; 1967 ex.s. c 119 § 35A.14.030.]

Notes:

Severability--1979 ex.s. c 124: See note following RCW 35A.14.015.
Severability--1971 ex.s. c 251: See RCW 35A.90.050.

RCW 35A.14.040 Election method--Hearing by review board--Notice.

Within ten days after receipt of a petition or resolution calling for an election on the question of annexation, the county annexation review board shall meet and, if the proposed annexation complies with the requirements of law, shall fix a date for a hearing thereon, to be held not less than fifteen days nor more than thirty days thereafter, of which hearing the city must give notice by publication at least once a week for two weeks prior thereto in one or more newspapers of general circulation within the city and in one or more newspapers of general circulation within the area proposed to be annexed. The hearing shall be held within the city to which the territory is proposed to be annexed, at a time and place to be designated by the board. Upon the day fixed, the board shall conduct a hearing upon the petition or resolution, at which hearing a representative of the city shall make a brief presentation to the board in explanation of the annexation and the benefits to be derived therefrom, and the petitioners and any resident of the city or the area proposed to be annexed shall be afforded a reasonable opportunity to be

heard. The hearing may be adjourned from time to time in the board's discretion, not to exceed thirty days in all from the commencement of the hearing.

[1967 ex.s. c 119 § 35A.14.040.]

RCW 35A.14.050 Decision of the county annexation review board--Filing--Date for election.

After consideration of the proposed annexation as provided in RCW 35A.14.200, the county annexation review board, within thirty days after the final day of hearing, shall take one of the following actions:

(1) Approval of the proposal as submitted.

(2) Subject to RCW 35.02.170, modification of the proposal by adjusting boundaries to include or exclude territory; except that any such inclusion of territory shall not increase the total area of territory proposed for annexation by an amount exceeding the original proposal by more than five percent: PROVIDED, That the county annexation review board shall not adjust boundaries to include territory not included in the original proposal without first affording to residents and property owners of the area affected by such adjustment of boundaries an opportunity to be heard as to the proposal.

(3) Disapproval of the proposal.

The written decision of the county annexation review board shall be filed with the board of county commissioners and with the legislative body of the city concerned. If the annexation proposal is modified by the county annexation review board, such modification shall be fully set forth in the written decision. If the decision of the boundary review board or the county annexation review board is favorable to the annexation proposal, or the proposal as modified by the review board, the legislative body of the city at its next regular meeting if to be held within thirty days after receipt of the decision of the boundary review board or the county annexation review board, or at a special meeting to be held within that period, shall indicate to the county auditor its preference for a special election date for submission of such annexation proposal, with any modifications made by the review board, to the voters of the territory proposed to be annexed. The special election date that is so indicated shall be one of the dates for special elections provided under RCW 29.13.020 that is sixty or more days after the date the preference is indicated. The county legislative authority shall call the special election at the special election date so indicated by the city. If the boundary review board or the county annexation review board disapproves the annexation proposal, no further action shall be taken thereon, and no proposal for annexation of the same territory, or substantially the same as determined by the board, shall be initiated or considered for twelve months thereafter.

[1989 c 351 § 5; 1986 c 234 § 30; 1975 1st ex.s. c 220 § 15; 1971 ex.s. c 251 § 7; 1967 ex.s. c 119 § 35A.14.050.]

Notes:

Legislative finding, intent--1975 1st ex.s. c 220: See note following RCW 35.02.170.

Severability--1971 ex.s. c 251: See RCW 35A.90.050.

RCW 35A.14.070 Election method--Notice of election.

Notice of an annexation election shall particularly describe the boundaries of the area proposed to be annexed, as the same may have been modified by the boundary review board or the county annexation review board, state the objects of the election as prayed in the petition or as stated in the resolution, and require the voters to cast ballots which shall contain the words "For Annexation" or "Against Annexation" or words equivalent thereto, or contain the words "For Annexation and Adoption of Proposed Zoning Regulation", and "Against Annexation and Adoption of Proposed Zoning Regulation", or words equivalent thereto in case the simultaneous adoption of a proposed zoning regulation is proposed, and in case the assumption of all or a portion of indebtedness is proposed, shall contain an appropriate, separate proposition for or against the portion of indebtedness that the city requires to be assumed. The notice shall be posted for at least two weeks prior to the date of election in four public places within the area proposed to be annexed and published at least once a week for two weeks prior to the date of election in a newspaper of general circulation within the limits of the territory proposed to be annexed. Such notice shall be in addition to the notice required by general election law.

[1994 c 223 § 38; 1979 ex.s. c 124 § 4; 1967 ex.s. c 119 § 35A.14.070.]

Notes:

Severability--1979 ex.s. c 124: See note following RCW 35A.14.015.

RCW 35A.14.080 Election method--Vote required for annexation--Proposition for assumption of indebtedness--Certification.

On the Monday next succeeding the annexation election, the county canvassing board shall proceed to canvass the returns thereof and shall submit the statement of canvass to the county legislative authority.

The proposition for or against annexation or for or against annexation and adoption of the proposed zoning regulation, as the case may be, shall be deemed approved if a majority of the votes cast on that proposition are cast in favor of annexation or in favor of annexation and adoption of the proposed zoning regulation, as the case may be. If a proposition for or against assumption of all or any portion of indebtedness was submitted to the electorate, it shall be deemed approved if a majority of at least three-fifths of the electors of the territory proposed to be annexed voting on such proposition vote in favor thereof, and the number of persons voting on such proposition constitutes not less than forty percent of the total number of votes cast in such territory at the last preceding general election. If either or both propositions were approved by the electors, the county legislative authority shall enter a finding to that effect on its minutes, a certified copy of which shall be forthwith transmitted to and filed with the clerk of the city to which annexation is proposed, together with a certified abstract of the vote showing the whole number who voted at the election, the number of votes cast for annexation and the number cast against annexation or for annexation and adoption of the proposed zoning regulation and the number cast against annexation and adoption of the proposed zoning regulation, as the case may be, and if a proposition for assumption of all or any portion of indebtedness was submitted to the

electorate, the abstract shall include the number of votes cast for assumption of indebtedness and the number of votes cast against assumption of indebtedness, together with a statement of the total number of votes cast in such territory at the last preceding general election.

[1979 ex.s. c 124 § 5; 1967 ex.s. c 119 § 35A.14.080.]

Notes:

Severability--1979 ex.s. c 124: See note following RCW 35A.14.015.

RCW 35A.14.085 Election method--Vote required for annexation with assumption of indebtedness--Without assumption of indebtedness.

A code city may cause a proposition authorizing an area to be annexed to the city to be submitted to the qualified voters of the area proposed to be annexed in the same ballot proposition as the question to authorize an assumption of indebtedness. If the measures are combined, the annexation and the assumption of indebtedness shall be authorized only if the proposition is approved by at least three-fifths of the voters of the area proposed to be annexed voting on the proposition, and the number of persons voting on the proposition constitutes not less than forty percent of the total number of votes cast in the area at the last preceding general election.

However, the code city council may adopt a resolution accepting the annexation, without the assumption of indebtedness, where the combined ballot proposition is approved by a simple majority vote of the voters voting on the proposition.

[1989 c 84 § 23.]

RCW 35A.14.090 Election method--Ordinance providing for annexation, assumption of indebtedness.

Upon filing of the certified copy of the finding of the county legislative authority, the clerk shall transmit it to the legislative body of the city at the next regular meeting or as soon thereafter as practicable. If only a proposition relating to annexation or to annexation and adoption of a proposed zoning regulation was submitted to the voters and such proposition was approved, the legislative body shall adopt an ordinance providing for the annexation or adopt ordinances providing for the annexation and adoption of a proposed zoning regulation, as the case may be. If a proposition for annexation or for annexation and adoption of a proposed zoning regulation, and a proposition for assumption of all or any portion of indebtedness were both submitted, and both were approved, the legislative body shall adopt an ordinance providing for the annexation or for annexation and adoption of the proposed zoning regulation, including the assumption of the portion of indebtedness that was approved by the voters. If both propositions were submitted and only the annexation or the annexation and adoption of the proposed zoning regulation was approved, the legislative body may adopt an ordinance providing for the annexation or adopt ordinances providing for the annexation and adoption of the proposed zoning regulation, as the case may be, or the legislative body may refuse to annex when a

proposal for assumption of the portion of indebtedness has been disapproved by the voters.

[1979 ex.s. c 124 § 6; 1967 ex.s. c 119 § 35A.14.090.]

Notes:

Severability--1979 ex.s. c 124: See note following RCW 35A.14.015.

RCW 35A.14.100 Election method--Effective date of annexation.

Upon the date fixed in the ordinance of annexation, the area annexed shall become a part of the city. Upon the date fixed in the ordinances of annexation and adoption of the proposed zoning regulation, the area annexed shall become a part of the city, and property in the annexed area shall be subject to the proposed zoning regulation, as prepared and filed as provided for in RCW 35A.14.330 and 35A.14.340. All property within the territory hereafter annexed shall, if the proposition approved by the people so provides, be assessed and taxed at the same rate and on the same basis as the property of such annexing city is assessed and taxed to pay for the portion of indebtedness of the city that was approved by the voters.

[1979 ex.s. c 124 § 7; 1967 ex.s. c 119 § 35A.14.100.]

Notes:

Severability--1979 ex.s. c 124: See note following RCW 35A.14.015.

RCW 35A.14.110 Election method is alternative.

The method of annexation provided for in RCW 35A.14.015 through 35A.14.100 is an alternative method and is additional to the other methods provided for in this chapter.

[1967 ex.s. c 119 § 35A.14.110.]

RCW 35A.14.120 Direct petition method--Notice to legislative body--Meeting--Assumption of indebtedness--Proposed zoning regulation--Contents of petition.

Proceedings for initiating annexation of unincorporated territory to a charter code city or noncharter code city may be commenced by the filing of a petition of property owners of the territory proposed to be annexed, in the following manner. This method of annexation shall be alternative to other methods provided in this chapter. Prior to the circulation of a petition for annexation, the initiating party or parties, who shall be the owners of not less than ten percent in value, according to the assessed valuation for general taxation of the property for which annexation is sought, shall notify the legislative body of the code city in writing of their intention to commence annexation proceedings. The legislative body shall set a date, not later than sixty days after the filing of the request, for a meeting with the initiating parties to determine whether the code city will accept, reject, or geographically modify the proposed annexation, whether it shall require the simultaneous adoption of a proposed zoning regulation, if such a proposal has been prepared and filed for the area to be annexed as provided for in RCW 35A.14.330 and

35A.14.340, and whether it shall require the assumption of all or of any portion of existing city indebtedness by the area to be annexed. If the legislative body requires the assumption of all or of any portion of indebtedness and/or the adoption of a proposed zoning regulation, it shall record this action in its minutes and the petition for annexation shall be so drawn as to clearly indicate these facts. Approval by the legislative body shall be a condition precedent to circulation of the petition. There shall be no appeal from the decision of the legislative body. A petition for annexation of an area contiguous to a code city may be filed with the legislative body of the municipality to which annexation is desired. It must be signed by the owners, as defined by RCW 35A.01.040(9) (a) through (d), of not less than sixty percent in value, according to the assessed valuation for general taxation of the property for which annexation is petitioned: PROVIDED, That a petition for annexation of an area having at least eighty percent of the boundaries of such area contiguous with a portion of the boundaries of the code city, not including that portion of the boundary of the area proposed to be annexed that is coterminous with a portion of the boundary between two counties in this state, need be signed by only the owners of not less than fifty percent in value according to the assessed valuation for general taxation of the property for which the annexation is petitioned. Such petition shall set forth a description of the property according to government legal subdivisions or legal plats and shall be accompanied by a map which outlines the boundaries of the property sought to be annexed. If the legislative body has required the assumption of all or any portion of city indebtedness by the area annexed or the adoption of a proposed zoning regulation, these facts, together with a quotation of the minute entry of such requirement, or requirements, shall also be set forth in the petition.

[1989 c 351 § 6; 1979 ex.s. c 124 § 8; 1967 ex.s. c 119 § 35A.14.120.]

Notes:

Severability--1979 ex.s. c 124: See note following RCW 35A.14.015.

Sufficiency of petition in code city: RCW 35A.01.040.

RCW 35A.14.130 Direct petition method--Notice of hearing.

Whenever such a petition for annexation is filed with the legislative body of a code city, which petition meets the requirements herein specified and is sufficient according to the rules set forth in RCW 35A.01.040, the legislative body may entertain the same, fix a date for a public hearing thereon and cause notice of the hearing to be published in one or more issues of a newspaper of general circulation in the city. The notice shall also be posted in three public places within the territory proposed for annexation, and shall specify the time and place of hearing and invite interested persons to appear and voice approval or disapproval of the annexation.

[1967 ex.s. c 119 § 35A.14.130.]

RCW 35A.14.140 Direct petition method--Ordinance providing for annexation.

Following the hearing, if the legislative body determines to effect the annexation, they shall do so by ordinance. Subject to RCW 35.02.170, the ordinance may annex all or any portion

of the proposed area but may not include in the annexation any property not described in the petition. Upon passage of the annexation ordinance a certified copy shall be filed with the board of county commissioners of the county in which the annexed property is located.

[1986 c 234 § 31; 1975 1st ex.s. c 220 § 16; 1967 ex.s. c 119 § 35A.14.140.]

Notes:

Legislative finding, intent--1975 1st ex.s. c 220: See note following RCW 35.02.170.

RCW 35A.14.150 Direct petition method--Effective date of annexation.

Upon the date fixed in the ordinance of annexation the area annexed shall become part of the city. All property within the territory hereafter annexed shall, if the annexation petition so provided, be assessed and taxed at the same rate and on the same basis as the property of such annexing code city is assessed and taxed to pay for the portion of any then-outstanding indebtedness of the city to which said area is annexed, which indebtedness has been approved by the voters, contracted for, or incurred prior to, or existing at, the date of annexation and that the city has required to be assumed. If the annexation petition so provided, all property in the annexed area shall be subject to and a part of the proposed zoning regulation as prepared and filed as provided for in RCW 35A.14.330 and 35A.14.340.

[1979 ex.s. c 124 § 9; 1967 ex.s. c 119 § 35A.14.150.]

Notes:

Severability--1979 ex.s. c 124: See note following RCW 35A.14.015.

RCW 35A.14.160 Annexation review board--Composition.

There is hereby established in each county of the state, other than counties having a boundary review board as provided for in chapter 189, Laws of 1967 [chapter 36.93 RCW], a board to be known as the "annexation review board for the county of . . . . . (naming the county)", which shall be charged with the duty of reviewing proposals for annexation of unincorporated territory to charter code cities and noncharter code cities within its respective county; except that proposals within the provisions of RCW 35A.14.220 shall not be subject to the jurisdiction of such board.

In all counties in which a boundary review board is established pursuant to chapter 189, Laws of 1967 [chapter 36.93 RCW] review of proposals for annexation of unincorporated territory to charter code cities and noncharter code cities within such counties shall be subject to chapter 189, Laws of 1967 [chapter 36.93 RCW]. Whenever any county establishes a boundary review board pursuant to chapter 189, Laws of 1967 [chapter 36.93 RCW] the provisions of this act relating to annexation review boards shall not be applicable.

Except as provided above in this section, whenever one or more cities of a county shall have elected to be governed by this title by becoming a charter code city or noncharter code city, the governor shall, within forty-five days thereafter, appoint an annexation review board for such county consisting of five members appointed in the following manner:

Two members shall be selected independently by the governor. Three members shall be

selected by the governor from the following sources: (1) One member shall be appointed from nominees of the individual members of the board of county commissioners; (2) one member shall be appointed from nominees of the individual mayors of charter code cities within such county; (3) one member shall be appointed from nominees of the individual mayors of noncharter code cities within such county.

Each source shall nominate at least two persons for an available position. In the event there are less than two nominees for any position, the governor may appoint the member for that position independently. If, at the time of appointment, there are within the county no cities of one of the classes named above as a nominating source, a position which would otherwise have been filled by nomination from such source shall be filled by independent appointment of the governor.

In making appointments independently and in making appointments from among nominees, the governor shall strive to appoint persons familiar with municipal government and administration by experience and/or training.

[1971 ex.s. c 251 § 8; 1967 ex.s. c 119 § 35A.14.160.]

Notes:

Severability--1971 ex.s. c 251: See RCW 35A.90.050.

RCW 35A.14.170 Time for filing nominations--Vacancies.

Upon the initial formation of a county annexation review board the governor shall give written notice of such formation to all the nominating sources designated therein and nominations must be filed with the office of the governor within fifteen days after receipt of such notice. Nominations to fill vacancies caused by expiration of terms must be filed at least thirty days preceding the expiration of the terms. When vacancies occur in the membership of the board, the governor shall solicit nominations from the appropriate source and if none are filed within fifteen days thereafter, the governor shall fill the vacancy by an independent appointment.

[1967 ex.s. c 119 § 35A.14.170.]

RCW 35A.14.180 Terms of members.

The members of the annexation review board shall be appointed for five year terms. Upon the initial formation of a board, one member appointed by the governor independently shall be appointed for a four year term, the member appointed from among nominees of the board of county commissioners shall be appointed for a three year term, the member appointed from among nominees of the mayors of noncharter code cities shall be appointed for a three year term, and the remaining members shall be appointed for five year terms. Thereafter board members shall be appointed for five year terms as the terms of their predecessors expire. Members shall be eligible for reappointment to the board for successive terms.

[1967 ex.s. c 119 § 35A.14.180.]

RCW 35A.14.190 Organization of annexation review board--Rules--Journal--Authority.

The members of each annexation review board shall elect from among the members a chairman and a vice chairman, and may employ a nonmember as chief clerk, who shall be the secretary of the board. The board shall determine its own rules and order of business, shall provide by resolution for the time and manner of holding regular or special meetings, and shall keep a journal of its proceedings which shall be a public record. A majority of all the members shall constitute a quorum for the transaction of business.

The chief clerk of the board, the chairman, or the vice chairman shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas to any public officer or employee ordering him to testify before the board and produce public records, papers, books or documents. The chief clerk, the chairman or the vice chairman may invoke the aid of any court of competent jurisdiction to carry out such powers.

The planning departments of the county, other counties, and any city, and any state or regional planning agency shall furnish such information to the board at its request as may be reasonably necessary for the performance of its duties.

At the request of the board, the state attorney general shall provide counsel for the board.

[1967 ex.s. c 119 § 35A.14.190.]

RCW 35A.14.200 Determination by county annexation review board--Factors considered--Filing of findings and decision.

The jurisdiction of the county annexation review board shall be invoked upon the filing with the board of a resolution for an annexation election as provided in RCW 35A.14.015, or of a petition for an annexation election as provided in RCW 35A.14.030, and the board shall proceed to hold a hearing, upon notice, all as provided in RCW 35A.14.040. A verbatim record shall be made of all testimony presented at the hearing and upon request and payment of the reasonable costs thereof, a copy of the transcript of such testimony shall be provided to any person or governmental unit. The board shall make and file its decision, all as provided in RCW 35A.14.050, insofar as said section is applicable to the matter before the board. Dissenting members of the board shall have the right to have their written dissents included as part of the decision. In reaching a decision on an annexation proposal, the county annexation review board shall consider the factors affecting such proposal, which shall include but not be limited to the following:

(1) The immediate and prospective population of the area proposed to be annexed, the configuration of the area, land use and land uses, comprehensive use plans and zoning, per capita assessed valuation, topography, natural boundaries and drainage basins, the likelihood of significant growth in the area and in adjacent incorporated and unincorporated areas during the next ten years, location and coordination of community facilities and services; and

(2) The need for municipal services and the available municipal services, effect of ordinances and governmental codes, regulations and resolutions on existing uses, present cost and adequacy of governmental services and controls, the probable future needs for such services

and controls, the probable effect of the annexation proposal or alternatives on cost and adequacy of services and controls in area and adjacent area, the effect on the finances, debt structure, and contractual obligations and rights of all affected governmental units; and

(3) The effect of the annexation proposal or alternatives on adjacent areas, on mutual economic and social interests, and on the local governmental structure of the county.

The county annexation review board shall determine whether the proposed annexation would be in the public interest and for the public welfare. The decision of the board shall be accompanied by the findings of the board. Such findings need not include specific data on all the factors listed in this section, but shall indicate that all such factors were considered.

[1971 ex.s. c 251 § 11; 1967 ex.s. c 119 § 35A.14.200.]

Notes:

Severability--1971 ex.s. c 251: See RCW 35A.90.050.

RCW 35A.14.210 Court review of decisions of the county annexation review board.

Decisions of the county annexation review board shall be final unless within ten days from the date of said action a governmental unit affected by the decision or any person owning real property in or residing in the area proposed to be annexed files in the superior court a notice of appeal. The filing of such notice of appeal within such time limit shall stay the effective date of the decision of the board until such time as the appeal shall have been adjudicated or withdrawn. On appeal the superior court shall not take any evidence other than that contained in the record of the hearing before the board. The superior court may affirm the decision of the county annexation review board or remand the case for further proceedings; or the court may reverse the decision and remand if it finds that substantial rights have been prejudiced because the findings, conclusions, or decision of the board are:

(1) In violation of constitutional provisions; or

(2) In excess of the statutory authority or jurisdiction of the board; or

(3) Made upon unlawful procedure; or

(4) Affected by other error of law; or

(5) Unsupported by material and substantial evidence in view of the entire record as submitted; or

(6) Arbitrary or capricious.

[1971 ex.s. c 251 § 12; 1967 ex.s. c 119 § 35A.14.210.]

Notes:

Severability--1971 ex.s. c 251: See RCW 35A.90.050.

RCW 35A.14.220 When review procedure may be dispensed with.

Annexations under the provisions of RCW 35A.14.295, 35A.14.297, 35A.14.300, and 35A.14.310 shall not be subject to review by the annexation review board: PROVIDED, That in any county in which a boundary review board is established under chapter 36.93 RCW all

annexations shall be subject to review except as provided for in RCW 36.93.110. When the area proposed for annexation in a petition or resolution, initiated and filed under any of the methods of initiating annexation authorized by this chapter, is less than fifty acres or less than two million dollars in assessed valuation, review procedures shall not be required as to such annexation proposal, except as provided in chapter 36.93 RCW in those counties with a review board established pursuant to chapter 36.93 RCW: PROVIDED, That when an annexation proposal is initiated by the direct petition method authorized by RCW 35A.14.120, review procedures shall not be required without regard to acreage or assessed valuation, except as provided in chapter 36.93 RCW in those counties with a boundary review board established pursuant to chapter 36.93 RCW.

[1979 ex.s. c 18 § 27; 1973 1st ex.s. c 195 § 26; 1967 ex.s. c 119 § 35A.14.220.]

Notes:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

Severability--Effective dates and termination dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 35A.14.231 Territory subject to annexation proposal--When annexation by another city or incorporation allowed.

After a petition proposing an annexation by a code city has been filed with the city or the city legislative authority, or after a resolution proposing the annexation by a code city has been adopted by the city legislative authority, no territory included in the proposed annexation may be annexed by another city or town or incorporated into a city or town unless: (1) The boundary review board or county annexation review board created under RCW 35A.14.160 modifies the boundaries of the proposed annexation and removes the territory; (2) the boundary review board or county annexation review board created under RCW 35A.14.160 rejects the proposed annexation; or (3) the city legislative authority rejects the proposed annexation or voters defeat the ballot proposition authorizing the annexation.

[1994 c 216 § 8.]

Notes:

Effective date--1994 c 216: See note following RCW 35.02.015.

RCW 35A.14.295 Annexation of unincorporated island of territory within code city--Resolution--Notice of hearing.

(1) The legislative body of a code city may resolve to annex territory containing residential property owners to the city if there is within the city, unincorporated territory:

(a) Containing less than one hundred acres and having at least eighty percent of the boundaries of such area contiguous to the code city; or

(b) Of any size and having at least eighty percent of the boundaries of such area contiguous to the city if such area existed before June 30, 1994, and is within the same county and within the same urban growth area designated under RCW 36.70A.110, and the city was

planning under chapter 36.70A RCW as of June 30, 1994.

(2) The resolution shall describe the boundaries of the area to be annexed, state the number of voters residing therein as nearly as may be, and set a date for a public hearing on such resolution for annexation. Notice of the hearing shall be given by publication of the resolution at least once a week for two weeks prior to the date of the hearing, in one or more newspapers of general circulation within the code city and one or more newspapers of general circulation within the area to be annexed.

(3) For purposes of subsection (1)(b) of this section, territory bounded by a river, lake, or other body of water is considered contiguous to a city that is also bounded by the same river, lake, or other body of water.

[1997 c 429 § 36; 1967 ex.s. c 119 § 35A.14.295.]

Notes:

Severability--1997 c 429: See note following RCW 36.70A.3201.

RCW 35A.14.297 Ordinance providing for annexation of unincorporated island of territory--Referendum.

On the date set for hearing as provided in RCW 35A.14.295, residents or property owners of the area included in the resolution for annexation shall be afforded an opportunity to be heard. The legislative body may provide by ordinance for annexation of the territory described in the resolution, but the effective date of the ordinance shall be not less than forty-five days after the passage thereof. The legislative body shall cause notice of the proposed effective date of the annexation, together with a description of the property to be annexed, to be published at least once each week for two weeks subsequent to passage of the ordinance, in one or more newspapers of general circulation within the city and in one or more newspapers of general circulation within the area to be annexed. If the annexation ordinance provides for assumption of indebtedness or adoption of a proposed zoning regulation, the notice shall include a statement of such requirements. Such annexation ordinance shall be subject to referendum for forty-five days after the passage thereof. Upon the filing of a timely and sufficient referendum petition as provided in RCW 35A.14.299 below, a referendum election shall be held as provided in RCW 35A.14.299, and the annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto. After the expiration of the forty-fifth day from, but excluding the date of passage of the annexation ordinance, if no timely and sufficient referendum petition has been filed, as provided by RCW 35A.14.299 below, the area annexed shall become a part of the code city upon the date fixed in the ordinance of annexation.

[1967 ex.s. c 119 § 35A.14.297.]

RCW 35A.14.299 Annexation of unincorporated island of territory within code city--Referendum--Effective date if no referendum.

Such annexation ordinance as provided for in RCW 35A.14.297 shall be subject to

referendum for forty-five days after the passage thereof. Upon the filing of a timely and sufficient referendum petition with the legislative body, signed by qualified electors in number equal to not less than ten percent of the votes cast in the last general state election in the area to be annexed, the question of annexation shall be submitted to the voters of such area in a general election if one is to be held within ninety days or at a special election called for that purpose not less than forty-five days nor more than ninety days after the filing of the referendum petition. Notice of such election shall be given as provided in RCW 35A.14.070 and the election shall be conducted as provided in *RCW 35A.14.060. The annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto.

After the expiration of the forty-fifth day from but excluding the date of passage of the annexation ordinance, if no timely and sufficient referendum petition has been filed, the area annexed shall become a part of the code city upon the date fixed in the ordinance of annexation. From and after such date, if the ordinance so provided, property in the annexed area shall be subject to the proposed zoning regulation prepared and filed for such area as provided in RCW 35A.14.330 and 35A.14.340. If the ordinance so provided, all property within the area annexed shall be assessed and taxed at the same rate and on the same basis as the property of such annexing code city is assessed and taxed to pay for any then outstanding indebtedness of such city contracted prior to, or existing at, the date of annexation.

[1967 ex.s. c 119 § 35A.14.299.]

Notes:

***Reviser's note:** RCW 35A.14.060 was repealed by 1994 c 223 § 92.

RCW 35A.14.300 Annexation for municipal purposes.

Legislative bodies of code cities may by a majority vote annex territory outside the limits of such city whether contiguous or noncontiguous for any municipal purpose when such territory is owned by the city.

[1981 c 332 § 7; 1967 ex.s. c 119 § 35A.14.300.]

Notes:

Severability--1981 c 332: See note following RCW 35.13.165.

RCW 35A.14.310 Annexation of federal areas.

A code city may annex an unincorporated area contiguous to the city that is owned by the federal government by adopting an ordinance providing for the annexation and which ordinance either acknowledges an agreement of the annexation by the government of the United States, or accepts a gift, grant, or lease from the government of the United States of the right to occupy, control, improve it or sublet it for commercial, manufacturing, or industrial purposes: PROVIDED, That this right of annexation shall not apply to any territory more than four miles from the corporate limits existing before such annexation. Whenever a code city proposes to annex territory under this section, the city shall provide written notice of the proposed annexation to the legislative authority of the county within which such territory is located. The

notice shall be provided at least thirty days before the city proposes to adopt the annexation ordinance. The city shall not adopt the annexation ordinance, and the annexation shall not occur under this section, if within twenty-five days of receipt of the notice, the county legislative authority adopts a resolution opposing the annexation, which resolution makes a finding that the proposed annexation will have an adverse fiscal impact on the county or road district.

[1985 c 105 § 1; 1967 ex.s. c 119 § 35A.14.310.]

RCW 35A.14.320 Annexation of federal areas--Provisions of ordinance--Authority over annexed territory.

In the ordinance annexing territory pursuant to a gift, grant, or lease from the government of the United States, a code city may include such tide and shorelands as may be necessary or convenient for the use thereof, and may include in the ordinance an acceptance of the terms and conditions attached to the gift, grant, or lease. A code city may cause territory annexed pursuant to a gift, grant, or lease of the government of the United States to be surveyed, subdivided and platted into lots, blocks, or tracts and lay out, reserve for public use, and improve streets, roads, alleys, slips, and other public places. It may grant or sublet any lot, block, or tract therein for commercial, manufacturing, or industrial purposes and reserve, receive and collect rents therefrom. It may expend the rents received therefrom in making and maintaining public improvements therein, and if any surplus remains at the end of any fiscal year, may transfer it to the city's current expense fund.

[1967 ex.s. c 119 § 35A.14.320.]

RCW 35A.14.330 Proposed zoning regulation--Purposes of regulations and restrictions.

The legislative body of any code city acting through a planning agency created pursuant to chapter 35A.63 RCW, or pursuant to its granted powers, may prepare a proposed zoning regulation to become effective upon the annexation of any area which might reasonably be expected to be annexed by the code city at any future time. Such proposed zoning regulation, to the extent deemed reasonably necessary by the legislative body to be in the interest of health, safety, morals and the general welfare may provide, among other things, for:

(1) The regulation and restriction within the area to be annexed of the location and the use of buildings, structures and land for residence, trade, industrial and other purposes; the height, number of stories, size, construction and design of buildings and other structures; the size of yards, courts and other open spaces on the lot or tract; the density of population; the set-back of buildings and structures along highways, parks or public water frontages; and the subdivision and development of land;

(2) The division of the area to be annexed into districts or zones of any size or shape, and within such districts or zones regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land;

(3) The appointment of a board of adjustment, to make, in appropriate cases and subject to appropriate conditions and safeguards established by ordinance, special exceptions in

harmony with the general purposes and intent of the proposed zoning regulation; and

(4) The time interval following an annexation during which the ordinance or resolution adopting any such proposed regulation, or any part thereof, must remain in effect before it may be amended, supplemented or modified by subsequent ordinance or resolution adopted by the annexing city or town.

All such regulations and restrictions shall be designed, among other things, to encourage the most appropriate use of land throughout the area to be annexed; to lessen traffic congestion and accidents; to secure safety from fire; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to promote a coordinated development of the unbuilt areas; to encourage the formation of neighborhood or community units; to secure an appropriate allotment of land area in new developments for all the requirements of community life; to conserve and restore natural beauty and other natural resources; to facilitate the adequate provision of transportation, water, sewerage and other public uses and requirements.

[1967 ex.s. c 119 § 35A.14.330.]

RCW 35A.14.340 Notice and hearing--Filings and recordings.

The legislative body of the code city shall hold two or more public hearings, to be held at least thirty days apart, upon the proposed zoning regulation, giving notice of the time and place thereof by publication in a newspaper of general circulation in the annexing city and the area to be annexed. A copy of the ordinance or resolution adopting or embodying such proposed zoning regulation or any part thereof or any amendment thereto, duly certified as a true copy by the clerk of the annexing city, shall be filed with the county auditor. A like certified copy of any map or plat referred to or adopted by the ordinance or resolution shall likewise be filed with the county auditor. The auditor shall record the ordinance or resolution and keep on file the map or plat.

[1967 ex.s. c 119 § 35A.14.340.]

Notes:
Annexation of water, sewer, and fire districts: Chapter 35.13A RCW.

RCW 35A.14.380 Ownership of assets of fire protection district--Assumption of responsibility of fire protection--When at least sixty percent of assessed valuation is annexed or incorporated in code city.

If a portion of a fire protection district including at least sixty percent of the assessed valuation of the real property of the district is annexed to or incorporated into a code city, ownership of all of the assets of the district shall be vested in the code city, upon payment in cash, properties or contracts for fire protection services to the district within one year, of a percentage of the value of said assets equal to the percentage of the value of the real property in the entire district remaining outside the incorporated or annexed area.

The fire protection district may elect, by a vote of a majority of the persons residing outside the annexed area who vote on the proposition, to require the annexing code city to assume responsibility for the provision of fire protection, and for the operation and maintenance of the district's property, facilities, and equipment throughout the district and to pay the code city a reasonable fee for such fire protection, operation, and maintenance.

[1981 c 332 § 8; 1967 ex.s. c 119 § 35A.14.380.]

Notes:

Severability--1981 c 332: See note following RCW 35.13.165.

RCW 35A.14.400 Ownership of assets of fire protection district--When less than sixty percent of assessed valuation is annexed or incorporated in code city.

If a portion of a fire protection district including less than sixty percent of the assessed value of the real property of the district is annexed to or incorporated into a code city, the ownership of all assets of the district shall remain in the district and the district shall pay to the code city within one year or within such period of time as the district continues to collect taxes in such incorporated or annexed areas, in cash, properties or contracts for fire protection services, a percentage of the value of said assets equal to the percentage of the value of the real property in the entire district lying within the area so incorporated or annexed: PROVIDED, That if less than five percent of the area of the district is affected, no payment shall be made to the code city except as provided in RCW 35.02.205. The fire protection district shall provide fire protection to the incorporated or annexed area for such period as the district continues to collect taxes levied in such annexed or incorporated area.

[1989 c 267 § 2; 1967 ex.s. c 119 § 35A.14.400.]

RCW 35A.14.410 When right of way may be included--Use of right of way line as corporate boundary.

The boundaries of a code city arising from an annexation of territory shall not include a portion of the right of way of any public street, road, or highway except where the boundary runs from one edge of the right of way to the other edge of the right of way. However, the right of way line of any public street, road, or highway, or any segment thereof, may be used to define a part of a corporate boundary in an annexation proceeding.

[1989 c 84 § 9.]

RCW 35A.14.500 Outstanding indebtedness not affected.

When any portion of a fire protection district is annexed by or incorporated into a code city, any outstanding indebtedness, bonded or otherwise, shall remain an obligation of the taxable property annexed or incorporated as if the annexation or incorporation had not occurred.

[1967 ex.s. c 119 § 35A.14.500.]

RCW 35A.14.550 Providing annexation information to public.

A code city can provide factual public information on the effects of pending annexation proposed for the code city.

[1989 c 351 § 9.]

RCW 35A.14.700 Determining population of annexed territory--Certificate--As basis for allocation of state funds--Revised certificate.

Whenever any territory is annexed to a code city, a certificate as hereinafter provided shall be submitted in triplicate to the office of financial management within thirty days of the effective date of annexation specified in the relevant ordinance. After approval of the certificate, the office of financial management shall retain the original copy in its files, and transmit the second copy to the department of transportation and return the third copy to the code city. Such certificates shall be in such form and contain such information as shall be prescribed by the office of financial management. A copy of the complete ordinance containing a legal description and a map showing specifically the boundaries of the annexed territory shall be attached to each of the three copies of the certificate. The certificate shall be signed by the mayor and attested by the city clerk. Upon request, the office of financial management shall furnish certification forms to any code city.

Upon approval of the annexation certificate, the office of financial management shall forward to each state official or department responsible for making allocations or payments to cities or towns, a revised certificate reflecting the increase in population due to such annexation. Upon and after the date of the commencement of the next quarterly period, the population determination indicated in such revised certificate shall be used as the basis for the allocation and payment of state funds to such city or town.

For the purposes of this section, each quarterly period shall commence on the first day of the months of January, April, July, and October. Whenever a revised certificate is forwarded by the office of financial management thirty days or less prior to the commencement of the next quarterly period, the population of the annexed territory shall not be considered until the commencement of the following quarterly period.

The resident population of the annexed territory shall be determined by, or under the direction of, the mayor of the code city. Such population determination shall consist of an actual enumeration of the population which shall be made in accordance with practices and policies, and subject to the approval of the office of financial management. The population shall be determined as of the effective date of annexation as specified in the relevant ordinance.

Until an annexation certificate is filed and approved as provided herein, such annexed territory shall not be considered by the office of financial management in determining the population of such code city.

[1979 ex.s. c 18 § 28; 1979 c 151 § 35; 1975 1st ex.s. c 31 § 2; 1967 ex.s. c 119 § 35A.14.700.]

Notes:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

Population determinations, office of financial management: Chapter 43.62 RCW.

RCW 35A.14.801 Road district taxes collected in annexed territory--Disposition--Notification of annexation.

Whenever any territory is annexed to a code city which is part of a road district of the county and road district taxes have been levied but not collected on any property within the annexed territory, the same shall when collected by the county treasurer be paid to the code city and by the city placed in the city street fund; except that road district taxes that are delinquent before the date of annexation shall be paid to the county and placed in the county road fund. This section shall not apply to any special assessments due in behalf of such property. The code city is required to provide notification, by certified mail, that includes a list of annexed parcel numbers, to the county treasurer and assessor at least thirty days before the effective date of the annexation. The county treasurer is only required to remit to the code city those road taxes collected thirty or more days after receipt of the notification.

[2001 c 299 § 3; 1998 c 106 § 2; 1971 ex.s. c 251 § 14.]

NOTES:

Severability--1971 ex.s. c 251: See RCW 35A.90.050.

RCW 35A.14.900 Cancellation, acquisition of franchise or permit for operation of public service business in territory annexed--Regulation of solid waste collection.

The annexation by any code city of any territory pursuant to this chapter shall cancel, as of the effective date of such annexation, any franchise or permit theretofore granted to any person, firm or corporation by the state of Washington, or by the governing body of such annexed territory, authorizing or otherwise permitting the operation of any public utility, including but not limited to, public electric, water, transportation, garbage disposal or other similar public service business or facility within the limits of the annexed territory, but the holder of any such franchise or permit canceled pursuant to this section shall be forthwith granted by the annexing code city a franchise to continue such business within the annexed territory for a term of not less than seven years from the date of issuance thereof, and the annexing code city, by franchise, permit or public operation, shall not extend similar or competing services to the annexed territory except upon a proper showing of the inability or refusal of such person, firm or corporation to adequately service said annexed territory at a reasonable price: PROVIDED, That the provisions of this section shall not preclude the purchase by the annexing code city of said franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise or permit. In the event that any person, firm or corporation whose franchise or permit has been canceled by the terms of this section shall suffer any measurable damages as a result of any annexation pursuant to the

provisions of the laws above-mentioned, such person, firm or corporation shall have a right of action against any code city causing such damages.

After an annexation by a code city, the utilities and transportation commission shall continue to regulate solid waste collection within the limits of the annexed territory until such time as the city notifies the commission, in writing, of its decision to contract for solid waste collection or provide solid waste collection itself pursuant to RCW 81.77.020. In the event the annexing city at any time decides to contract for solid waste collection or decides to undertake solid waste collection itself, the holder of any such franchise or permit that is so canceled in whole or in part shall be forthwith granted by the annexing city a franchise to continue such business within the annexed territory for a term of not less than the remaining term of the original franchise or permit, or not less than seven years, whichever is the shorter period, and the city, by franchise, permit, or public operation, shall not extend similar or competing services to the annexed territory except upon a proper showing of the inability or refusal of such person, firm, or corporation to adequately service the annexed territory at a reasonable price. Upon the effective date specified by the code city council's ordinance or resolution to have the code city contract for solid waste collection or undertake solid waste collection itself, the transition period specified in this section begins to run. This section does not preclude the purchase by the annexing city of the franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise or permit. In the event that any person, firm, or corporation whose franchise or permit has been canceled by the terms of this section suffers any measurable damages as a result of any annexation pursuant to this chapter, such person, firm, or corporation has a right of action against any city causing such damages.

[1997 c 171 § 3; 1967 ex.s. c 119 § 35A.14.900.]

Notes:

Severability--1997 c 171: See note following RCW 35.02.160.

RCW 35A.14.901 Application of chapter to annexations involving water or sewer service.

Nothing in this chapter precludes or otherwise applies to an annexation by a code city of unincorporated territory as authorized by RCW 57.24.170, 57.24.190, and 57.24.210.

[1996 c 230 § 1604; 1995 c 279 § 4.]

Notes:

Part headings not law--Effective date--1996 c 230: See notes following RCW 57.02.001.

Chapter 35A.15 RCW
DISINCORPORATION

Sections

35A.15.001 Actions subject to review by boundary review board.

35A.15.010 Authority for disincorporation--Petition--Resolution.
35A.15.020 Election on disincorporation--Receiver.
35A.15.040 Ballots--Election results.
35A.15.050 Effect of disincorporation--Powers--Offices.
35A.15.060 Receiver--Qualification--Bond--When receiver may be appointed.
35A.15.070 Duties and authority of receiver--Claims--Priority.
35A.15.080 Compensation of receiver.
35A.15.090 Receiver--Removal for cause--Successive appointments.
35A.15.100 Receiver--Final account and discharge.
35A.15.110 Involuntary dissolution.

RCW 35A.15.001 Actions subject to review by boundary review board.

Actions taken under chapter 35A.15 RCW may be subject to potential review by a boundary review board under chapter 36.93 RCW.

[1989 c 84 § 39.]

RCW 35A.15.010 Authority for disincorporation--Petition--Resolution.

Any noncharter code city may be disincorporated. Proceedings may be initiated by the filing with the county auditor of a petition for disincorporation signed by a majority of the registered voters resident in such city, or the legislative body of the city may provide by resolution for an election on the proposition of disincorporation.

[1990 c 259 § 11; 1967 ex.s. c 119 § 35A.15.010.]

Notes:
Sufficiency of petition in code city: RCW 35A.01.040.

RCW 35A.15.020 Election on disincorporation--Receiver.

The legislative body shall cause the proposition of disincorporation to be submitted to the voters at the next general municipal election if one is to be held within one hundred and eighty days, or at a special election called for that purpose not less than ninety days, nor more than one hundred and eighty days, after the certification of sufficiency of the petition, or the passage of the resolution, as the case may be. If the code city has any indebtedness or outstanding liabilities, the legislative body shall provide for election of a receiver at the same election.

[1967 ex.s. c 119 § 35A.15.020.]

RCW 35A.15.040 Ballots--Election results.

Ballot titles shall be prepared by the city as provided in RCW 35A.29.120 and shall contain the words "For Dissolution" and "Against Dissolution", and shall contain on separate lines, alphabetically, the names of candidates for receiver. If a majority of the votes cast on the

proposition are for dissolution, the municipal corporation shall be dissolved upon certification of the election results to the office of the secretary of state.

[1994 c 223 § 39; 1967 ex.s. c 119 § 35A.15.040.]

RCW 35A.15.050 Effect of disincorporation--Powers--Offices.

The effect of disincorporation of a noncharter code city shall be as provided in RCW 35.07.090, 35.07.100, and 35.07.110.

[1967 ex.s. c 119 § 35A.15.050.]

RCW 35A.15.060 Receiver--Qualification--Bond--When receiver may be appointed.

The receiver shall qualify and post a bond as provided in RCW 35.07.120. If an elected receiver fails to qualify within the time prescribed, or if no receiver has been elected and the code city does have indebtedness or an outstanding liability, a receiver shall be appointed in the manner provided in RCW 35.07.130 or as provided in RCW 35.07.140.

[1967 ex.s. c 119 § 35A.15.060.]

RCW 35A.15.070 Duties and authority of receiver--Claims--Priority.

The duties and authority of the receiver and the disposition and priority of claims against the former municipality shall be as provided in RCW 35.07.150, and the receiver shall have the rights, powers, and limitations provided for such a receiver in RCW 35.07.160, 35.07.170, and 35.07.180.

[1967 ex.s. c 119 § 35A.15.070.]

RCW 35A.15.080 Compensation of receiver.

The compensation of the receiver shall be as provided in RCW 35.07.190.

[1967 ex.s. c 119 § 35A.15.080.]

RCW 35A.15.090 Receiver--Removal for cause--Successive appointments.

The receiver may be removed for cause as provided in RCW 35.07.200 and a successor to the receiver may be appointed as provided in RCW 35.07.210.

[1967 ex.s. c 119 § 35A.15.090.]

RCW 35A.15.100 Receiver--Final account and discharge.

The receiver shall file a final account, pay remaining funds to the county treasurer, and be discharged, all as provided in RCW 35.07.220.

[1967 ex.s. c 119 § 35A.15.100.]

RCW 35A.15.110 Involuntary dissolution.

A noncharter code city may be involuntarily dissolved in the manner provided in RCW 35.07.230, 35.07.240, 35.07.250, and 35.07.260 upon the existence of the conditions stated in RCW 35.07.230.

[1967 ex.s. c 119 § 35A.15.110.]

Chapter 35A.16 RCW
REDUCTION OF CITY LIMITS

Sections

35A.16.001 Actions subject to review by boundary review board.
35A.16.010 Petition or resolution for election.
35A.16.030 Abstract of vote.
35A.16.040 Effective date of reduction.
35A.16.050 Recording of ordinance and plat on effective date of reduction.
35A.16.060 Effect of exclusion as to liability for indebtedness.
35A.16.070 Franchises within territory excluded.

RCW 35A.16.001 Actions subject to review by boundary review board.

Actions taken under chapter 35A.16 RCW may be subject to potential review by a boundary review board under chapter 36.93 RCW.

[1989 c 84 § 40.]

RCW 35A.16.010 Petition or resolution for election.

Upon the filing of a petition which is sufficient as determined by RCW 35A.01.040 praying for the exclusion from the boundaries of a code city of an area described by metes and bounds or by reference to a recorded plat or government survey, signed by qualified voters of the city in number equal to not less than ten percent of the number of votes cast at the last general municipal election, the legislative body of the code city shall cause the question to be submitted to the voters. As an alternate method, such a proposal for exclusion from the code city of a described area may be submitted to the voters by resolution of the legislative body. The question shall be submitted at the next general municipal election if one is to be held within one hundred and eighty days or at a special election called for that purpose not less than ninety days nor more than one hundred and eighty days after the certification of sufficiency of the petition or the passage of the resolution. The petition or resolution shall set out and describe the territory to be excluded from the code city, together with the boundaries of the code city as it will exist after

such change is made.

[1967 ex.s. c 119 § 35A.16.010.]

RCW 35A.16.030 Abstract of vote.

If three-fifths of the votes cast on the proposition favor the reduction of the corporate limits, the county auditor shall make and transmit to the office of the secretary of state a certified abstract of the vote.

[1994 c 223 § 40; 1967 ex.s. c 119 § 35A.16.030.]

RCW 35A.16.040 Effective date of reduction.

Promptly after the filing of the abstract of votes with the secretary of state the legislative body shall adopt an ordinance defining and fixing the corporate limits after excluding the area as determined by the election. The ordinance shall also describe the excluded territory by metes and bounds or by reference to a recorded plat or government survey and declare it no longer a part of the code city.

[1967 ex.s. c 119 § 35A.16.040.]

RCW 35A.16.050 Recording of ordinance and plat on effective date of reduction.

Upon the effective date of the ordinance a certified copy thereof together with a map showing the corporate limits as altered shall be filed and recorded in the office of the county auditor of the county in which the code city is situated, and thereupon the boundaries shall be as set forth therein.

[1967 ex.s. c 119 § 35A.16.050.]

RCW 35A.16.060 Effect of exclusion as to liability for indebtedness.

The exclusion of an area from the boundaries of the code city shall not exempt any real property therein from taxation for the purpose of paying any indebtedness of the code city existing at the time of its exclusion and the interest thereon.

[1967 ex.s. c 119 § 35A.16.060.]

RCW 35A.16.070 Franchises within territory excluded.

In regard to franchises previously granted for operation of any public service business or facility within the territory excluded from a code city by proceedings under this chapter, the rights, obligations, and duties of the legislative body of the county or other political subdivision having jurisdiction over such territory and of the franchise holder shall be as provided in RCW 35.02.160, relating to inclusion of territory by an incorporation, and such a franchise shall be

canceled and a new franchise issued by the legislative body having jurisdiction, as therein provided.

[1967 ex.s. c 119 § 35A.16.070.]

Chapter 35A.21 RCW
PROVISIONS AFFECTING ALL CODE CITIES

Sections

35A.21.010 Validity of ordinances and resolutions--Deficiencies of form.
35A.21.020 Conflict between charter and optional code.
35A.21.030 Mandatory duties of code city officers.
35A.21.040 Merit systems.
35A.21.050 Pension and retirement systems.
35A.21.060 Garbage ordinance--Lien--Foreclosure.
35A.21.070 Office hours prescribed by ordinance.
35A.21.080 Computation of time.
35A.21.090 Jurisdiction over adjacent waters--Control of street over tidelands.
35A.21.100 Lien for utility services.
35A.21.110 Warrants--Interest rate--Payment.
35A.21.120 Utilities--Facilities for generation of electricity.
35A.21.125 Locally regulated utilities--Attachments to poles.
35A.21.130 Codification of ordinances.
35A.21.140 Change of name.
35A.21.150 Sewerage and refuse collection and disposal systems.
35A.21.152 Solid waste collection--Rate increase notice.
35A.21.153 Solid waste collection curbside recycling--Reduced rate.
35A.21.155 Collection and transportation of recyclable materials by recycling companies or nonprofit entities--Reuse or reclamation--Application of chapter.
35A.21.160 General application of laws to code cities.
35A.21.161 Regulation of activities and enforcement of penal laws.
35A.21.162 Nonpolluting power generation by individual--Exemption from regulation--Authorization to contract with utility.
35A.21.164 Hydroelectric resources--Separate legal authority--Creation by irrigation districts and cities, towns, or public utility districts.
35A.21.170 Fiscal year.
35A.21.180 Flags to be displayed.
35A.21.190 Daylight saving time.
35A.21.195 Actions by and against code cities.
35A.21.200 Limitation of actions.
35A.21.210 Revision of corporate boundary within street, road, or highway right of way by substituting right of way line--Not subject to review.
35A.21.220 Liability insurance and workers' compensation for offenders performing court-ordered community service.
35A.21.230 Designation of official newspaper.
35A.21.240 Right of way donations--Credit against required improvements.
35A.21.245 Facilities and rights of way--Requirements and restrictions--Application to code cities.
35A.21.250 Building construction projects--Code city prohibited from requiring state agencies or local

governments to provide bond or other security as a condition for issuance of permit.
35A.21.260 Amateur radio antennas--Local regulation to conform with federal law.
35A.21.270 Assumption of substandard water system--Limited immunity from liability.
35A.21.275 Regulation of automatic number or location identification--Prohibited.
35A.21.280 Statement of restrictions applicable to real property.
35A.21.290 Fish enhancement project--Code city's liability.
35A.21.300 Rail fixed guideway system--Safety and security program plan.
35A.21.310 Mobile home, manufactured home, or park model moving or installing--Copies of permits--Definitions.

Notes:

Demonstration Cities and Metropolitan Development Act--Authority of cities to contract with federal government: RCW 35.21.660.

Disturbances at state penal facilities--Local participation and reimbursement: Chapter 72.02 RCW.

Fire protection, ambulance or other emergency services provided by municipal corporation within county--Financial and other assistance by county authorized: RCW 36.32.470.

Limitation on penalty for act constituting a crime under state law: RCW 35.21.163.

Local adopt-a-highway programs: RCW 47.40.105.

Transfer of real property or contract for use for park and recreational purposes: RCW 39.33.060.

RCW 35A.21.010 Validity of ordinances and resolutions--Deficiencies of form.

Deficiencies in the form of an ordinance or resolution shall not affect the validity thereof if the following requirements are met:

(1) The purpose and intent of the ordinance or resolution are clear.

(2) Any regulatory or procedural provisions thereof are expressed in clear and unambiguous terms, or the legislative intent can be determined by usual methods of judicial construction.

(3) The legislative action was taken at an authorized public meeting held within the code city limits at a time and place made known to residents of the city, as provided by law.

(4) The legislative body of the code city followed the prescribed procedures, if any, for passage of such an ordinance or resolution, as provided in the law or charter provision delegating to the legislative body the authority to so legislate; or, if prescribed procedures were not strictly complied with, no substantial detriment was incurred by any affected person, by reason of such irregularity.

If the foregoing requirements have been met, brevity or awkwardness of language, or defects of form not going to the substance, or inadvertent use of an incorrect or inaccurate proper name or term shall not render an ordinance or resolution invalid, if otherwise in compliance with law.

[1967 ex.s. c 119 § 35A.21.010.]

RCW 35A.21.020 Conflict between charter and optional code.

This optional municipal code is intended to be a general law, available to all cities and

towns within the state, and to all legal intents and purposes a "general law" within the meaning of Article 11, section 10 of the state Constitution, as amended.

If any provision of this title is in conflict with any provision of the charter or amendments thereto of any charter code city, the provisions of this title shall govern and control, except where the legislative body of such charter code city, by ordinance, elects to retain such charter provision or amendment, in which event such charter provision shall prevail notwithstanding a conflict with provisions of this optional code: PROVIDED, That such ordinance shall be subject to referendum as provided in RCW 35A.29.170.

[1967 ex.s. c 119 § 35A.21.020.]

RCW 35A.21.030 Mandatory duties of code city officers.

Except as otherwise provided in this title, every officer of a code city shall perform, in the manner provided, all duties of his office which are imposed by state law on officers of every other class of city who occupy a like position and perform like functions.

[1967 ex.s. c 119 § 35A.21.030.]

RCW 35A.21.040 Merit systems.

Provisions for a merit system, made by charter or ordinance of a code city, shall be in compliance with any applicable statutes relating to civil service for employees of such city: PROVIDED, That nothing herein shall impair the validity of charter provisions adopted prior to the effective date of this title and relating to a merit system.

[1967 ex.s. c 119 § 35A.21.040.]

RCW 35A.21.050 Pension and retirement systems.

Nothing in this title shall be construed to alter or affect vested rights of city employees under pension and retirement systems in effect at the time this title becomes effective.

[1967 ex.s. c 119 § 35A.21.050.]

RCW 35A.21.060 Garbage ordinance--Lien--Foreclosure.

A garbage ordinance of a code city may contain the provisions authorized by RCW 35.21.130. Notice shall be given of a lien for garbage collection and disposal service, the lien shall have priority and be foreclosed all as provided in RCW 35.21.140 and 35.21.150.

[1967 ex.s. c 119 § 35A.21.060.]

RCW 35A.21.070 Office hours prescribed by ordinance.

All code city offices shall be kept open for the transaction of business during such days

and hours as the legislative body of such city shall by ordinance prescribe.

[1967 ex.s. c 119 § 35A.21.070.]

RCW 35A.21.080 Computation of time.

When, under the provisions of this title, an act is to be done within a certain time period, the time shall be computed by excluding the first day and including the last, except that when the last day is a Saturday, Sunday, or a day designated by RCW 1.16.050 or by the city's ordinances as a holiday, then it also is excluded and the act must be completed on the next business day.

[1967 ex.s. c 119 § 35A.21.080.]

RCW 35A.21.090 Jurisdiction over adjacent waters--Control of street over tidelands.

The legislative body of a code city shall have supervision and control within its corporate limits of streets over tidelands or upon or across tide and shore lands of the first class as provided in RCW 35.21.230, 35.21.240 and 35.21.250; and shall have jurisdiction over adjacent waters as provided in RCW 35.21.160.

[1967 ex.s. c 119 § 35A.21.090.]

RCW 35A.21.100 Lien for utility services.

Code cities owning or operating waterworks or electric light distribution or power plants shall have a lien for such utility services as provided by RCW 35.21.290 for cities owning such plants and as limited therein, which lien may be enforced only as provided in RCW 35.21.300.

[1967 ex.s. c 119 § 35A.21.100.]

RCW 35A.21.110 Warrants--Interest rate--Payment.

Code city warrants shall draw interest, be paid, and called for all as provided in RCW 35.21.320 and the duty and liability of the treasurer of a code city in calling and paying warrants of the city shall be as provided in RCW 35.21.320.

[1967 ex.s. c 119 § 35A.21.110.]

RCW 35A.21.120 Utilities--Facilities for generation of electricity.

Any code city owning and operating a public utility and having facilities and/or land for the generation of electricity shall be governed by the provisions of RCW 35.21.420 through 35.21.450.

[1967 ex.s. c 119 § 35A.21.120.]

RCW 35A.21.125 Locally regulated utilities--Attachments to poles.

(1) As used in this section:

(a) "Attachment" means the affixation or installation of any wire, cable or other physical material capable of carrying electronic impulses or light waves for the carrying of intelligence for telecommunications or television, including, but not limited to cable, and any related device, apparatus, or auxiliary equipment upon any pole owned or controlled in whole or in part by one or more locally regulated utilities where the installation has been made with the necessary consent.

(b) "Locally regulated utility" means a code city owning and operating an electric utility not subject to rate or service regulation by the utilities and transportation commission.

(c) "Nondiscriminatory" means that pole owners may not arbitrarily differentiate among or between similar classes of persons approved for attachments.

(2) All rates, terms, and conditions made, demanded or received by a locally regulated utility for attachments to its poles must be just, reasonable, nondiscriminatory and sufficient. A locally regulated utility shall levy attachment space rental rates that are uniform for the same class of service within the locally regulated utility service area.

(3) Nothing in this section shall be construed or is intended to confer upon the utilities and transportation commission any authority to exercise jurisdiction over locally regulated utilities.

[1996 c 32 § 4.]

RCW 35A.21.130 Codification of ordinances.

Compilation, codification, and revision of code city ordinances shall be as provided by and be governed by the provisions of RCW 35.21.500 through 35.21.570.

[1967 ex.s. c 119 § 35A.21.130.]

RCW 35A.21.140 Change of name.

Any code city may change its name in accordance with the procedure provided in chapter 35.62 RCW.

[1967 ex.s. c 119 § 35A.21.140.]

RCW 35A.21.150 Sewerage and refuse collection and disposal systems.

The general law as contained in, but not limited to, chapter 35.67 RCW, relating to sewerage systems and the collection and disposal of refuse, the manner of providing therefor, and the issuance of general obligation or revenue bonds therefor, the establishment of a revenue bond fund in connection therewith, compulsory connection with a city sewer system, setting and collection of rates, fees, and charges therefor, and the existence, enforcement, and foreclosure of a lien for sewer services is hereby recognized as applicable to code cities operating systems of

sewerage and systems and plants for refuse collection and disposal. A code city may exercise the powers, in the manner provided, perform the duties, and shall have the rights and obligations provided in chapter 35.67 RCW, subject to the conditions and limitations therein provided.

[1967 ex.s. c 119 § 35A.21.150.]

RCW 35A.21.152 Solid waste collection--Rate increase notice.

(1) A city that contracts for the collection of solid waste, or provides for the collection of solid waste directly, shall notify the public of each proposed rate increase for a solid waste handling service. The notice may be mailed to each affected ratepayer or published once a week for two consecutive weeks in a newspaper of general circulation in the collection area. The notice shall be available to affected ratepayers at least forty-five days prior to the proposed effective date of the rate increase.

(2) For purposes of this section, "solid waste handling" has the same meaning as provided in RCW 70.95.030.

[1994 c 161 § 3.]

Notes:

Findings--Declaration--1994 c 161: See note following RCW 35.21.157.

RCW 35A.21.153 Solid waste collection curbside recycling--Reduced rate.

(1) Each city or town providing by ordinance or resolution a reduced solid waste collection rate to residents participating in a residential curbside recycling program implemented under RCW 70.95.090, may provide a similar reduced rate to residents participating in any other recycling program, if such program is approved by the jurisdiction. Nothing in this section shall be interpreted to reduce the authority of a city to adopt ordinances under RCW 35.21.130(1).

(2) For the purposes of this section, "reduced rate" means a residential solid waste collection rate incorporating a rebate, refund, or discount. Reduced rate shall not include residential solid waste collection rate based on the volume or weight of solid waste set out for collection.

[1991 c 319 § 405.]

Notes:

Severability--Part headings not law--1991 c 319: See RCW 70.95F.900 and 70.95F.901.

RCW 35A.21.155 Collection and transportation of recyclable materials by recycling companies or nonprofit entities--Reuse or reclamation--Application of chapter.

Nothing in this chapter shall prevent a recycling company or nonprofit entity from collecting and transporting recyclable materials from a buy-back center, drop-box, or from a commercial or industrial generator of recyclable materials, or upon agreement with a solid waste collection company.

Nothing in this chapter shall be construed as prohibiting a commercial or industrial

generator of commercial recyclable materials from selling, conveying, or arranging for transportation of such material to a recycler for reuse or reclamation.

[1989 c 431 § 35.]

Notes:

Severability--1989 c 431: See RCW 70.95.901.

RCW 35A.21.160 General application of laws to code cities.

A code city organized or reorganized under this title shall have all of the powers which any city of any class may have and shall be governed in matters of state concern by statutes applicable to such cities in connection with such powers to the extent to which such laws are appropriate and are not in conflict with the provisions specifically applicable to code cities.

[1967 ex.s. c 119 § 35A.21.160.]

RCW 35A.21.161 Regulation of activities and enforcement of penal laws.

All code cities shall observe and enforce, in addition to its local regulations, the provisions of state laws relating to the conduct, location and limitation on activities as regulated by state law and shall supply police information to the section on identification of the state patrol as required by chapter 43.43 RCW.

[1983 c 3 § 59; 1967 ex.s. c 119 § 35A.21.161.]

RCW 35A.21.162 Nonpolluting power generation by individual--Exemption from regulation--Authorization to contract with utility.

See chapter 80.58 RCW.

RCW 35A.21.164 Hydroelectric resources--Separate legal authority--Creation by irrigation districts and cities, towns, or public utility districts.

See RCW 87.03.825 through 87.03.840.

RCW 35A.21.170 Fiscal year.

The fiscal year of a code city shall commence on the first day of January and end on the thirty-first day of December of each calendar year unless a different fiscal period is authorized by RCW 1.16.030, as amended.

[1967 ex.s. c 119 § 35A.21.170.]

RCW 35A.21.180 Flags to be displayed.

The flag of the United States and the flag of the state shall be prominently installed and

displayed and maintained in code city buildings and shall be as provided in RCW 1.20.010.

[1967 ex.s. c 119 § 35A.21.180.]

RCW 35A.21.190 Daylight saving time.

No code city shall adopt any provision for the observance of daylight saving time other than as authorized by RCW 1.20.050 and 1.20.051.

[1967 ex.s. c 119 § 35A.21.190.]

RCW 35A.21.195 Actions by and against code cities.

A code city may exercise the power to bring an action or special proceeding at law as authorized by Title 4 RCW, chapters 7.24, 7.25, and 6.27 RCW, and shall be subject to actions and process of law in accordance with procedures prescribed by law and rules of court.

[1987 c 442 § 1117; 1983 c 3 § 58; 1967 ex.s. c 119 § 35A.20.150. Formerly RCW 35A.20.150.]

RCW 35A.21.200 Limitation of actions.

The limitations prescribed in chapter 4.16 RCW shall apply to actions brought in the name or for the benefit of, or against, a code city, except as otherwise provided by general law or by this title.

[1967 ex.s. c 119 § 35A.21.200.]

RCW 35A.21.210 Revision of corporate boundary within street, road, or highway right of way by substituting right of way line--Not subject to review.

(1) The governing bodies of a county and any code city located therein may by agreement revise any part of the corporate boundary of the city which coincides with the centerline, edge, or any portion of a public street, road or highway right of way by substituting therefor a right of way line of the same public street, road or highway so as fully to include or fully to exclude that segment of the public street, road or highway from the corporate limits of the city.

(2) The revision of a corporate boundary as authorized by this section shall become effective when approved by ordinance of the city council and by ordinance or resolution of the county legislative authority. Such a boundary revision is not subject to potential review by a boundary review board.

[1989 c 84 § 11; 1975 1st ex.s. c 220 § 18.]

Notes:

Legislative finding, intent--1975 1st ex.s. c 220: See note following RCW 35.02.170.

Boundary line adjustment: RCW 35.13.300 through 35.13.330.

Use of right of way line as corporate boundary in incorporation proceeding--When right of way may be included in territory to be incorporated: RCW 35.02.170.

When right of way may be included in territory to be annexed--Use of right of way line as corporate boundary in annexation: RCW 35A.14.410.

RCW 35A.21.220 Liability insurance and workers' compensation for offenders performing court-ordered community service.

The legislative authority of a code city may purchase liability insurance in an amount it deems reasonable to protect the code city, its officers, and employees against liability for the wrongful acts of offenders or injury or damage incurred by offenders in the course of court-ordered community service, and may elect to treat offenders as employees and/or workers under Title 51 RCW.

[1984 c 24 § 2.]

Notes:
Workers' compensation coverage of offenders performing community service: RCW 51.12.045.

RCW 35A.21.230 Designation of official newspaper.

Each code city shall designate an official newspaper by resolution. The newspaper shall be of general circulation in the city and have the qualifications prescribed by chapter 65.16 RCW.

[1985 c 469 § 102.]

RCW 35A.21.240 Right of way donations--Credit against required improvements.

Where the zoning and planning provisions of a city or town require landscaping, parking, or other improvements as a condition to granting permits for commercial or industrial developments, the city or town may credit donations of right of way in excess of that required for traffic improvement against such landscaping, parking, or other requirements.

[1987 c 267 § 8.]

Notes:
Severability--1987 c 267: See RCW 47.14.910.
Right of way donations: Chapter 47.14 RCW.

RCW 35A.21.245 Facilities and rights of way--Requirements and restrictions--Application to code cities.

Each code city is subject to the requirements and restrictions regarding facilities and rights of way under *this chapter.

[2000 c 83 § 10.]

Notes:
***Reviser's note:** A reference to chapter 35.99 RCW was apparently intended.

"Facilities," "right of way" defined: RCW 35.99.010.

RCW 35A.21.250 Building construction projects--Code city prohibited from requiring state agencies or local governments to provide bond or other security as a condition for issuance of permit.

A code city may not require any state agency or unit of local government to secure the performance of a permit requirement with a surety bond or other financial security device, including cash or assigned account, as a condition of issuing a permit to that unit of local government for a building construction project.

As used in this section, "building construction project" includes, in addition to its usual meaning, associated landscaping, street alteration, pedestrian or vehicular access alteration, or other amenities or alterations necessarily associated with the project.

[1993 c 439 § 2.]

RCW 35A.21.260 Amateur radio antennas--Local regulation to conform with federal law.

No code city shall enact or enforce an ordinance or regulation that fails to conform to the limited preemption entitled "Amateur Radio Preemption, 101 FCC 2nd 952 (1985)" issued by the federal communications commission. An ordinance or regulation adopted by a code city with respect to amateur radio antennas shall conform to the limited federal preemption, that states local regulations that involve placement, screening, or height of antennas based on health, safety, or aesthetic considerations must be crafted to reasonably accommodate amateur communications, and to represent the minimal practicable regulation to accomplish the local authority's legitimate purpose.

[1994 c 50 § 2.]

Notes:

Effective date--1994 c 50: See note following RCW 35.21.315.

RCW 35A.21.270 Assumption of substandard water system--Limited immunity from liability.

A code city assuming responsibility for a water system that is not in compliance with state or federal requirements for public drinking water systems, and its agents and employees, are immune from lawsuits or causes of action, based on noncompliance with state or federal requirements for public drinking water systems, which predate the date of assuming responsibility and continue after the date of assuming responsibility, provided that the city has submitted and is complying with a plan and schedule of improvements approved by the department of health. This immunity shall expire on the earlier of the date the plan of improvements is completed or four years from the date of assuming responsibility. This immunity does not apply to intentional injuries, fraud, or bad faith.

[1994 c 292 § 6.]

Notes:

Findings--Intent--1994 c 292: See note following RCW 57.04.050.

RCW 35A.21.275 Regulation of automatic number or location identification--Prohibited.

No code city may enact or enforce an ordinance or regulation mandating automatic number identification or automatic location identification for a private telecommunications system or for a provider of private shared telecommunications services.

[1995 c 243 § 7.]

Notes:

Findings--Severability--1995 c 243: See notes following RCW 80.36.555.

RCW 35A.21.280 Statement of restrictions applicable to real property.

(1) A property owner may make a written request for a statement of restrictions applicable to a single parcel, tract, lot, or block of real property to the code city in which the real property is located.

(2) Within thirty days of the receipt of the request, the code city shall provide the owner, by registered mail, with a statement of restrictions as described in subsection (3) of this section.

(3) The statement of restrictions shall include the following:

(a) The zoning currently applicable to the real property;

(b) Pending zoning changes currently advertised for public hearing that would be applicable to the real property;

(c) Any designations made by the code city pursuant to chapter 36.70A RCW of any portion of the real property as agricultural land, forest land, mineral resource land, wetland, an area with a critical recharging effect on aquifers used for potable water, a fish and wildlife habitat conservation area, a frequently flooded area, and as a geological hazardous area; and

(d) If information regarding the designations listed in (c) of this subsection are not readily available, inform the owner of the procedure by which the owner can obtain that site-specific information from the code city.

(4) If a code city fails to provide the statement of restrictions within thirty days after receipt of the written request, the owner shall be awarded recovery of all attorneys' fees and costs incurred in any successful application for a writ of mandamus to compel production of a statement.

(5) For purposes of this section:

(a) "Owner" means any vested owner or any person holding the buyer's interest under a recorded real estate contract in which the seller is the vested owner; and

(b) "Real property" means a parcel, tract, lot or block: (i) Containing a single-family residence that is occupied by the owner or a member of his or her family, or rented to another by the owner; or (ii) five acres or less in size.

(6) This section does not affect the vesting of permits or development rights.

Nothing in this section shall be deemed to create any liability on the part of a code city.

[1996 c 206 § 7.]

Notes:

Effective date--1996 c 206 §§ 6-8: See note following RCW 35.21.475.
Findings--1996 c 206: See note following RCW 43.05.030.

RCW 35A.21.290 Fish enhancement project--Code city's liability.

A code city is not liable for adverse impacts resulting from a fish enhancement project that meets the criteria of *RCW 75.20.350 and has been permitted by the department of fish and wildlife.

[1998 c 249 § 10.]

Notes:

***Reviser's note:** RCW 75.20.350 was recodified as RCW 77.55.290 pursuant to 2000 c 107 § 129.
Findings--Purpose--Report--Effective date--1998 c 249: See notes following RCW 77.55.290.

RCW 35A.21.300 Rail fixed guideway system--Safety and security program plan.

(1) Each code city that owns or operates a rail fixed guideway system as defined in RCW 81.104.015 shall submit a system safety and security program plan for that guideway to the state department of transportation by September 1, 1999, or at least three months before beginning operations or instituting revisions to its plan. This plan must describe the code city's procedures for (a) reporting and investigating reportable accidents, unacceptable hazardous conditions, and security breaches, (b) submitting corrective action plans and annual safety and security audit reports, (c) facilitating on-site safety and security reviews by the state department of transportation, and (d) addressing passenger and employee security. The plan must, at a minimum, conform to the standards adopted by the state department of transportation. If required by the department, the code city shall revise its plan to incorporate the department's review comments within sixty days after their receipt, and resubmit its revised plan for review.

(2) Each code city shall implement and comply with its system safety and security program plan. The code city shall perform internal safety and security audits to evaluate its compliance with the plan, and submit its audit schedule to the department of transportation no later than December 15th each year. The code city shall prepare an annual report for its internal safety and security audits undertaken in the prior year and submit it to the department no later than February 15th. This annual report must include the dates the audits were conducted, the scope of the audit activity, the audit findings and recommendations, the status of any corrective actions taken as a result of the audit activity, and the results of each audit in terms of the adequacy and effectiveness of the plan.

(3) Each code city shall notify the department of transportation within twenty-four hours of an occurrence of a reportable accident, unacceptable hazardous condition, or security breach. The department may adopt rules further defining a reportable accident, unacceptable hazardous condition, or security breach. The code city shall investigate all reportable accidents, unacceptable hazardous conditions, or security breaches and provide a written investigation

report to the department within forty-five calendar days after the reportable accident, unacceptable hazardous condition, or security breach.

(4) The security section of the safety and security plan required in subsection (1)(d) of this section is exempt from public disclosure under chapter 42.17 RCW. However, the activities and plans as described in subsections (1)(a), (b), and (c), (2), and (3) of this section are not subject to this exemption.

[1999 c 202 § 2.]

Notes:

Effective date--1999 c 202: See note following RCW 35.21.228.

RCW 35A.21.310 Mobile home, manufactured home, or park model moving or installing--Copies of permits--Definitions.

(1) A code city shall transmit a copy of any permit issued to a tenant or the tenant's agent for a mobile home, manufactured home, or park model installation in a mobile home park to the landlord.

(2) A code city shall transmit a copy of any permit issued to a person engaged in the business of moving or installing a mobile home, manufactured home, or park model in a mobile home park to the tenant and the landlord.

(3) As used in this section:

(a) "Landlord" has the same meaning as in RCW 59.20.030;

(b) "Mobile home park" has the same meaning as in RCW 59.20.030;

(c) "Mobile or manufactured home installation" has the same meaning as in RCW 43.63B.010; and

(d) "Tenant" has the same meaning as in RCW 59.20.030.

[1999 c 359 § 19.]

Notes:

Effective date--1999 c 359: See RCW 59.20.901.

Chapter 35A.24 RCW
AERONAUTICS

Sections

35A.24.010 Airport operation, planning and zoning.

RCW 35A.24.010 Airport operation, planning and zoning.

A code city may exercise the powers relating to airport planning and zoning, improvement and operation as authorized by chapters 14.07, 14.08, and 14.12 RCW and chapter 35A.63 RCW of this title in accordance with the procedures therein prescribed.

[1967 ex.s. c 119 § 35A.24.010.]

Chapter 35A.27 RCW
LIBRARIES, MUSEUMS AND HISTORICAL ACTIVITIES

Sections

35A.27.010 General laws applicable.

RCW 35A.27.010 General laws applicable.

Every code city may exercise the powers relating to the acquisition, development, improvement and operation of libraries and museums and the preservation of historical materials to the same extent authorized by general law for cities of any class, including, but not limited to, the authority for city libraries granted by RCW 35.22.280, the power to acquire and operate art museums, auditoriums, and other facilities as authorized by RCW 35.21.020, to participate in the establishment of regional libraries, and to contract for library service for public libraries with county, intercounty, and rural library districts, and for regional libraries as authorized by chapter 27.12 RCW, to have a county law library or branch thereof generally under the provisions of chapter 27.24 RCW, to preserve historical materials, markers, graves and records as provided in chapters 27.48 and 27.34 RCW, and to expend municipal funds thereon.

[1985 c 7 § 101; 1983 c 3 § 60; 1967 ex.s. c 119 § 35A.27.010.]

Chapter 35A.28 RCW
SCHOOLS

Sections

35A.28.010 General laws applicable.

RCW 35A.28.010 General laws applicable.

Code cities shall have the authority to enter into contracts for joint acquisition of land and improvement thereof with school districts. Code cities and their relationship with public schools, colleges and school districts shall be governed by the provisions of general law, including Titles 28A and 28B RCW. Each code city shall be contained within one school district except as may be otherwise provided in *RCW 28A.315.250.

[1983 c 3 § 61; 1967 ex.s. c 119 § 35A.28.010.]

Notes:

***Reviser's note:** RCW 28A.315.250 was repealed by 1999 c 315 § 801.

Chapter 35A.29 RCW
MUNICIPAL ELECTIONS IN CODE CITIES

Sections

35A.29.120 Ballot titles.
35A.29.130 Notice of ballot title--Appeal.
35A.29.151 Conduct of elections.
35A.29.170 Initiative and referendum petitions--Suspension of effectiveness of legislative action.
35A.29.180 Recall.

RCW 35A.29.120 Ballot titles.

When any question is to be submitted to the voters of a code city, or when a proposition is to be submitted to the voters of an area under provisions of this title, the question or proposition shall be advertised as provided for nominees for office, and in such cases there shall also be printed on the ballot a ballot title for the question or proposition in the form applicable under RCW *29.79.055, **29.27.060, 82.14.036, 82.46.021, or 82.80.090 or as otherwise expressly required by state law. The ballot title shall be prepared by the attorney for the code city, or as specified in **RCW 29.27.060 for elections held outside of a code city.

[1993 c 256 § 13; 1979 ex.s. c 18 § 31; 1967 ex.s. c 119 § 35A.29.120.]

Notes:

Reviser's note: *(1) RCW 29.79.055 was recodified as RCW 29.27.066 pursuant to 2000 c 197 § 16.
**(2) RCW 29.27.060 was repealed by 2000 c 197 § 15.
Severability--Effective date--1993 c 256: See notes following RCW 29.79.500.
Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 35A.29.130 Notice of ballot title--Appeal.

Upon the filing of a ballot title as defined in RCW 35A.29.120, the county auditor shall forthwith notify the persons proposing the measure of the exact language of the ballot title. If the persons filing any local question covered by RCW 35A.29.120 are dissatisfied with the ballot title formulated by the attorney for the code city or by the county prosecuting attorney, they may appeal to the superior court of the county where the question is to appear on the ballot, as provided in RCW 29.27.067.

[1967 ex.s. c 119 § 35A.29.130.]

RCW 35A.29.151 Conduct of elections.

Elections for code cities shall comply with general election law.

[1994 c 223 § 41.]

RCW 35A.29.170 Initiative and referendum petitions--Suspension of effectiveness of legislative action.

Initiative and referendum petitions authorized to be filed under provisions of this title, or authorized by charter, or authorized for code cities having the commission form of government as provided by chapter 35.17 RCW, shall be in substantial compliance with the provisions of RCW 35A.01.040 as to form and content of the petition, insofar as such provisions are applicable; shall contain a true copy of a resolution or ordinance sought to be referred to the voters; and must contain valid signatures of registered voters of the code city in the number required by the applicable provision of this title. Except when otherwise provided by statute, referendum petitions must be filed with the clerk of the legislative body of the code city within ninety days after the passage of the resolution or ordinance sought to be referred to the voters, or within such lesser number of days as may be authorized by statute or charter in order to precede the effective date of an ordinance: PROVIDED, That nothing herein shall be construed to abrogate or affect an exemption from initiative and/or referendum provided by a code city charter. The clerk shall transmit the petition to the county auditor who shall determine the sufficiency of the petition under the rules set forth in RCW 35A.01.040. When a referendum petition is filed with the clerk, the legislative action sought to be referred to the voters shall be suspended from taking effect. Such suspension shall terminate when: (1) There is a final determination of insufficiency or untimeliness of the referendum petition; or (2) the legislative action so referred is approved by the voters at a referendum election.

[1996 c 286 § 8; 1967 ex.s. c 119 § 35A.29.170.]

RCW 35A.29.180 Recall.

Elective officers of code cities may be recalled in the manner provided in chapter 29.82 RCW.

[1967 ex.s. c 119 § 35A.29.180.]

Chapter 35A.31 RCW
ACCIDENT CLAIMS AND FUNDS

Sections

35A.31.010 Claims--Statement of residence required--Time for filing--Verification.
35A.31.020 Liberal construction.
35A.31.030 Report--Manner of filing.
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Claims for damages sounding in tort against any code city shall be presented and filed within the time, in the manner and by the person prescribed in RCW 4.96.020.

[1967 ex.s. c 119 § 35A.31.010.]

RCW 35A.31.020 Liberal construction.

With respect to the content of such claims the provisions of RCW 4.96.020 shall be liberally construed so that substantial compliance will be deemed satisfactory.

[1967 ex.s. c 119 § 35A.31.020.]

RCW 35A.31.030 Report--Manner of filing.

No ordinance or resolution shall be passed allowing such claim or any part thereof, or appropriating any money or other property to pay or satisfy the same or any part thereof, until the claim has first been referred to the proper department or committee, nor until such department or committee has made its report thereon to the legislative body of the code city pursuant to such reference.

No action shall be maintained against any code city for any claim for damages until the claim has been filed in the manner set forth in chapter 4.96 RCW.

[1993 c 449 § 9; 1967 ex.s. c 119 § 35A.31.030.]

Notes:

Purpose--Severability--1993 c 449: See notes following RCW 4.96.010.

RCW 35A.31.050 Charter code cities--Provisions cumulative.

Nothing herein shall be construed as in anywise modifying, limiting, or repealing any valid provision of the charter of any charter code city relating to such claims for damages, except when in conflict herewith, but the provisions hereof shall be in addition to such charter provisions, and such claims for damages, in all other respects, shall conform to and comply with such charter provisions.

[1967 ex.s. c 119 § 35A.31.050.]

RCW 35A.31.060 Accident fund--Warrants for judgments.

Every code city may create an accident fund upon which the clerk shall draw warrants for the full amount of any judgment including interest and costs against the city on account of

personal injuries suffered by any person as shown by a transcript of the judgment duly certified to the clerk. Warrants issued for such purpose shall be in denominations not less than one hundred dollars nor more than five hundred dollars; they shall draw interest at the rate of six percent per annum, shall be numbered consecutively and be paid in the order of their issue.

[1967 ex.s. c 119 § 35A.31.060.]

RCW 35A.31.070 Tax levy for fund.

The legislative body of the code city, after the drawing of warrants against the accident fund, shall estimate the amount necessary to pay the warrant with accrued interest thereon and may appropriate and transfer money from the contingency fund sufficient therefor, or if there is not sufficient money in the contingency fund the legislative body shall levy a tax sufficient to pay all or such unpaid portion of any judgment not exceeding seventy-five cents per thousand dollars of assessed value. If a single levy of seventy-five cents per thousand dollars of assessed value is not sufficient, and if other moneys are not available therefor, an annual levy of seventy-five cents per thousand dollars of assessed value shall be made until the warrants and interest are fully paid.

[1973 1st ex.s. c 195 § 27; 1967 ex.s. c 119 § 35A.31.070.]

Notes:

Severability--Effective dates and termination dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 35A.31.080 Surplus to general fund.

If there is no judgment outstanding against the city for personal injuries, the money remaining in the accident fund after the payment of the warrants drawn on that fund and interest in full shall be transferred to the general fund.

[1967 ex.s. c 119 § 35A.31.080.]

Chapter 35A.33 RCW
BUDGETS IN CODE CITIES

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RCW 35A.33.010 Definitions.

Unless the context clearly indicates otherwise, the following words as used in this chapter shall have the meaning herein prescribed:

(1) "Clerk" as used in this chapter includes the officer performing the functions of a finance or budget director, comptroller, auditor, or by whatever title he may be known in any code city.

(2) "Department" as used in this chapter includes each office, division, service, system or institution of the city for which no other statutory or charter provision is made for budgeting and accounting procedures or controls.

(3) "Council" as used in this chapter includes the commissioners in cities having a commission form of government and any other group of city officials serving as the legislative body of a code city.

(4) "Chief administrative officer" as used in this chapter includes the mayor of cities having a mayor-council form of government, the commissioners in cities having a commission form of government, the city manager, or any other city official designated by the charter or ordinances of such city under the plan of government governing the same, or the budget or finance officer designated by the mayor, manager or commissioners, to perform the functions, or portions thereof, contemplated by this chapter.

(5) "Fiscal year" as used in this chapter means that fiscal period set by the code city pursuant to authority given under RCW 1.16.030.

(6) "Fund", as used in this chapter and "funds" where clearly used to indicate the plural of "fund", shall mean the budgeting or accounting entity authorized to provide a sum of money for specified activities or purposes.

(7) "Funds" as used in this chapter where not used to indicate the plural of "fund" shall

mean money in hand or available for expenditure or payment of a debt or obligation.

(8) Except as otherwise defined herein, municipal accounting terms used in this chapter have the meaning prescribed in "Governmental Accounting, Auditing and Financial Reporting" prepared by the National Committee on Governmental Accounting, 1968.

[1969 ex.s. c 81 § 2; 1967 ex.s. c 119 § 35A.33.010.]

Notes:

Effective date--1969 ex.s. c 81: See note following RCW 35A.13.035.

RCW 35A.33.020 Applicability of chapter.

The provisions of this chapter apply to all code cities except those which have adopted an ordinance under RCW 35A.34.040 providing for a biennial budget. In addition, this chapter shall not apply to any municipal utility or enterprise for which separate budgeting provisions are made by general state law.

[1985 c 175 § 33; 1967 ex.s. c 119 § 35A.33.020.]

RCW 35A.33.030 Budget estimates.

On or before the second Monday of the fourth month prior to the beginning of the city's next fiscal year, or at such other time as the city may provide by ordinance or charter, the clerk shall notify in writing the head of each department of a code city to file with the clerk within fourteen days of the receipt of such notification, detailed estimates of the probable revenue from sources other than ad valorem taxation and of all expenditures required by his or her department for the ensuing fiscal year. The notice shall be accompanied by the proper forms provided by the clerk, prepared in accordance with the requirements and classification established by the state auditor. The clerk shall prepare the estimates for interest and debt redemption requirements and all other estimates, the preparation of which falls properly within the duties of his or her office. The chief administrative officers of the city shall submit to the clerk detailed estimates of all expenditures proposed to be financed from the proceeds of bonds or warrants not yet authorized, together with a statement of the proposed method of financing them. In the absence or disability of the official or person regularly in charge of a department, the duties herein required shall devolve upon the person next in charge of such department.

[1995 c 301 § 51; 1967 ex.s. c 119 § 35A.33.030.]

RCW 35A.33.040 Classification and segregation of budget estimates.

All estimates of receipts and expenditures for the ensuing year shall be fully detailed in the annual budget and shall be classified and segregated according to a standard classification of accounts to be adopted and prescribed by the state auditor after consultation with the Washington finance officers association, the association of Washington cities and the association of Washington city managers.

[1995 c 301 § 52; 1967 ex.s. c 119 § 35A.33.040.]

RCW 35A.33.050 Proposed preliminary budget.

On or before the first business day in the third month prior to the beginning of the fiscal year of a code city or at such other time as the city may provide by ordinance or charter, the clerk or other person designated by the charter, by ordinances, or by the chief administrative officer of the city shall submit to the chief administrative officer a proposed preliminary budget which shall set forth the complete financial program of the city for the ensuing fiscal year, showing the expenditure program requested by each department and the sources of revenue by which each such program is proposed to be financed.

The revenue section shall set forth in comparative and tabular form for each fund the actual receipts for the last completed fiscal year, the estimated receipts for the current fiscal year and the estimated receipts for the ensuing fiscal year, which shall include the amount to be raised from ad valorem taxes and unencumbered fund balances estimated to be available at the close of the current fiscal year.

The expenditure section shall set forth in comparative and tabular form for each fund and every department operating within each fund the actual expenditures for the last completed fiscal year, the appropriations for the current fiscal year and the estimated expenditures for the ensuing fiscal year. The salary or salary range for each office, position or job classification shall be set forth separately together with the title or position designation thereof: PROVIDED, That salaries may be set out in total amounts under each department if a detailed schedule of such salaries and positions be attached to and made a part of the budget document.

[1967 ex.s. c 119 § 35A.33.050.]

RCW 35A.33.052 Preliminary budget.

The chief administrative officer shall prepare the preliminary budget in detail, making any revisions or addition to the reports of the department heads deemed advisable by such chief administrative officer and at least sixty days before the beginning of the city's next fiscal year he shall file it with the city clerk as the recommendation of the chief administrative officer for the final budget. The clerk shall provide a sufficient number of copies of such preliminary budget and budget message to meet the reasonable demands of taxpayers therefor and have them available for distribution not later than six weeks before the beginning of the city's next fiscal year.

[1967 ex.s. c 119 § 35A.33.052.]

RCW 35A.33.055 Budget message--Preliminary hearings.

In every code city a budget message prepared by or under the direction of the city's chief administrative officer shall be submitted as a part of the preliminary budget to the city's legislative body at least sixty days before the beginning of the city's next fiscal year and shall contain the following:

(1) An explanation of the budget document;

(2) An outline of the recommended financial policies and programs of the city for the ensuing fiscal year;

(3) A statement of the relation of the recommended appropriation to such policies and programs;

(4) A statement of the reason for salient changes from the previous year in appropriation and revenue items;

(5) An explanation for any recommended major changes in financial policy.

Prior to the final hearing on the budget, the legislative body or a committee thereof, shall schedule hearings on the budget or parts thereof, and may require the presence of department heads to give information regarding estimates and programs.

[1967 ex.s. c 119 § 35A.33.055.]

RCW 35A.33.060 Budget--Notice of hearing on final.

Immediately following the filing of the preliminary budget with the clerk, the clerk shall publish a notice once each week for two consecutive weeks stating that the preliminary budget for the ensuing fiscal year has been filed with the clerk, that a copy thereof will be furnished to any taxpayer who will call at the clerk's office therefor and that the legislative body of the city will meet on or before the first Monday of the month next preceding the beginning of the ensuing fiscal year for the purpose of fixing the final budget, designating the date, time and place of the legislative budget meeting and that any taxpayer may appear thereat and be heard for or against any part of the budget. The publication of the notice shall be made in the official newspaper of the city.

[1985 c 469 § 43; 1973 c 67 § 1; 1967 ex.s. c 119 § 35A.33.060.]

RCW 35A.33.070 Budget--Hearing.

The council shall meet on the day fixed by RCW 35A.33.060 for the purpose of fixing the final budget of the city at the time and place designated in the notice thereof. Any taxpayer may appear and be heard for or against any part of the budget. The hearing may be continued from day to day but not later than the twenty-fifth day prior to commencement of the city's fiscal year.

[1967 ex.s. c 119 § 35A.33.070.]

RCW 35A.33.075 Budget adoption.

Following conclusion of the hearing, and prior to the beginning of the fiscal year, the legislative body shall make such adjustments and changes as it deems necessary or proper and after determining the allowance in each item, department, classification and fund, and shall by ordinance, adopt the budget in its final form and content. Appropriations shall be limited to the

total estimated revenues contained therein including the amount to be raised by ad valorem taxes and the unencumbered fund balances estimated to be available at the close of the current fiscal year. Such ordinances may adopt the final budget by reference: PROVIDED, That the ordinance adopting such budget shall set forth in summary form the totals of estimated revenues and appropriations for each separate fund and the aggregate totals for all such funds combined.

A complete copy of the final budget as adopted shall be transmitted to the state auditor, and to the association of Washington cities.

[1995 c 301 § 53; 1969 ex.s. c 81 § 3; 1967 ex.s. c 119 § 35A.33.075.]

Notes:

Effective date--1969 ex.s. c 81: See note following RCW 35A.13.035.

RCW 35A.33.080 Emergency expenditures--Nondebatable emergencies.

Upon the happening of any emergency caused by violence of nature, casualty, riot, insurrection, war, or other unanticipated occurrence requiring the immediate preservation of order or public health, or for the restoration to a condition of usefulness of any public property which has been damaged or destroyed by accident, or for public relief from calamity, or in settlement of approved claims for personal injuries or property damage, or to meet mandatory expenditures required by laws enacted since the last annual budget was adopted, or to cover expenses incident to preparing for or establishing a new form of government authorized or assumed after adoption of the current budget, including any expenses incident to selection of additional or new officials required thereby, or incident to employee recruitment at any time, the city council, upon the adoption of an ordinance, by the vote of one more than the majority of all members of the legislative body, stating the facts constituting the emergency and the estimated amount required to meet it, may make the expenditures therefor without notice or hearing.

[1967 ex.s. c 119 § 35A.33.080.]

RCW 35A.33.090 Emergency expenditures--Other emergencies--Hearing.

If a public emergency which could not reasonably have been foreseen at the time of filing the preliminary budget requires the expenditure of money not provided for in the annual budget, and if it is not one of the emergencies specifically enumerated in RCW 35A.33.080, the city council before allowing any expenditure therefor shall adopt an ordinance stating the facts constituting the emergency and the estimated amount required to meet it and declaring that an emergency exists.

Such ordinance shall not be voted on until five days have elapsed after its introduction, and for passage shall require the vote of one more than the majority of all members of the legislative body of the code city.

Any taxpayer may appear at the meeting at which the emergency ordinance is to be voted on and be heard for or against the adoption thereof.

[1967 ex.s. c 119 § 35A.33.090.]

RCW 35A.33.100 Emergency expenditures--Warrants--Payments.

All expenditures for emergency purposes as provided in this chapter shall be paid by warrants from any available money in the fund properly chargeable with such expenditures. If, at any time, there is insufficient money on hand in a fund with which to pay such warrants as presented, the warrants shall be registered, bear interest and be called in the same manner as other registered warrants as prescribed in RCW 35A.21.110.

[1967 ex.s. c 119 § 35A.33.100.]

RCW 35A.33.102 Registered warrants--Appropriations.

In adopting the final budget for any fiscal year, the council shall appropriate from estimated revenue sources available, a sufficient amount to pay the principal and interest on all outstanding registered warrants issued since the adoption of the last preceding budget except those issued and identified as revenue warrants and except those for which an appropriation previously has been made: PROVIDED, That no portion of the revenues which are restricted in use by law may be appropriated for the redemption of warrants issued against a utility or other special purpose fund of a self-supporting nature: PROVIDED FURTHER, That all or any portion of the city's outstanding registered warrants may be funded into bonds in any manner authorized by law.

[1967 ex.s. c 119 § 35A.33.102.]

RCW 35A.33.105 Adjustment of wages, etc., of employees permissible budget notwithstanding.

Notwithstanding the appropriations for any salary, or salary range of any employee or employees adopted in a final budget, the legislative body of any code city may, by ordinance, change the wages, hours, and conditions of employment of any or all of its appointive employees if sufficient funds are available for appropriation to such purposes.

[1967 ex.s. c 119 § 35A.33.105.]

RCW 35A.33.110 Forms--Accounting--Supervision by state.

The state auditor is empowered to make and install the forms and classifications required by this chapter to define what expenditures are chargeable to each budget class and to establish the accounting and cost systems necessary to secure accurate budget information.

[1995 c 301 § 54; 1967 ex.s. c 119 § 35A.33.110.]

RCW 35A.33.120 Funds--Limitations on expenditures--Transfers and adjustments.

The expenditures as classified and itemized in the final budget shall constitute the city's appropriations for the ensuing fiscal year. Unless otherwise ordered by a court of competent

jurisdiction, and subject to further limitations imposed by ordinance of the code city, the expenditure of city funds or the incurring of current liabilities on behalf of the city shall be limited to the following:

(1) The total amount appropriated for each fund in the budget for the current fiscal year, without regard to the individual items contained therein, except that this limitation shall not apply to wage adjustments authorized by RCW 35A.33.105; and

(2) The unexpended appropriation balances of a preceding budget which may be carried forward from prior fiscal years pursuant to RCW 35A.33.150; and

(3) Funds received from the sale of bonds or warrants which have been duly authorized according to law; and

(4) Funds received in excess of estimated revenues during the current fiscal year, when authorized by an ordinance amending the original budget; and

(5) Expenditures required for emergencies, as authorized in RCW 35A.33.080 and 35A.33.090.

Transfers between individual appropriations within any one fund may be made during the current fiscal year by order of the city's chief administrative officer subject to such regulations, if any, as may be imposed by the city council. Notwithstanding the provisions of RCW 43.09.210 or of any statute to the contrary, transfers, as herein authorized, may be made within the same fund regardless of the various offices, departments or divisions of the city which may be affected.

The city council, upon a finding that it is to the best interests of the code city to decrease, revoke or recall all or any portion of the total appropriations provided for any one fund, may, by ordinance, approved by the vote of one more than the majority of all members thereof, stating the facts and findings for doing so, decrease, revoke or recall all or any portion of an unexpended fund balance, and by said ordinance, or a subsequent ordinance adopted by a like majority, the moneys thus released may be reappropriated for another purpose or purposes, without limitation to department, division or fund, unless the use of such moneys is otherwise restricted by law, charter, or ordinance.

[1967 ex.s. c 119 § 35A.33.120.]

RCW 35A.33.122 Administration, oversight, or supervision of utility--Reimbursement from utility budget authorized.

Whenever any code city apportions a percentage of the city manager's, administrator's, or supervisor's time, or the time of other management or general government staff, for administration, oversight, or supervision of a utility operated by the city, or to provide services to the utility, the utility budget may identify such services and budget for reimbursement of the city's current expense fund for the value of such services.

[1991 c 152 § 3.]

RCW 35A.33.125 Limitation on expenditures--Void.

Liabilities incurred by any officer or employee of the city in excess of any budget appropriations shall not be a liability of the city. The clerk shall issue no warrant and the city council or other authorized person shall approve no claim for an expenditure in excess of the total amount appropriated for any individual fund, except upon an order of a court of competent jurisdiction or for emergencies as provided in this chapter.

[1969 ex.s. c 81 § 4; 1967 ex.s. c 119 § 35A.33.125.]

Notes:

Effective date--1969 ex.s. c 81: See note following RCW 35A.13.035.

RCW 35A.33.130 Funds received from sales of bonds and warrants--Expenditures.

Moneys received from the sale of bonds or warrants shall be used for no other purpose than that for which they were issued and no expenditure shall be made for that purpose until the bonds have been duly authorized. If any unexpended fund balance remains from the proceeds realized from the bonds or warrants after the accomplishment of the purpose for which they were issued it shall be used for the redemption of such bond or warrant indebtedness. Where a budget contains an expenditure program to be financed from a bond issue to be authorized thereafter, no such expenditure shall be made or incurred until after the bonds have been duly authorized.

[1967 ex.s. c 119 § 35A.33.130.]

RCW 35A.33.135 Levy for ad valorem tax.

At a time fixed by the city's ordinance or charter, not later than the first Monday in October of each year, the chief administrative officer shall provide the city's legislative body with current information on estimates of revenues from all sources as adopted in the budget for the current year, together with estimates submitted by the clerk under RCW 35A.33.050. The city's legislative body and the city's administrative officer or his designated representative shall consider the city's total anticipated financial requirements for the ensuing fiscal year, and the legislative body shall determine and fix by ordinance the amount to be raised by ad valorem taxes. Upon adoption of the ordinance fixing the amount of ad valorem taxes to be levied, the clerk shall certify the same to the board of county commissioners as required by RCW 84.52.020.

[1967 ex.s. c 119 § 35A.33.135.]

RCW 35A.33.140 Funds--Quarterly report of status.

At such intervals as may be required by city charter or ordinance, however, being not less than quarterly, the clerk shall submit to the city's legislative body and chief administrative officer a report showing the expenditures and liabilities against each separate budget appropriation incurred during the preceding reporting period and like information for the whole of the current fiscal year to the first day of the current reporting period together with the unexpended balance of each appropriation. The report shall also show the receipts from all sources.

[1967 ex.s. c 119 § 35A.33.140.]

RCW 35A.33.145 Contingency fund--Creation.

Every code city may create and maintain a contingency fund to provide moneys with which to meet any municipal expense, the necessity or extent of which could not have been foreseen or reasonably evaluated at the time of adopting the annual budget, or from which to provide moneys for those emergencies described in RCW 35A.33.080 and 35A.33.090. Such fund may be supported by a budget appropriation from any tax or other revenue source not restricted in use by law, or also may be supported by a transfer from other unexpended or decreased funds made available by ordinance as set forth in RCW 35A.33.120: PROVIDED, That the total amount accumulated in such fund at any time shall not exceed the equivalent of thirty-seven and one-half cents per thousand dollars of assessed valuation of property within the city at such time. Any moneys in the contingency fund at the end of the fiscal year shall not lapse except upon reappropriation by the council to another fund in the adoption of a subsequent budget.

[1973 1st ex.s. c 195 § 28; 1967 ex.s. c 119 § 35A.33.145.]

Notes:

Severability--Effective dates and termination dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

RCW 35A.33.146 Contingency fund--Withdrawals.

No money shall be withdrawn from the contingency fund except by transfer to the appropriate operating fund authorized by a resolution or ordinance of the council, adopted by a vote of the majority of the entire council, clearly stating the facts constituting the reason for the withdrawal or the emergency as the case may be, specifying the fund to which the withdrawn money shall be transferred.

[1967 ex.s. c 119 § 35A.33.146.]

RCW 35A.33.150 Unexpended appropriations.

All appropriations in any current operating fund shall lapse at the end of each fiscal year: PROVIDED, That this shall not prevent payments in the following year upon uncompleted programs or improvements in progress or on orders subsequently filled or claims subsequently billed for the purchase of material, equipment and supplies or for personal or contractual services not completed or furnished by the end of the fiscal year, all of which have been properly budgeted and contracted for prior to the close of such fiscal year but furnished or completed in due course thereafter.

All appropriations in a special fund authorized by ordinance or by state law to be used only for the purpose or purposes therein specified, including any cumulative reserve funds

lawfully established in specific or general terms for any municipal purpose or purposes, or a contingency fund as authorized by RCW 35A.33.145, shall not lapse, but shall be carried forward from year to year until fully expended or the purpose has been accomplished or abandoned, without necessity of reappropriation.

The accounts for budgetary control for each fiscal year shall be kept open for twenty days after the close of such fiscal year for the purpose of paying and recording claims for indebtedness incurred during such fiscal year; any claim presented after the twentieth day following the close of the fiscal year shall be paid from appropriations lawfully provided for the ensuing period, including those made available by provisions of this section, and shall be recorded in the accounts for the ensuing fiscal year.

[1967 ex.s. c 119 § 35A.33.150.]

RCW 35A.33.160 Violations and penalties.

Upon the conviction of any city official, department head or other city employee of knowingly failing, or refusing, without just cause, to perform any duty imposed upon such officer or employee by this chapter, or city ordinance or charter, in connection with the giving of notice, the preparing and filing of estimates of revenues or expenditures or other information required for preparing a budget report in the time and manner required, or of knowingly making expenditures in excess of budget appropriations, he shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars for each separate violation.

[1967 ex.s. c 119 § 35A.33.160.]

Chapter 35A.34 RCW
BIENNIAL BUDGETS

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35A.34.280 Violations and penalties.

RCW 35A.34.010 Legislative intent.

See RCW 35.34.010.

RCW 35A.34.020 Application of chapter.

This chapter applies to all code cities which have by ordinance adopted this chapter authorizing the adoption of a fiscal biennium budget.

[1985 c 175 § 34.]

RCW 35A.34.030 Definitions.

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

(1) "Clerk" includes the officer performing the functions of a finance or budget director, comptroller, auditor, or by whatever title the officer may be known in any code city.

(2) "Department" includes each office, division, service, system, or institution of the city for which no other statutory or charter provision is made for budgeting and accounting procedures or controls.

(3) "Legislative body" includes the council, commission, or any other group of officials serving as the legislative body of a code city.

(4) "Chief administrative officer" includes the mayor of cities having a mayor-council plan of government, the commissioners in cities having a commission plan of government, the manager, or any other city official designated by the charter or ordinances of such city under the plan of government governing the same, or the budget or finance officer designated by the mayor, manager, or commissioners, to perform the functions, or portions thereof, contemplated by this chapter.

(5) "Fiscal biennium" means the period from January 1 of each odd-numbered year

through December 31 of the next succeeding even-numbered year.

(6) "Fund" and "funds" where clearly used to indicate the plural of "fund" means the budgeting or accounting entity authorized to provide a sum of money for specified activities or purposes.

(7) "Funds" where not used to indicate the plural of "fund" means money in hand or available for expenditure or payment of a debt or obligation.

(8) Except as otherwise defined in this chapter, municipal accounting terms used in this chapter have the meaning prescribed by the state auditor pursuant to RCW 43.09.200.

[1985 c 175 § 35.]

Notes:
"Fiscal biennium" defined: RCW 1.16.020.

RCW 35A.34.040 Biennial budget authorized--Limitations.

All code cities are authorized to establish by ordinance a two-year fiscal biennium budget. The ordinance shall be enacted at least six months prior to commencement of the fiscal biennium and this chapter applies to all code cities which utilize a fiscal biennium budget. Code cities which establish a fiscal biennium budget are authorized to repeal such ordinance and provide for reversion to a fiscal year budget. The ordinance may only be repealed effective as of the conclusion of a fiscal biennium. However, the city shall comply with chapter 35A.33 RCW in developing and adopting the budget for the first fiscal year following repeal of the ordinance.

[1985 c 175 § 36.]

RCW 35A.34.050 Budget estimates--Submittal.

On or before the second Monday of the fourth month prior to the beginning of the city's next fiscal biennium, or at such other time as the city may provide by ordinance or charter, the clerk shall notify in writing the head of each department of a city to file with the clerk within fourteen days of the receipt of such notification, detailed estimates of the probable revenue from sources other than ad valorem taxation and of all expenditures required by the department for the ensuing fiscal biennium. The notice shall be accompanied by the proper forms provided by the clerk, prepared in accordance with the requirements and classification established by the state auditor. The clerk shall prepare the estimates for interest and debt redemption requirements and all other estimates, the preparation of which falls properly within the duties of the clerk's office. The chief administrative officers of the city shall submit to the clerk detailed estimates of all expenditures proposed to be financed from the proceeds of bonds or warrants not yet authorized, together with a statement of the proposed method of financing them. In the absence or disability of the official or person regularly in charge of a department, the duties required by this section shall devolve upon the person next in charge of such department.

[1995 c 301 § 55; 1985 c 175 § 37.]

RCW 35A.34.060 Budget estimates--Classification and segregation.

All estimates of receipts and expenditures for the ensuing fiscal biennium shall be fully detailed in the biennial budget and shall be classified and segregated according to a standard classification of accounts to be adopted and prescribed by the state auditor after consultation with the Washington finance officers association, the association of Washington cities, and the association of Washington city managers.

[1995 c 301 § 56; 1985 c 175 § 38.]

RCW 35A.34.070 Proposed preliminary budget.

On or before the first business day in the third month prior to the beginning of the biennium of a city or at such other time as the city may provide by ordinance or charter, the clerk or other person designated by the charter, by ordinances, or by the chief administrative officer of the city shall submit to the chief administrative officer a proposed preliminary budget which shall set forth the complete financial program of the city for the ensuing fiscal biennium, showing the expenditure program requested by each department and the sources of revenue by which each such program is proposed to be financed.

The revenue section shall set forth in comparative and tabular form for each fund the actual receipts for the last completed fiscal biennium, the estimated receipts for the current fiscal biennium, and the estimated receipts for the ensuing fiscal biennium, which shall include the amount to be raised from ad valorem taxes and unencumbered fund balances estimated to be available at the close of the current fiscal biennium. However, if the city was not utilizing a fiscal biennium budget for the previous three years, it shall set forth its fiscal years' revenues to reflect actual and estimated receipts as if it had previously utilized a biennial budgetary process.

The expenditure section shall set forth in comparative and tabular form for each fund and every department operating within each fund the actual expenditures for the last completed fiscal biennium, the appropriations for the current fiscal biennium, and the estimated expenditures for the ensuing fiscal biennium. However, if the city was not utilizing a fiscal biennium budget for the previous three years, it shall set forth its fiscal years' expenditures to reflect actual and estimated levels as if it had previously utilized a biennial budgetary process. The expenditure section shall further set forth separately the salary or salary range for each office, position, or job classification together with the title or position designation thereof. However, salaries may be set out in total amounts under each department if a detailed schedule of such salaries and positions be attached and made a part of the budget document.

[1985 c 175 § 39.]

RCW 35A.34.080 Preliminary budget.

The chief administrative officer shall prepare the preliminary budget in detail, making any revisions or additions to the reports of the department heads deemed advisable by such chief administrative officer. At least sixty days before the beginning of the city's next fiscal biennium

the chief administrative officer shall file it with the clerk as the recommendation of the chief administrative officer for the final budget. The clerk shall provide a sufficient number of copies of such preliminary budget and budget message to meet the reasonable demands of taxpayers therefor and have them available for distribution not later than six weeks before the beginning of the city's next fiscal biennium.

[1985 c 175 § 40.]

RCW 35A.34.090 Budget message--Hearings.

(1) In every city, a budget message prepared by or under the direction of the city's chief administrative officer shall be submitted as a part of the preliminary budget to the city's legislative body at least sixty days before the beginning of the city's next fiscal biennium and shall contain the following:

(a) An explanation of the budget document;

(b) An outline of the recommended financial policies and programs of the city for the ensuing fiscal biennium;

(c) A statement of the relation of the recommended appropriation to such policies and programs;

(d) A statement of the reason for salient changes from the previous biennium in appropriation and revenue items; and

(e) An explanation for any recommended major changes in financial policy.

(2) Prior to the final hearing on the budget, the legislative body or a committee thereof shall schedule hearings on the budget or parts thereof, and may require the presence of department heads to give information regarding estimates and programs.

[1985 c 175 § 41.]

RCW 35A.34.100 Budget--Notice of hearing.

Immediately following the filing of the preliminary budget with the clerk, the clerk shall publish a notice once a week for two consecutive weeks stating that the preliminary budget for the ensuing fiscal biennium has been filed with the clerk, that a copy thereof will be made available to any taxpayer who will call at the clerk's office therefor, that the legislative body of the city will meet on or before the first Monday of the month next preceding the beginning of the ensuing fiscal biennium for the purpose of fixing the final budget, designating the date, time, and place of the legislative budget meeting, and that any taxpayer may appear thereat and be heard for or against any part of the budget. The publication of the notice shall be made in the official newspaper of the city if there is one, otherwise in a newspaper of general circulation in the city. If there is no newspaper of general circulation in the city, then notice may be made by posting in three public places fixed by ordinance as the official places for posting the city's official notices.

[1985 c 175 § 42.]

RCW 35A.34.110 Budget--Hearing.

The legislative body shall meet on the day fixed by RCW 35A.34.100 for the purpose of fixing the final budget of the city at the time and place designated in the notice thereof. Any taxpayer may appear and be heard for or against any part of the budget. The hearing may be continued from day to day but not later than the twenty-fifth day prior to commencement of the city's fiscal biennium.

[1985 c 175 § 43.]

RCW 35A.34.120 Budget--Adoption.

Following conclusion of the hearing, and prior to the beginning of the fiscal biennium, the legislative body shall make such adjustments and changes as it deems necessary or proper and, after determining the allowance in each item, department, classification, and fund, shall by ordinance adopt the budget in its final form and content. Appropriations shall be limited to the total estimated revenues contained therein including the amount to be raised by ad valorem taxes and the unencumbered fund balances estimated to be available at the close of the current fiscal biennium. Such ordinances may adopt the final budget by reference. However, the ordinance adopting the budget shall set forth in summary form the totals of estimated revenues and appropriations for each separate fund and the aggregate totals for all such funds combined.

A complete copy of the final budget as adopted shall be transmitted to the state auditor and to the association of Washington cities.

[1995 c 301 § 57; 1985 c 175 § 44.]

RCW 35A.34.130 Budget--Mid-biennial review and modification.

The legislative authority of a city having adopted the provisions of this chapter shall provide by ordinance for a mid-biennial review and modification of the biennial budget. The ordinance shall provide that such review and modification shall occur no sooner than eight months after the start nor later than conclusion of the first year of the fiscal biennium. The chief administrative officer shall prepare the proposed budget modification and shall provide for publication of notice of hearings consistent with publication of notices for adoption of other city ordinances. City ordinances providing for a mid-biennium review and modification shall establish procedures for distribution of the proposed modification to members of the city legislative authority, procedures for making copies available to the public, and shall provide for public hearings on the proposed budget modification. The budget modification shall be by ordinance approved in the same manner as are other ordinances of the city.

A complete copy of the budget modification as adopted shall be transmitted to the state auditor and to the association of Washington cities.

[1995 c 301 § 58; 1985 c 175 § 45.]

RCW 35A.34.140 Emergency expenditures--Nondebatable emergencies.

Upon the happening of any emergency caused by violence of nature, casualty, riot, insurrection, war, or other unanticipated occurrence requiring the immediate preservation of order or public health, or for the property which has been damaged or destroyed by accident, or for public relief from calamity, or in settlement of approved claims for personal injuries or property damages, or to meet mandatory expenditures required by law enacted since the last budget was adopted, or to cover expenses incident to preparing for or establishing a new form of government authorized or assumed after adoption of the current budget, including any expenses incident to selection of additional or new officials required thereby, or incident to employee recruitment at any time, the city legislative body, upon the adoption of an ordinance, by the vote of one more than the majority of all members of the legislative body, stating the facts constituting the emergency and the estimated amount required to meet it, may make the expenditures therefor without notice or hearing.

[1985 c 175 § 46.]

RCW 35A.34.150 Emergency expenditures--Other emergencies--Hearing.

If a public emergency which could not reasonably have been foreseen at the time of filing the preliminary budget requires the expenditure of money not provided for in the budget, and if it is not one of the emergencies specifically enumerated in RCW 35A.34.140, the city legislative body before allowing any expenditure therefor shall adopt an ordinance stating the facts constituting the emergency and the estimated amount required to meet it and declaring that an emergency exists.

The ordinance shall not be voted on until five days have elapsed after its introduction, and for passage shall require the vote of one more than the majority of all members of the legislative body of the city.

Any taxpayer may appear at the meeting at which the emergency ordinance is to be voted on and be heard for or against the adoption thereof.

[1985 c 175 § 47.]

RCW 35A.34.160 Emergency expenditures--Warrants--Payment.

All expenditures for emergency purposes as provided in this chapter shall be paid by warrants from any available money in the fund properly chargeable with such expenditures. If, at any time, there is insufficient money on hand in a fund with which to pay such warrants as presented, the warrants shall be registered, bear interest, and be called in the same manner as other registered warrants as prescribed in RCW 35A.21.110.

[1985 c 175 § 48.]

RCW 35A.34.170 Registered warrants--Payment.

In adopting the final budget for any fiscal biennium, the legislative body shall appropriate from estimated revenue sources available, a sufficient amount to pay the principal and interest on all outstanding registered warrants issued since the adoption of the last preceding budget except those issued and identified as revenue warrants and except those for which an appropriation previously has been made. However, no portion of the revenues which are restricted in use by law may be appropriated for the redemption of warrants issued against a utility or other special purpose fund of a self-supporting nature. In addition, all or any portion of the city's outstanding registered warrants may be funded into bonds in any manner authorized by law.

[1985 c 175 § 49.]

RCW 35A.34.180 Adjustment of wages, hours and conditions of employment.

Notwithstanding the appropriations for any salary or salary range of any employee or employees adopted in a final budget, the legislative body of any city may, by ordinance, change the wages, hours, and conditions of employment of any or all of its appointive employees if sufficient funds are available for appropriation to such purposes.

[1985 c 175 § 50.]

RCW 35A.34.190 Forms--Accounting--Supervision by state.

The state auditor is empowered to make and install the forms and classifications required by this chapter to define what expenditures are chargeable to each budget class and to establish the accounting and cost systems necessary to secure accurate budget information.

[1995 c 301 § 59; 1985 c 175 § 51.]

RCW 35A.34.200 Funds--Limitations on expenditures--Transfers and adjustments.

(1) The expenditures as classified and itemized in the final budget shall constitute the city's appropriations for the ensuing fiscal biennium. Unless otherwise ordered by a court of competent jurisdiction, and subject to further limitations imposed by ordinance of the city, the expenditure of city funds or the incurring of current liabilities on behalf of the city shall be limited to the following:

(a) The total amount appropriated for each fund in the budget for the current fiscal biennium, without regard to the individual items contained therein, except that this limitation does not apply to wage adjustments authorized by RCW 35A.34.180;

(b) The unexpended appropriation balances of a preceding budget which may be carried forward from prior fiscal periods pursuant to RCW 35A.34.270;

(c) Funds received from the sale of bonds or warrants which have been duly authorized according to law;

(d) Funds received in excess of estimated revenues during the current fiscal biennium, when authorized by an ordinance amending the original budget; and

(e) Expenditures authorized by budget modification as provided by RCW 35A.34.130 and those required for emergencies, as authorized by RCW 35A.34.140 and 35A.34.150.

(2) Transfers between individual appropriations within any one fund may be made during the current fiscal biennium by order of the city's chief administrative officer subject to such regulations, if any, as may be imposed by the city legislative body. Notwithstanding the provisions of RCW 43.09.210 or of any statute to the contrary, transfers, as authorized in this section, may be made within the same fund regardless of the various offices, departments, or divisions of the city which may be affected.

(3) The city legislative body, upon a finding that it is to the best interests of the city to decrease, revoke, or recall all or any portion of the total appropriations provided for any one fund, may, by ordinance, approved by the vote of one more than the majority of all members thereof, stating the facts and findings for doing so, decrease, revoke, or recall all or any portion of an unexpended fund balance, and by said ordinance, or a subsequent ordinance adopted by a like majority, the moneys thus released may be reappropriated for another purpose or purposes, without limitation to department, division, or fund, unless the use of such moneys is otherwise restricted by law, charter, or ordinance.

[1985 c 175 § 52.]

RCW 35A.34.205 Administration, oversight, or supervision of utility--Reimbursement from utility budget authorized.

Whenever any code city apportions a percentage of the city manager's, administrator's, or supervisor's time, or the time of other management or general government staff, for administration, oversight, or supervision of a utility operated by the city, or to provide services to the utility, the utility budget may identify such services and budget for reimbursement of the city's current expense fund for the value of such services.

[1991 c 152 § 4.]

RCW 35A.34.210 Liabilities incurred in excess of budget.

Liabilities incurred by any officer or employee of the city in excess of any budget appropriations shall not be a liability of the city. The clerk shall issue no warrant and the city legislative body or other authorized person shall approve no claim for an expenditure in excess of the total amount appropriated for any individual fund, except upon an order of a court of competent jurisdiction or for emergencies as provided in this chapter.

[1985 c 175 § 53.]

RCW 35A.34.220 Funds received from sales of bonds and warrants--Expenditures.

Moneys received from the sale of bonds or warrants shall be used for no other purpose than that for which they were issued and no expenditure shall be made for that purpose until the

bonds have been duly authorized. If any unexpended fund balance remains from the proceeds realized from the bonds or warrants after the accomplishment of the purpose for which they were issued, it shall be used for the redemption of such bond or warrant indebtedness. Where a budget contains an expenditure program to be financed from a bond issue to be authorized thereafter, no such expenditure shall be made or incurred until after the bonds have been duly authorized.

[1985 c 175 § 54.]

RCW 35A.34.230 Revenue estimates--Amount to be raised by ad valorem taxes.

At a time fixed by the city's ordinance or city charter, not later than the first Monday in October of the second year of each fiscal biennium, the chief administrative officer shall provide the city's legislative body with current information on estimates of revenues from all sources as adopted in the budget for the current biennium, together with estimates submitted by the clerk under RCW 35A.34.070. The city's legislative body and the city's administrative officer or the officer's designated representative shall consider the city's total anticipated financial requirements for the ensuing fiscal biennium, and the legislative body shall determine and fix by ordinance the amount to be raised the first year of the biennium by ad valorem taxes. The legislative body shall review such information as is provided by the chief administrative officer and shall adopt an ordinance establishing the amount to be raised by ad valorem taxes during the second year of the biennium. Upon adoption of the ordinance fixing the amount of ad valorem taxes to be levied, the clerk shall certify the same to the county legislative authority as required by RCW 84.52.020.

[1985 c 175 § 55.]

RCW 35A.34.240 Funds--Quarterly report of status.

At such intervals as may be required by city charter or city ordinance, however, being not less than quarterly, the clerk shall submit to the city's legislative body and chief administrative officer a report showing the expenditures and liabilities against each separate budget appropriation incurred during the preceding reporting period and like information for the whole of the current fiscal biennium to the first day of the current reporting period together with the unexpended balance of each appropriation. The report shall also show the receipts from all sources.

[1985 c 175 § 56.]

RCW 35A.34.250 Contingency fund--Creation.

Every city may create and maintain a contingency fund to provide moneys with which to meet any municipal expense, the necessity or extent of which could not have been foreseen or reasonably evaluated at the time of adopting the annual budget, or from which to provide moneys for those emergencies described in RCW 35A.34.140 and 35A.34.150. Such fund may

be supported by a budget appropriation from any tax or other revenue source not restricted in use by law, or also may be supported by a transfer from other unexpended or decreased funds made available by ordinance as set forth in RCW 35A.34.200. However, the total amount accumulated in such fund at any time shall not exceed the equivalent of thirty-seven and one-half cents per thousand dollars of assessed valuation of property within the city at such time. Any moneys in the emergency fund at the end of the fiscal biennium shall not lapse except upon reappropriation by the council to another fund in the adoption of a subsequent budget.

[1985 c 175 § 57.]

RCW 35A.34.260 Contingency fund--Withdrawals.

No money shall be withdrawn from the contingency fund except by transfer to the appropriate operating fund authorized by a resolution or ordinance of the legislative body of the city, adopted by a majority vote of the entire legislative body, clearly stating the facts constituting the reason for the withdrawal or the emergency as the case may be, specifying the fund to which the withdrawn money shall be transferred.

[1985 c 175 § 58.]

RCW 35A.34.270 Unexpended appropriations.

All appropriations in any current operating fund shall lapse at the end of each fiscal biennium. However, this shall not prevent payments in the following biennium upon uncompleted programs or improvements in progress or on orders subsequently filled or claims subsequently billed for the purchase of material, equipment, and supplies or for personal or contractual services not completed or furnished by the end of the fiscal biennium, all of which have been properly budgeted and contracted for prior to the close of such fiscal biennium, but furnished or completed in due course thereafter.

All appropriations in a special fund authorized by ordinance or by state law to be used only for the purpose or purposes therein specified, including any cumulative reserve funds lawfully established in specific or general terms for any municipal purpose or purposes, or a contingency fund as authorized by RCW 35A.34.250, shall not lapse, but shall be carried forward from biennium to biennium until fully expended or the purpose has been accomplished or abandoned, without necessity of reappropriation.

The accounts for budgetary control for each fiscal biennium shall be kept open for twenty days after the close of such fiscal biennium for the purpose of paying and recording claims for indebtedness incurred during such fiscal biennium; any claim presented after the twentieth day following the close of the fiscal biennium shall be paid from appropriations lawfully provided for the ensuing period, including those made available by provisions of this section, and shall be recorded in the accounts for the ensuing fiscal biennium.

[1985 c 175 § 59.]

RCW 35A.34.280 Violations and penalties.

Upon the conviction of any city official, department head, or other city employee of knowingly failing, or refusing, without just cause, to perform any duty imposed upon such officer or employee by this chapter, or city charter or city ordinance, in connection with the giving of notice, the preparing and filing of estimates of revenues or expenditures or other information required for preparing a budget report in the time and manner required, or of knowingly making expenditures in excess of budget appropriations, the official or employee shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars for each separate violation.

[1985 c 175 § 60.]

Chapter 35A.35 RCW
INTERGOVERNMENTAL RELATIONS

Sections

35A.35.010 Joint facilities and agreements.
35A.35.020 Demonstration Cities and Metropolitan Development Act--Authority to contract with federal government.

RCW 35A.35.010 Joint facilities and agreements.

In addition to exercising all authority granted to cities of any class for joint or intergovernmental cooperation and activity and agreements for the acquisition, ownership, leasing, control, improvement, occupation and use of land or other property with a county, another city, or governmental agency, and in addition to authority granted to code cities by RCW 35A.11.040, every code city may exercise the powers relating to jails, places of detention, civic centers, civic halls and armories as is authorized by chapters 36.64 and 38.20 RCW.

[1967 ex.s. c 119 § 35A.35.010.]

RCW 35A.35.020 Demonstration Cities and Metropolitan Development Act--Authority to contract with federal government.

See RCW 35.21.660.

Chapter 35A.36 RCW
EXECUTION OF BONDS BY PROXY IN CODE CITIES

Sections

35A.36.010 Appointment of proxies.

35A.36.020 Coupons--Printing facsimile signatures.
35A.36.030 Deputies--Exemptions.
35A.36.040 Designation of bonds to be signed.
35A.36.050 Liability of officer.
35A.36.060 Notice to council.
35A.36.070 Revocation of proxy.

RCW 35A.36.010 Appointment of proxies.

The mayor, finance officer, city clerk, or other officer of a code city who is authorized or required by law, charter, or ordinance to execute bonds of the city or any subdivision or district thereof may designate one or more bonded persons to affix such officer's signature to any bond or bonds requiring his signature. If the signature of one of these officers is affixed to a bond during his continuance in office by a proxy designated by him whose authority has not been revoked, the bond shall be as binding upon the city and all concerned as though the officer had signed the bond in person. This chapter shall apply to all bonds, whether they constitute obligations of the city as a whole or of any local improvement or other district or subdivision thereof, whether they call for payment from the general funds of the city or from a local, special or other fund, and whether negotiable or otherwise.

[1967 ex.s. c 119 § 35A.36.010.]

RCW 35A.36.020 Coupons--Printing facsimile signatures.

A facsimile reproduction of the signature of any of the code city officers referred to in RCW 35A.36.010 may be printed, engraved, or lithographed upon bond coupons with the same effect as though the particular officer had signed the coupon in person.

[1967 ex.s. c 119 § 35A.36.020.]

RCW 35A.36.030 Deputies--Exemptions.

This chapter shall not be construed to require the appointment of deputy finance officers or deputy city clerks of code cities to be made in accordance with this chapter insofar as concerns signatures or other acts which may lawfully be made or done by such deputy officer under the provisions of any other law.

[1967 ex.s. c 119 § 35A.36.030.]

RCW 35A.36.040 Designation of bonds to be signed.

The officer of a code city whose duty it is to cause any bonds to be printed, engraved, or lithographed, shall specify in a written order or requisition to the printer, engraver, or lithographer the number of bonds to be printed, engraved or lithographed and the manner of numbering them. Every printer, engraver, or lithographer who knowingly prints, engraves, or

lithographs a greater number of bonds than that specified or who knowingly prints, engraves, or lithographs more than one bond bearing the same number shall be guilty of a felony.

[1967 ex.s. c 119 § 35A.36.040.]

RCW 35A.36.050 Liability of officer.

A code city officer authorizing the affixing of his signature to a bond by a proxy shall be subject to the same liability personally and on his bond for any signature so affixed and to the same extent as if he had affixed his signature in person.

[1967 ex.s. c 119 § 35A.36.050.]

RCW 35A.36.060 Notice to council.

In order to designate a proxy to affix his signature to bonds, a code city officer shall address a written notice to the legislative body of the city giving the name of the person whom he has selected therefor and stating generally or specifically what bonds are to be so signed.

Attached to or included in the notice shall be a written signature of the officer making the designation executed by the proposed proxy followed by the word "by" and his own signature; or, if the notice so states, the specimen signatures may consist of a facsimile reproduction of the officer's signature impressed by some mechanical process followed by the word "by" and the proxy's own signature.

If the authority is intended to include the signature upon bonds bearing an earlier date than the effective date of the notice, the prior dated bonds must be specifically described by reasonable reference thereto.

The notice designating a proxy shall be filed with the city finance officer or city clerk, together with the specimen signatures attached thereto and a record of the filing shall be made in the journal of the legislative body. This record shall note the date and hour of filing and may be made by the official who keeps the journal at any time after the filing of the notice, even during a period of recess or adjournment of the legislative body. The notice shall be effective from the time of its recording.

[1967 ex.s. c 119 § 35A.36.060.]

RCW 35A.36.070 Revocation of proxy.

Any designation of a proxy may be revoked by written notice addressed to the legislative body of the code city signed by the officer who made the designation and filed and recorded in the same manner as the notice of designation. It shall be effective from the time of its recording but shall not affect the validity of any signatures theretofore made.

[1967 ex.s. c 119 § 35A.36.070.]

Chapter 35A.37 RCW
FUNDS, SPECIAL PURPOSE

Sections

35A.37.010 Segregating and accounting.

RCW 35A.37.010 Segregating and accounting.

Code cities shall establish such funds for the segregation, budgeting, expenditure and accounting for moneys received for special purposes as are required by general law applicable to such cities' activities and the officers thereof shall pay into, expend from, and account for such moneys in the manner provided therefor including but not limited to the requirements of the following:

(1) Accounting funds as required by RCW 35.37.010;

(2) Annexation and consolidation fund as required by chapters 35.10 and 35.13 RCW;

(3) Assessment fund as required by RCW 8.12.480;

(4) Equipment rental fund as authorized by RCW 35.21.088;

(5) Current expense fund as required by RCW 35.37.010, usually referred to as the general fund;

(6) Local improvement guaranty fund as required by RCW 35.54.010;

(7) An indebtedness and sinking fund, together with separate funds for utilities and institutions as required by RCW 35.37.020;

(8) Local improvement district fund and revolving fund as required by RCW 35.45.130 and 35.48.010;

(9) City street fund as required by chapter 35.76 RCW and RCW 47.24.040;

(10) Firemen's relief and pension fund as required by chapters 41.16 and 41.18 RCW;

(11) Policemen's relief and pension fund as required by RCW 41.20.130 and 63.32.030;

(12) First class cities' employees retirement and pension system as authorized by chapter 41.28 RCW;

(13) Applicable rules of the state auditor.

[1995 c 301 § 60; 1983 c 3 § 62; 1967 ex.s. c 119 § 35A.37.010.]

Chapter 35A.38 RCW
EMERGENCY SERVICES

Sections

35A.38.010 Local organization.

RCW 35A.38.010 Local organization.

A code city may participate in the creation of local organizations for emergency services, provide for mutual aid, and exercise all of the powers and privileges and perform all of the functions and duties, and the officers and employees thereof shall have the same powers, duties, rights, privileges and immunities as any city of any class, and the employees thereof, have in connection with emergency services as provided in chapter 38.52 RCW in the manner provided by said chapters or by general law.

[1974 ex.s. c 171 § 2; 1967 ex.s. c 119 § 35A.38.010.]

Chapter 35A.39 RCW
PUBLIC DOCUMENTS AND RECORDS

Sections

35A.39.010 Legislative and administrative records.

RCW 35A.39.010 Legislative and administrative records.

Every code city shall keep a journal of minutes of its legislative meetings with orders, resolutions and ordinances passed, and records of the proceedings of any city department, division or commission performing quasi judicial functions as required by ordinances of the city and general laws of the state and shall keep such records open to the public as required by RCW 42.32.030 and shall keep and preserve all public records and publications or reproduce and destroy the same as provided by Title 40 RCW. Each code city may duplicate and sell copies of its ordinances at fees reasonably calculated to defray the cost of such duplication and handling.

[1995 c 21 § 2; 1967 ex.s. c 119 § 35A.39.010.]

Chapter 35A.40 RCW
FISCAL PROVISIONS APPLICABLE TO CODE CITIES

Sections

35A.40.010 Accounting--Funds--Indebtedness--Bonds.
35A.40.020 Code city may elect to use checks when funds are solvent.
35A.40.030 Fiscal--Depositaries.
35A.40.050 Fiscal--Investment of funds.
35A.40.060 Fiscal--Validation and funding of debts.
35A.40.070 Fiscal--Municipal Revenue Bond Act.
35A.40.080 Bonds--Form, terms, and maturity.
35A.40.090 Indebtedness.
35A.40.100 Bankruptcy, readjustment and relief from debts.
35A.40.110 Employee checks, drafts, warrants--City may cash.

35A.40.200 General law relating to public works and contracts.
35A.40.210 Public work contracts or purchases--Procedures.

RCW 35A.40.010 Accounting--Funds--Indebtedness--Bonds.

Municipal accounts and funds, the contracting of indebtedness for municipal purposes and the issuance and payment of bonds therefor, the validation of preexisting obligations by the voters of a consolidated city, debt limitations, elections for authorization of the incurring of indebtedness, and provisions pertaining to the issuance, sale, funding and redemption of general obligation bonds and remedies for nonpayment thereof are governed and controlled by the general law as contained in, but not limited to chapters 35.37, 39.40, 39.46, 39.52, 39.56, and 43.80 RCW, and are hereby recognized as applicable to code cities.

[1984 c 186 § 24; 1967 ex.s. c 119 § 35A.40.010.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

RCW 35A.40.020 Code city may elect to use checks when funds are solvent.

A code city, by ordinance, may adopt a policy for the payment of claims or other obligations of the city, which are payable out of solvent funds, electing either to pay such obligations by warrant, or to pay such obligations by check: PROVIDED, That no check shall be issued when the applicable fund is not solvent at the time payment is ordered, but a warrant shall be issued therefor. When checks are to be used, the legislative body shall designate the qualified public depositary whereon such checks are to be drawn, and the officers authorized or required to sign such checks. Wherever in this title, reference is made to warrants, such term shall include checks where authorized by this section.

[1984 c 177 § 5; 1967 ex.s. c 119 § 35A.40.020.]

RCW 35A.40.030 Fiscal--Depositaries.

The legislative body of a code city, at the end of each fiscal year, or at such other times as the legislative body may direct, shall designate one or more financial institutions which are qualified public depositaries as set forth by the public deposit protection commission as depositary or depositaries of the moneys required to be kept by the code city treasurer or other officer performing the duties commonly performed by the treasurer of a code city: PROVIDED, That where any bank has been designated as a depositary hereunder such designation shall continue in force until revoked by a majority vote of the legislative body of such code city. The provisions relating to depositaries, contained in chapter 39.58 RCW, as now or hereafter amended, are hereby recognized as applicable to code cities and to the depositaries designated by them.

[1984 c 177 § 6; 1973 c 126 § 4; 1967 ex.s. c 119 § 35A.40.030.]

RCW 35A.40.050 Fiscal--Investment of funds.

Excess and inactive funds on hand in the treasury of any code city may be invested in the same manner and subject to the same limitations as provided for city and town funds in all applicable statutes, including, but not limited to the following: RCW 35.39.030, 35.58.510, 35.81.070, 35.82.070, 36.29.020, 39.58.020, 39.58.080, 39.58.130, 39.60.010, 39.60.020, 41.16.040, 68.52.060, 68.52.065, and 72.19.120.

The responsibility for determining the amount of money available in each fund for investment purposes shall be placed upon the department, division or board responsible for the administration of such fund.

Moneys thus determined available for this purpose may be invested on an individual fund basis or may, unless otherwise restricted by law be commingled within one common investment portfolio for the mutual benefit of all participating funds: PROVIDED, That if such moneys are commingled in a common investment portfolio, all income derived therefrom shall be apportioned among the various participating funds in direct proportion to the amount of money invested by each.

Any excess or inactive funds on hand in the city treasury not otherwise invested for the specific benefit of any particular fund, may be invested by the city treasurer in United States government bonds, notes, bills or certificates of indebtedness for the benefit of the general or current expense fund.

[1987 c 331 § 77; 1983 c 66 § 2; 1983 c 3 § 64; 1967 ex.s. c 119 § 35A.40.050.]

Notes:

Effective date--1987 c 331: See RCW 68.05.900.

Severability--1983 c 66: See note following RCW 39.58.010.

RCW 35A.40.060 Fiscal--Validation and funding of debts.

The provisions of general law contained in chapters 35.40 and 39.90 RCW, relating to the validation and funding of debts and elections pertaining thereto is hereby recognized as applicable to code cities.

[1967 ex.s. c 119 § 35A.40.060.]

RCW 35A.40.070 Fiscal--Municipal Revenue Bond Act.

All provisions of chapter 35.41 RCW, the Municipal Revenue Bond Act, shall be applicable and/or available to code cities.

[1967 ex.s. c 119 § 35A.40.070.]

RCW 35A.40.080 Bonds--Form, terms, and maturity.

In addition to any other authority granted by law, a code city shall have authority to ratify and fund indebtedness as provided by chapter 35.40 RCW; to issue revenue bonds, coupons and

warrants as authorized by chapter 35.41 RCW; to authorize and issue local improvement bonds and warrants, installment notes and interest certificates as authorized by chapter 35.45 RCW; to fund indebtedness and to issue other bonds as authorized by chapters 39.44, 39.48, 39.52 RCW, RCW 39.56.020, and 39.56.030 in accordance with the procedures and subject to the limitations therein provided.

[1967 ex.s. c 119 § 35A.40.080.]

RCW 35A.40.090 Indebtedness.

The provisions of general law contained in chapter 39.36 RCW relating to municipal indebtedness shall be applicable to code cities.

[2001 c 200 § 2; 1973 1st ex.s. c 195 § 29; 1970 ex.s. c 42 § 16; 1967 ex.s. c 119 § 35A.40.090. Cf. 1973 1st ex.s. c 195 § 141.]

NOTES:

Severability--Effective dates and termination dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Severability--Effective date--1970 ex.s. c 42: See notes following RCW 39.36.015.

RCW 35A.40.100 Bankruptcy, readjustment and relief from debts.

A code city may exercise the powers and obtain the benefits relating to bankruptcy, readjustment and relief from debts as authorized by chapter 39.64 RCW in accordance with the procedures therein prescribed.

[1967 ex.s. c 119 § 35A.40.100.]

RCW 35A.40.110 Employee checks, drafts, warrants--City may cash.

Any code city is hereby authorized, at its option and after the adoption of the appropriate ordinance, to accept in exchange for cash a payroll check, draft, or warrant; expense check, draft, or warrant; or personal check from a city employee in accordance with the following conditions:

(1) The check, warrant, or draft must be drawn to the order of cash or bearer and be immediately payable by a drawee financial institution;

(2) The person presenting the check, draft, or warrant to the city must produce identification as outlined by the city in the authorizing ordinance;

(3) The payroll check, draft, or warrant or expense check, draft, or warrant must have been issued by the city; and

(4) Personal checks cashed pursuant to this authorization cannot exceed two hundred dollars.

In the event that any personal check cashed for a city employee by the city under this section is dishonored by the drawee financial institution when presented for payment, the city is authorized, after notice to the drawer or endorser of the dishonor, to withhold from the drawer's or endorser's next payroll check, draft, or warrant the full amount of the dishonored check.

[1991 c 185 § 2.]

RCW 35A.40.200 General law relating to public works and contracts.

Every code city shall have the authority to make public improvements and to perform public works under authority provided by general law for any class of city and to make contracts in accordance with procedure and subject to the conditions provided therefor, including but not limited to the provisions of: (1) Chapter 39.04 RCW, relating to public works; (2) RCW 35.23.352 relating to competitive bidding for public works, materials and supplies; (3) RCW 9.18.120 and 9.18.150 relating to suppression of competitive bidding; (4) chapter 60.28 RCW relating to liens for materials and labor performed; (5) chapter 39.08 RCW relating to contractor's bonds; (6) chapters 39.12 and 43.03 RCW relating to prevailing wages; (7) chapter 49.12 RCW relating to hours of labor; (8) chapter 51.12 RCW relating to workers' compensation; (9) chapter 49.60 RCW relating to antidiscrimination in employment; (10) chapter 39.24 RCW relating to the use of Washington commodities; and (11) chapter 39.28 RCW relating to emergency public works.

[1995 c 164 § 2; 1987 c 185 § 4; 1983 c 3 § 65; 1967 ex.s. c 119 § 35A.40.200.]

Notes:

Intent--Severability--1987 c 185: See notes following RCW 51.12.130.

RCW 35A.40.210 Public work contracts or purchases--Procedures.

Procedures for any public work or improvement contracts or purchases for code cities shall be governed by the following statutes, as indicated:

(1) For code cities of twenty thousand population or over, RCW 35.22.620; and

(2) For code cities under twenty thousand population; RCW 35.23.352.

[1989 c 11 § 8; 1979 ex.s. c 89 § 3.]

Notes:

Severability--1989 c 11: See note following RCW 9A.56.220.

Chapter 35A.41 RCW
PUBLIC EMPLOYMENT

Sections

35A.41.010 Retirement and pension systems for code cities having a population of more than twenty thousand.
35A.41.020 Public employment and civil service.
35A.41.030 City contracts to obtain sheriff's office law enforcement services.

RCW 35A.41.010 Retirement and pension systems for code cities having a population of more than twenty thousand.

A code city having a population of more than twenty thousand inhabitants, or having been classed theretofore as a city of the first class may exercise all of the powers relating to retirement and pension systems for employees as authorized by RCW 35A.11.020 and by chapter 41.28 RCW in accordance with the procedures prescribed therein and subject to the limitations and penalties thereof.

[1967 ex.s. c 119 § 35A.41.010.]

RCW 35A.41.020 Public employment and civil service.

Except as otherwise provided in this title, the general provisions relating to public employment, including hospitalization and medical aid as provided in chapter 41.04 RCW, and the application of federal social security for public employees, the acceptance of old age and survivors insurance as provided in chapters 41.47 and 41.48 RCW, military leave as provided in RCW 38.40.060, self-insurance as provided in chapter 48.62 RCW, the application of industrial insurance as provided in Title 51 RCW, and chapter 43.101 RCW relating to training of law enforcement officers, shall apply to code cities. Any code city may retain any civil service system theretofore in effect in such city and may adopt any system of civil service which would be available to any class of city under general law.

[1991 sp.s. c 30 § 20; 1983 c 3 § 66; 1967 ex.s. c 119 § 35A.41.020.]

Notes:

Effective date, implementation, application--Severability--1991 sp.s. c 30: See RCW 48.62.900 and 48.62.901.

Political activities of public employees: RCW 41.06.250.

RCW 35A.41.030 City contracts to obtain sheriff's office law enforcement services.

See RCW 41.14.250 through 41.14.280.

Chapter 35A.42 RCW
PUBLIC OFFICERS AND AGENCIES, MEETINGS, DUTIES AND POWERS

Sections

35A.42.010 City treasurer--Miscellaneous authority and duties.
35A.42.020 Qualification, removal, code of ethics, duties.
35A.42.030 Continuity of government--Enemy attack.
35A.42.040 City clerks and controllers.
35A.42.050 Public officers and employees--Conduct.

Notes:

Dog handler using dog in line of duty--Immunity: RCW 4.24.410.

RCW 35A.42.010 City treasurer--Miscellaneous authority and duties.

In addition to authority granted and duties imposed upon code city treasurers by this title, code city treasurers, or the officers designated by charter or ordinance to perform the duties of a treasurer, shall have the duties and the authority to perform the following: (1) As provided in RCW 8.12.500 relating to bonds and compensation payments in eminent domain proceedings; (2) as provided in RCW 68.52.050 relating to cemetery improvement funds; (3) as provided in RCW 41.28.080 relating to custody of employees' retirement funds; (4) as provided in RCW 47.08.100 relating to the use of city street funds; (5) as provided in RCW 46.68.080 relating to motor vehicle funds; (6) as provided in RCW 41.16.020 and chapter 41.20 RCW relating to police and firemen's relief and pension boards; (7) as provided in chapter 42.20 RCW relating to misappropriation of funds; and (8) as provided in chapter 39.60 RCW relating to investment of municipal funds. The treasurer shall be subject to the penalties imposed for the violation of any of such provisions. Where a provision of this title, or the general law, names the city treasurer as an officer of a board or other body, or assigns duties to a city treasurer, such position shall be filled, or such duties performed, by the officer of a code city who is performing the duties usually performed by a city treasurer, although he may not have that designation.

[1987 c 331 § 78; 1984 c 258 § 320; 1967 ex.s. c 119 § 35A.42.010.]

Notes:

Effective date--1987 c 331: See RCW 68.05.900.

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

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

RCW 35A.42.020 Qualification, removal, code of ethics, duties.

Except as otherwise provided in this title, every elective and appointive officer and all employees of code cities shall: (1) Be possessed of the qualifications and be subject to forfeiture of office, impeachment or removal and recall as provided in chapter 42.04 RCW and RCW 9.81.040; and (2) provide official bonds in accordance with the requirements of this title, and as required in compliance with chapters 42.08 and 48.28 RCW.

When vacancies in public offices in code cities shall occur the term of a replacement officer shall be fixed as provided in chapter 42.12 RCW. A public officer charged with misconduct as defined in chapter 42.20 RCW, shall be charged and, upon conviction, punished as provided for such misconduct in chapter 42.20 RCW. The officers and employees of code cities shall be guided and governed by the code of ethics as provided in chapter 42.23 RCW. Vouchers for the payment of public funds and the provisions for certifying the same shall be as provided in chapter 42.24 RCW. The meetings of any board, agency, or commission of a code city shall be open to the public to the extent and notice given in the manner required by chapter 42.32 RCW.

[1967 ex.s. c 119 § 35A.42.020.]

Notes:

Reviser's note: RCW 42.32.010 and 42.32.020 were repealed by 1971 ex.s. c 250 § 15; later enactment, see chapter 42.30 RCW.

Recall of elective officers: State Constitution Art. 1 §§ 33, 34 (Amendment 8); chapter 29.82 RCW.

Residence qualifications of officials and employees: RCW 35.21.200.

RCW 35A.42.030 Continuity of government--Enemy attack.

In the event that the mayor, manager or other chief executive officer of any code city is unavailable by reason of enemy attack to exercise the powers and to discharge the duties of his office, his successor or substitute shall be selected in the manner provided by RCW 42.14.050 subject to rules and regulations providing for the appointment of temporary interim successors adopted under RCW 42.14.070.

[1967 ex.s. c 119 § 35A.42.030.]

RCW 35A.42.040 City clerks and controllers.

In addition to any specific enumeration of duties of city clerks in a code city's charter or ordinances, and without limiting the generality of RCW 35A.21.030 of this title, the clerks of all code cities shall perform the following duties in the manner prescribed, to wit: (1) Certification of city streets as part of the highway system in accordance with the provisions of RCW 47.24.010; (2) perform the functions of a member of a firemen's pension board as provided by RCW 41.16.020; (3) keep a record of ordinances of the city and provide copies thereof as authorized by RCW 5.44.080; (4) serve as applicable the trustees of any police relief and pension board as authorized by RCW 41.20.010; and (5) serve as secretary-treasurer of volunteer fire fighters' relief and pension boards as provided in RCW 41.24.060.

[1991 c 81 § 39; 1967 ex.s. c 119 § 35A.42.040.]

Notes:

Effective date--1991 c 81: See note following RCW 29.85.010.

RCW 35A.42.050 Public officers and employees--Conduct.

In addition to provisions of general law relating to public officials and others in public administration, employment or public works, the duties and conduct of such officers and other persons shall be governed by: (1) Chapter 9A.68 RCW relating to bribery of a public officer; (2) Article II, section 30 of the Constitution of the state of Washington relating to bribery or corrupt solicitation; (3) RCW 35.17.150 relating to misconduct in code cities having a commission form of government; (4) chapter 42.23 RCW in regard to interest in contracts; (5) chapter 29.85 RCW relating to misconduct in connection with elections; (6) RCW 49.44.060 and *49.44.070 relating to grafting by employees; (7) RCW 49.44.020 and 49.44.030 relating to the giving or solicitation of a bribe to a labor representative; (8) chapter 42.20 RCW relating to misconduct of a public

officer; (9) RCW 49.52.050 and 49.52.090 relating to rebating by employees; and (10) chapter 9.18 RCW relating to bribery and grafting.

[1983 c 3 § 67; 1967 ex.s. c 119 § 35A.42.050.]

Notes:

***Reviser's note:** RCW 49.44.070 was repealed by 1995 c 285 § 37, effective July 1, 1995.

Chapter 35A.43 RCW
LOCAL IMPROVEMENTS IN CODE CITIES

Sections

35A.43.010 General law applicable to code cities.
35A.43.020 Public lands subject to local assessments.

RCW 35A.43.010 General law applicable to code cities.

Chapters 35.43, 35.44, 35.45, 35.47, 35.48, 35.49, 35.50, 35.53, 35.54, 35.55, and 35.56 RCW all relating to municipal local improvements and made applicable to all incorporated cities and towns by RCW 35.43.030 are hereby recognized as applicable to all code cities, and the provisions thereof shall supersede the provisions of any charter of a charter code city inconsistent therewith. The provisions of the chapters named in this section shall be effective as to charter code cities to the same extent as such provisions are effective as to cities of the first class, and all code cities may exercise, in the manner provided, any authority therein granted to any class of city.

[1967 ex.s. c 119 § 35A.43.010.]

Notes:

Local improvements, supplemental authority: Chapter 35.51 RCW.

RCW 35A.43.020 Public lands subject to local assessments.

In addition to the authority provided by chapter 35.44 RCW, and chapter 79.44 RCW, a code city may assess public lands for the cost of local improvements specially benefiting such lands.

[1967 ex.s. c 119 § 35A.43.020.]

Chapter 35A.44 RCW
CENSUS

Sections

35A.44.010 Population determination.

RCW 35A.44.010 Population determination.

The population of code cities shall be determined for specific purposes in accordance with any express provision of state law relating thereto. Where no express provision is made, the provisions of RCW 43.41.110(7) relating to the office of financial management and the provisions of RCW 35.13.260 shall govern.

[1979 ex.s. c 18 § 32; 1979 c 151 § 36; 1967 ex.s. c 119 § 35A.44.010.]

Notes:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

Chapter 35A.46 RCW
MOTOR VEHICLES

Sections

35A.46.010 State law applicable.

RCW 35A.46.010 State law applicable.

The provisions of Title 46 of the Revised Code of Washington relating to regulation of motor vehicles shall be applicable to code cities, its officers and employees to the same extent as such provisions grant powers and impose duties upon cities of any class, their officers and agents, including without limitation the following: (1) Authority to provide for angle parking on certain city streets designated as forming a route of a primary state highway as authorized in RCW 46.61.575; (2) application of city police regulations to port districts as authorized by RCW 53.08.230; (3) authority to establish local regulations relating to city streets forming a part of the state highway system as authorized by RCW 46.44.080; (4) authority to install and operate a station for the inspection of vehicle equipment in conformity with rules, regulations, procedure and standards prescribed by the Washington state patrol as authorized under *RCW 46.32.030; (5) exemption from the payment of license fees for city owned vehicles as authorized by RCW 46.16.020 and 46.16.290; (6) authority to establish traffic schools as provided by chapter 46.83 RCW; and (7) authority to enforce the provisions of RCW 81.48.050 relating to railroad crossings.

[1967 ex.s. c 119 § 35A.46.010.]

Notes:

***Reviser's note:** RCW 46.32.030 was repealed by 1986 c 123 § 7.

Chapter 35A.47 RCW

HIGHWAYS AND STREETS

Sections

35A.47.010 Highways, granting land for.
35A.47.020 Streets--Acquisition, standards of design, use, vacation and abandonment--Funds.
35A.47.030 Public highways--Acquisition, agreements, transfers, regulations.
35A.47.040 Franchises and permits--Streets and public ways.

Notes:
Contracts for street improvements: Chapter 35.72 RCW.
Local adopt-a-highway programs: RCW 47.40.105.

RCW 35A.47.010 Highways, granting land for.

A code city may exercise the powers relating to granting of property for state highway purposes as authorized by RCW 47.12.040 in accordance with the procedures therein prescribed.

[1967 ex.s. c 119 § 35A.47.010.]

RCW 35A.47.020 Streets--Acquisition, standards of design, use, vacation and abandonment--Funds.

The designation of code city streets as a part of the state highway system, the jurisdiction and control of such streets, the procedure for acquisition or abandonment of rights of way for city streets and state highways, and the sale or lease of state highway land or toll facility to a code city, the requirements for accounting and expenditure of street funds, and the authority for contracting for the construction, repair and maintenance of streets by the state or county shall be the same as is provided in RCW 36.75.090, chapters 47.08, 47.12, 47.24 and 47.56 RCW, and the regulation of signs thereon as provided in chapter 47.42 RCW. Code cities shall be regulated in the acquisition, construction, maintenance, use and vacation of alleys, city streets, parkways, boulevards and sidewalks and in the design standards therefor as provided in chapters 35.68 through 35.79, 35.85, and 35.86 RCW and RCW 79.93.010 relating to dedication of tidelands and shorelands to public use and in the use of state shared funds as provided by general law.

[1983 c 3 § 68; 1967 ex.s. c 119 § 35A.47.020.]

RCW 35A.47.030 Public highways--Acquisition, agreements, transfers, regulations.

The provisions of Title 47 RCW shall apply to code cities, its officers and employees to the same extent as such provisions are applicable to any other class of city within the state, including, without limitation, the following: (1) The acquisition by the state of municipal lands and the exchange of state highway and municipal lands, as provided in chapter 47.12 RCW; (2) the dedication of public land for city streets as provided by RCW 36.34.290 and 36.34.300; (3) city contributions to finance toll facilities as provided in RCW 47.56.250; (4) contracts with the department of transportation, as provided in RCW 47.01.210; (5) the construction, maintenance,

jurisdiction, and control of city streets, as provided in chapter 47.24 RCW; (6) agreements between the department of transportation and a city for the benefit or improvement of highways, roads, or streets, as provided in RCW 47.28.140; (7) sales, leases, or transfers as authorized by RCW 47.12.063, 47.12.066, and 47.12.080; (8) the erection of information signs as regulated by RCW 47.42.050 and 47.42.060; (9) provisions relating to limited access highways under chapter 47.52 RCW; (10) the acquisition and abandonment for state highways as provided by RCW 36.75.090 and 90.28.020; and (11) the sharing of maintenance of streets and alleys as an extension of county roads as provided by RCW 35.77.020.

[1984 c 258 § 321; 1983 c 3 § 69; 1967 ex.s. c 119 § 35A.47.030.]

Notes:

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

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

RCW 35A.47.040 Franchises and permits--Streets and public ways.

Every code city shall have authority to permit and regulate under such restrictions and conditions as it may set by charter or ordinance and to grant nonexclusive franchises for the use of public streets, bridges or other public ways, structures or places above or below the surface of the ground for railroads and other routes and facilities for public conveyances, for poles, conduits, tunnels, towers and structures, pipes and wires and appurtenances thereof for transmission and distribution of electrical energy, signals and other methods of communication, for gas, steam and liquid fuels, for water, sewer and other private and publicly owned and operated facilities for public service. The power hereby granted shall be in addition to the franchise authority granted by general law to cities.

No ordinance or resolution granting any franchise in a code city for any purpose shall be adopted or passed by the city's legislative body on the day of its introduction nor for five days thereafter, nor at any other than a regular meeting nor without first being submitted to the city attorney, nor without having been granted by the approving vote of at least a majority of the entire legislative body, nor without being published at least once in a newspaper of general circulation in the city before becoming effective.

The city council may require a bond in a reasonable amount for any person or corporation obtaining a franchise from the city conditioned upon the faithful performance of the conditions and terms of the franchise and providing a recovery on the bond in case of failure to perform the terms and conditions of the franchise.

A code city may exercise the authority hereby granted, notwithstanding a contrary limitation of any preexisting charter provision.

[1967 ex.s. c 119 § 35A.47.040.]

Chapter 35A.49 RCW

LABOR AND SAFETY REGULATIONS

Sections

35A.49.010 Labor regulations--Safety regulations, discrimination in employment, hours, wages.

RCW 35A.49.010 Labor regulations--Safety regulations, discrimination in employment, hours, wages.

Provisions of state laws relating to labor and safety regulations as provided in Title 49 RCW shall apply to code cities to the same extent as such laws apply to other classes of cities.

[1967 ex.s. c 119 § 35A.49.010.]

Chapter 35A.56 RCW
LOCAL SERVICE DISTRICTS

Sections

35A.56.010 Laws relating to special service districts, application to code cities.

RCW 35A.56.010 Laws relating to special service districts, application to code cities.

Except as otherwise provided in this title, state laws relating to special service or taxing districts shall apply to, grant powers, and impose duties upon code cities and their officers to the same extent as such laws apply to and affect other classes of cities and towns and their employees, including, without limitation, the following: (1) Chapter 70.94 RCW, relating to air pollution control; (2) chapter 68.52 RCW, relating to cemetery districts; (3) chapter 29.68 RCW, relating to congressional districts; (4) chapters 14.07 and 14.08 RCW, relating to municipal airport districts; (5) chapter 36.88 RCW, relating to county road improvement districts; (6) Title 85 RCW, relating to diking districts, drainage districts, and drainage improvement districts; (7) *chapter 36.54 RCW, relating to ferry districts; (8) Title 52 RCW, relating to fire protection districts; (9) Title 86 RCW, relating to flood control districts and flood control; (10) chapter 70.46 RCW, relating to health districts; (11) chapters 87.03 through 87.84 and 89.12 RCW, relating to irrigation districts; (12) chapter 35.61 RCW, relating to metropolitan park districts; (13) chapter 35.58 RCW, relating to metropolitan municipalities; (14) chapter 17.28 RCW, relating to mosquito control districts; (15) chapter 17.12 RCW, relating to agricultural pest districts; (16) Title 53 RCW, relating to port districts; (17) chapter 70.44 RCW, relating to public hospital districts; (18) Title 54 RCW, relating to public utility districts; (19) chapter 91.08 RCW, relating to public waterway districts; (20) chapter 89.12 RCW, relating to reclamation districts; (21) chapters 57.02 through 57.36 RCW, relating to water-sewer districts; and (22) chapter 17.04 RCW, relating to weed districts.

[1996 c 230 § 1605; 1987 c 331 § 79; 1979 ex.s. c 30 § 2; 1967 ex.s. c 119 § 35A.56.010.]

Notes:

***Reviser's note:** Chapter 36.54 RCW relates to county-owned ferries.

Part headings not law--Effective date--1996 c 230: See notes following RCW 57.02.001.

Effective date--1987 c 331: See RCW 68.05.900.

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

Sections

35A.57.020 Metropolitan municipal corporations--May be formed around charter code city.

RCW 35A.57.020 Metropolitan municipal corporations--May be formed around charter code city.

Any area of the state containing two or more cities, at least one of which is a code city having at least ten thousand population, may organize as a metropolitan municipal corporation. The presence in such area of a code city having at least ten thousand population, shall fulfill the requirement of RCW 35.58.030 as to the class of city required to be included in an area incorporating as a metropolitan municipal corporation.

[1967 ex.s. c 119 § 35A.57.020.]

Chapter 35A.58 RCW
BOUNDARIES AND PLATS

Sections

35A.58.010 Locating corners and boundaries.
35A.58.020 Alteration and vacation of plats.
35A.58.030 Platting and subdivision of land.

RCW 35A.58.010 Locating corners and boundaries.

General laws shall govern the methods, procedures, and standards for surveying, establishing corners and boundaries, describing and perpetuating and recording information and descriptions relating thereto. The boundaries and corners of sections, parcels, plats, and subdivisions of land within a code city, may be surveyed, established, relocated, and perpetuated whenever a majority of the resident owners of any section or part or parts of any section of land within the city makes application in accordance with the provisions of chapter 58.04 RCW.

[1967 ex.s. c 119 § 35A.58.010.]

RCW 35A.58.020 Alteration and vacation of plats.

The provisions of *chapters 58.11 and 58.12 RCW shall apply in appropriate cases to the alteration or vacation of plats including land or lots within a code city or the vacation of streets therein as provided in chapter 35.79 RCW. The vacation of waterways within a code city shall be governed by the provisions of **chapter 79.16 RCW.

[1967 ex.s. c 119 § 35A.58.020.]

Notes:

Reviser's note: *(1) Chapters 58.11 and 58.12 RCW were repealed by 1987 c 354 § 8.

**(2) Chapter 79.16 RCW was repealed by 1982 1st ex.s. c 21 § 183. For later enactment, see chapters 79.90 through 79.96 RCW.

RCW 35A.58.030 Platting and subdivision of land.

The provisions of chapter 58.17 RCW together with the provisions of a code city's subdivision regulations as adopted by ordinance not inconsistent with the provisions of chapter 58.17 RCW shall control the platting and subdividing of land into lots or tracts comprising five or more of such lots or tracts or containing a dedication of any part thereof as a public street or highway, or other public place or use: PROVIDED, That nothing herein shall prohibit the legislative body of a code city from adopting reasonable ordinances regulating the subdivision of land into two or more parcels without requiring compliance with all of the requirements of the platting law.

[1983 c 3 § 70; 1971 ex.s. c 251 § 9; 1967 ex.s. c 119 § 35A.58.030.]

Notes:

Severability--1971 ex.s. c 251: See RCW 35A.90.050.

Chapter 35A.60 RCW
LIENS

Sections

35A.60.010 General law applicable.

RCW 35A.60.010 General law applicable.

The general law relating to liens including but not limited to the provisions of Title 60 RCW, as the same relates to cities of any class shall apply to code cities. Every code city may exercise the authority to perform services to property within the city and to claim and foreclose liens allowed therefor by general laws for any class of city including but not limited to the following provisions: (1) Chapter 35.80 RCW, relating to unfit dwellings, buildings and structures; (2) RCW 35.22.320, relating to the cost of filling cesspools; (3) RCW 35.85.030,

relating to assessment liens for viaducts, elevated roadways, tunnels, and subways; (4) RCW 35.21.130, 35.21.140, 35.21.150, and 35.22.320 for garbage collection; (5) chapters 35.50, 35.55 and 35.56 RCW relating to enforcement of local improvement liens; (6) RCW 35.73.050 relating to the expense of sanitary fills; (7) RCW 35.67.200 through 35.67.290, relating to sewerage systems and service; (8) RCW 35.68.070, 35.69.030, 35.70.090, relating to sidewalks; (9) RCW *35.49.120 through 35.49.160, relating to priority of tax liens; (10) RCW 35.21.290 and 35.21.300, providing for liens for utility services; (11) chapter 84.60 RCW relating to lien of taxes upon property; (12) RCW 4.16.030, relating to foreclosure of local improvement liens; (13) chapter 60.76 RCW, relating to lien of employees for contribution to benefit plans; and (14) chapter 60.28 RCW, relating to lien for labor and materials on public works.

[1967 ex.s. c 119 § 35A.60.010.]

Notes:

***Reviser's note:** RCW 35.49.120 was repealed by 1994 c 301 § 57.

Chapter 35A.63 RCW
PLANNING AND ZONING IN CODE CITIES

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RCW 35A.63.010 Definitions.

The following words or terms as used in this chapter shall have the meanings set forth below unless different meanings are clearly indicated by the context:

(1) "Chief administrative officer" means the mayor in code cities operating under the mayor-council and commission forms, the city manager in code cities operating under the council-manager forms, or such other officer as the charter of a charter code city designates as the chief administrative officer.

(2) "City" means an incorporated city or town.

(3) "Code city" is used where the application of this chapter is limited to a code city; where joint, regional, or cooperative action is intended, a code city may be included in the unrestricted terms "city" or "municipality".

(4) "Comprehensive plan" means the policies and proposals approved by the legislative body as set forth in RCW 35A.63.060 through 35A.63.072 of this chapter and containing, at least, the elements set forth in RCW 35A.63.061.

(5) "Legislative body" means a code city council, a code city commission, and, in cases involving regional or cooperative planning or action, the governing body of a municipality.

(6) "Municipality" includes any code city and, in cases of regional or cooperative planning or action, any city, town, township, county, or special district.

(7) "Ordinance" means a legislative enactment by the legislative body of a municipality; in this chapter "ordinance" is synonymous with the term "resolution" when "resolution" is used as representing a legislative enactment.

(8) "Planning agency" means any person, body, or organization designated by the legislative body to perform a planning function or portion thereof for a municipality, and includes, without limitation, any commission, committee, department, or board together with its

staff members, employees, agents, and consultants.

(9) "Special district" means that portion of the state, county, or other political subdivision created under general law for rendering of one or more local public services or for administrative, educational, judicial, or political purposes.

[1967 ex.s. c 119 § 35A.63.010.]

RCW 35A.63.015 "Solar energy system" defined.

As used in this chapter, "solar energy system" means any device or combination of devices or elements which rely upon direct sunlight as an energy source, including but not limited to any substance or device which collects sunlight for use in:

(1) The heating or cooling of a structure or building;

(2) The heating or pumping of water;

(3) Industrial, commercial, or agricultural processes; or

(4) The generation of electricity.

A solar energy system may be used for purposes in addition to the collection of solar energy. These uses include, but are not limited to, serving as a structural member or part of a roof of a building or structure and serving as a window or wall.

[1979 ex.s. c 170 § 6.]

Notes:

Severability--1979 ex.s. c 170: See note following RCW 64.04.140.

Local governments authorized to encourage and protect solar energy systems: RCW 64.04.140.

RCW 35A.63.020 Planning agency--Creation--Powers and duties--Conflicts of interest.

By ordinance a code city may create a planning agency and provide for its membership, organization, and expenses. The planning agency shall serve in an advisory capacity to the chief administrative officer or the legislative body, or both, as may be provided by ordinance and shall have such other powers and duties as shall be provided by ordinance. If any person or persons on a planning agency concludes that he has a conflict of interest or an appearance of fairness problem with respect to a matter pending before the agency so that he cannot discharge his duties on such an agency, he shall disqualify himself from participating in the deliberations and the decision-making process with respect to the matter. If this occurs, the appointing authority that appoints such a person may appoint a person to serve as an alternate on the agency to serve in his stead in regard to such a matter.

[1979 ex.s. c 18 § 33; 1967 ex.s. c 119 § 35A.63.020.]

Notes:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 35A.63.030 Joint meetings and cooperative action.

Pursuant to the authorization of the legislative body, a code city planning agency may hold joint meetings with one or more city or county planning agencies (including city or county planning agencies in adjoining states) in any combination and may contract with another municipality for planning services. A code city may enter into cooperative arrangements with one or more municipalities and with any regional planning council organized under this chapter for jointly engaging a planning director and such other employees as may be required to operate a joint planning staff.

[1969 ex.s. c 81 § 5; 1967 ex.s. c 119 § 35A.63.030.]

Notes:

Effective date--1969 ex.s. c 81: See note following RCW 35A.13.035.

RCW 35A.63.040 Regional planning.

A code city with one or more municipalities within a region, otherwise authorized by law to plan, including municipalities of adjoining states, when empowered by ordinances of their respective legislative bodies, may cooperate to form, organize, and administer a regional planning commission to prepare a comprehensive plan and perform other planning functions for the region defined by agreement of the respective municipalities. The various agencies may cooperate in all phases of planning, and professional staff may be engaged to assist in such planning. All costs shall be shared on a pro rata basis as agreed among the various entities. A code city may also cooperate with any department or agency of a state government having planning functions.

[1969 ex.s. c 81 § 6; 1967 ex.s. c 119 § 35A.63.040.]

Notes:

Effective date--1969 ex.s. c 81: See note following RCW 35A.13.035.

RCW 35A.63.050 Receipt and expenditure of funds.

Any code city or any regional planning commission that includes a code city, when authorized by the legislative bodies of the municipalities represented by the regional planning commission, may enter into an agreement with any department or agency of the government of the United States or the state of Washington, or its agencies or political subdivisions, or any other public or private agency, to arrange for the receipt and expenditure of funds for planning in the interest of furthering the planning program.

[1967 ex.s. c 119 § 35A.63.050.]

RCW 35A.63.060 Comprehensive plan--General.

Every code city, by ordinance, shall direct the planning agency to prepare a comprehensive plan for anticipating and influencing the orderly and coordinated development of land and building uses of the code city and its environs. The comprehensive plan may be prepared as a whole or in successive parts.

[1967 ex.s. c 119 § 35A.63.060.]

RCW 35A.63.061 Comprehensive plan--Required elements.

The comprehensive plan shall be in such form and of such scope as the code city's ordinance or charter may require. It may consist of a map or maps, diagrams, charts, reports and descriptive and explanatory text or other devices and materials to express, explain, or depict the elements of the plan; and it shall include a recommended plan, scheme, or design for each of the following elements:

(1) A land-use element that designates the proposed general distribution, general location, and extent of the uses of land. These uses may include, but are not limited to, agricultural, residential, commercial, industrial, recreational, educational, public, and other categories of public and private uses of land. The land-use element shall also include estimates of future population growth in, and statements of recommended standards of population density and building intensity for, the area covered by the comprehensive plan. The land use element shall also provide for protection of the quality and quantity of ground water used for public water supplies and shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute Puget Sound or waters entering Puget Sound.

(2) A circulation element consisting of the general location, alignment, and extent of existing and proposed major thoroughfares, major transportation routes, and major terminal facilities, all of which shall be correlated with the land-use element of the comprehensive plan.

[1985 c 126 § 2; 1984 c 253 § 2; 1967 ex.s. c 119 § 35A.63.061.]

RCW 35A.63.062 Comprehensive plan--Optional elements.

The comprehensive plan may include also any or all of the following optional elements:

(1) A conservation element for the conservation, development, and utilization of natural resources.

(2) An open space, park, and recreation element.

(3) A transportation element showing a comprehensive system of surface, air, and water transportation routes and facilities.

(4) A public-use element showing general locations, designs, and arrangements of public buildings and uses.

(5) A public utilities element showing general plans for public and franchised services and facilities.

(6) A redevelopment or renewal element showing plans for the redevelopment or renewal of slum and blighted areas.

(7) An urban design element for general organization of the physical parts of the urban landscape.

(8) Other elements dealing with subjects that, in the opinion of the legislative body, relate to the development of the municipality, or are essential or desirable to coordinate public services

and programs with such development.

(9) A solar energy element for encouragement and protection of access to direct sunlight for solar energy systems.

[1979 ex.s. c 170 § 7; 1967 ex.s. c 119 § 35A.63.062.]

Notes:

Severability--1979 ex.s. c 170: See note following RCW 64.04.140.

RCW 35A.63.070 Comprehensive plan--Notice and hearing.

After preparing the comprehensive plan, or successive parts thereof, as the case may be, the planning agency shall hold at least one public hearing on the comprehensive plan or successive part. Notice of the time, place, and purpose of such public hearing shall be given as provided by ordinance and including at least one publication in a newspaper of general circulation delivered in the code city and in the official gazette, if any, of the code city, at least ten days prior to the date of the hearing. Continued hearings may be held at the discretion of the planning agency but no additional notices need be published.

[1967 ex.s. c 119 § 35A.63.070.]

RCW 35A.63.071 Comprehensive plan--Forwarding to legislative body.

Upon completion of the hearing or hearings on the comprehensive plan or successive parts thereof, the planning agency, after making such changes as it deems necessary following such hearing, shall transmit a copy of its recommendations for the comprehensive plan, or successive parts thereof, to the legislative body through the chief administrative officer, who shall acknowledge receipt thereof and direct the clerk to certify thereon the date of receipt.

[1967 ex.s. c 119 § 35A.63.071.]

RCW 35A.63.072 Comprehensive plan--Approval by legislative body.

Within sixty days from its receipt of the recommendation for the comprehensive plan, as above set forth, the legislative body at a public meeting shall consider the same. The legislative body within such period as it may by ordinance provide, shall vote to approve or disapprove or to modify and approve, as modified, the comprehensive plan or to refer it back to the planning agency for further proceedings, in which case the legislative body shall specify the time within which the planning agency shall report back to the legislative body its findings and recommendations on the matters referred to it. The final form and content of the comprehensive plan shall be determined by the legislative body. An affirmative vote of not less than a majority of total members of the legislative body shall be required for adoption of a resolution to approve the plan or its parts. The comprehensive plan, or its successive parts, as approved by the legislative body, shall be filed with an appropriate official of the code city and shall be available for public inspection.

[1967 ex.s. c 119 § 35A.63.072.]

RCW 35A.63.073 Comprehensive plan--Amendments and modifications.

All amendments, modifications, or alterations in the comprehensive plan or any part thereof shall be processed in the same manner as set forth in RCW 35A.63.070 through 35A.63.072.

[1967 ex.s. c 119 § 35A.63.073.]

RCW 35A.63.080 Comprehensive plan--Effect.

From the date of approval by the legislative body the comprehensive plan, its parts and modifications thereof, shall serve as a basic source of reference for future legislative and administrative action: PROVIDED, That the comprehensive plan shall not be construed as a regulation of property rights or land uses: PROVIDED, FURTHER, That no procedural irregularity or informality in the consideration, hearing, and development of the comprehensive plan or a part thereof, or any of its elements, shall affect the validity of any zoning ordinance or amendment thereto enacted by the code city after the approval of the comprehensive plan.

The comprehensive plan shall be consulted as a preliminary to the establishment, improvement, abandonment, or vacation of any street, park, public way, public building, or public structure, and no dedication of any street or other area for public use shall be accepted by the legislative body until the location, character, extent, and effect thereof shall have been considered by the planning agency with reference to the comprehensive plan. The legislative body shall specify the time within which the planning agency shall report and make a recommendation with respect thereto. Recommendations of the planning agency shall be advisory only.

[1967 ex.s. c 119 § 35A.63.080.]

RCW 35A.63.100 Municipal authority.

After approval of the comprehensive plan, as set forth above, the legislative body, in developing the municipality and in regulating the use of land, may implement or give effect to the comprehensive plan or parts thereof by ordinance or other action to such extent as the legislative body deems necessary or appropriate. Such ordinances or other action may provide for:

(1) Adoption of an official map and regulations relating thereto designating locations and requirements for one or more of the following: Streets, parks, public buildings, and other public facilities, and protecting such sites against encroachment by buildings and other physical structures.

(2) Dividing the municipality, or portions thereof, into appropriate zones within which specific standards, requirements, and conditions may be provided for regulating the use of public

and private land, buildings, and structures, and the location, height, bulk, number of stories, and size of buildings and structures, size of yards, courts, open spaces, density of population, ratio of land area to the area of buildings and structures, setbacks, area required for off-street parking, protection of access to direct sunlight for solar energy systems, and such other standards, requirements, regulations, and procedures as are appropriately related thereto. The ordinance encompassing the matters of this subsection is hereinafter called the "zoning ordinance". No zoning ordinance, or amendment thereto, shall be enacted by the legislative body without at least one public hearing, notice of which shall be given as set forth in RCW 35A.63.070. Such hearing may be held before the planning agency or the board of adjustment or such other body as the legislative body shall designate.

(3) Adoption of design standards, requirements, regulations, and procedures for the subdivision of land into two or more parcels, including, but not limited to, the approval of plats, dedications, acquisitions, improvements, and reservation of sites for public use.

(4) Scheduling public improvements on the basis of recommended priorities over a period of years, subject to periodic review.

(5) Such other matters as may be otherwise authorized by law or as the legislative body deems necessary or appropriate to effectuate the goals and objectives of the comprehensive plan or parts thereof and the purposes of this chapter.

[1979 ex.s. c 170 § 8; 1967 ex.s. c 119 § 35A.63.100.]

Notes:

Severability--1979 ex.s. c 170: See note following RCW 64.04.140.

RCW 35A.63.105 Development regulations--Consistency with comprehensive plan.

Beginning July 1, 1992, the development regulations of each code city that does not plan under RCW 36.70A.040 shall not be inconsistent with the city's comprehensive plan. For the purposes of this section, "development regulations" has the same meaning as set forth in RCW 36.70A.030.

[1990 1st ex.s. c 17 § 23.]

Notes:

Severability--Part, section headings not law--1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

RCW 35A.63.110 Board of adjustment--Creation--Powers and duties.

A code city which pursuant to this chapter creates a planning agency and which has twenty-five hundred or more inhabitants, by ordinance, shall create a board of adjustment and provide for its membership, terms of office, organization, jurisdiction. A code city which pursuant to this chapter creates a planning agency and which has a population of less than twenty-five hundred may, by ordinance, similarly create a board of adjustment. In the event a code city with a population of less than twenty-five hundred creates a planning agency, but does

not create a board of adjustment, the code city shall provide that the city legislative authority shall itself hear and decide the items listed in subdivisions (1), (2), and (3) of this section. The action of the board of adjustment shall be final and conclusive, unless, within twenty-one days from the date of the action, the original applicant or an adverse party makes application to the superior court for the county in which that city is located for a writ of certiorari, a writ of prohibition, or a writ of mandamus. No member of the board of adjustment shall be a member of the planning agency or the legislative body. Subject to conditions, safeguards, and procedures provided by ordinance, the board of adjustment may be empowered to hear and decide:

(1) Appeals from orders, recommendations, permits, decisions, or determinations made by a code city official in the administration or enforcement of the provisions of this chapter or any ordinances adopted pursuant to it.

(2) Applications for variances from the terms of the zoning ordinance, the official map ordinance or other land-use regulatory ordinances under procedures and conditions prescribed by city ordinance, which among other things shall provide that no application for a variance shall be granted unless the board of adjustment finds:

(a) the variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property on behalf of which the application was filed is located; and

(b) that such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and

(c) that the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.

(3) Applications for conditional-use permits, unless such applications are to be heard and decided by the planning agency. A conditional use means a use listed among those classified in any given zone but permitted to locate only after review as herein provided in accordance with standards and criteria set forth in the zoning ordinance.

(4) Such other quasi judicial and administrative determinations as may be delegated by ordinance.

In deciding any of the matters referred to in subsections (1), (2), (3), and (4) of this section, the board of adjustment shall issue a written report giving the reasons for its decision. If a code city provides for a hearing examiner and vests in him the authority to hear and decide the items listed in subdivisions (1), (2), and (3) of this section pursuant to RCW 35A.63.170, then the provisions of this section shall not apply to such a city.

[2001 c 200 § 1; 1979 ex.s. c 18 § 34; 1967 ex.s. c 119 § 35A.63.110.]

NOTES:

Severability--1979 ex.s. c 18: See note following RCW 35A.01.070.

RCW 35A.63.120 Administration and enforcement.

In order to carry into effect the purposes of this chapter, administrative and enforcement responsibilities, other than those set forth in RCW 35A.63.110, may be assigned by ordinance to such departments, boards, officials, employees, or agents as the legislative body deems appropriate.

[1967 ex.s. c 119 § 35A.63.120.]

RCW 35A.63.130 Provisions inconsistent with charters.

Insofar as the provisions of an existing charter of a municipality are inconsistent with this chapter, a municipality may exercise the authority, or any part thereof, granted by this chapter notwithstanding the inconsistent provision of an existing charter.

[1967 ex.s. c 119 § 35A.63.130.]

RCW 35A.63.140 Duties and responsibilities imposed by other acts.

Any duties and responsibilities which by other statutes are imposed upon a planning commission may, in a code city, be performed by a planning agency, as provided in this chapter.

[1967 ex.s. c 119 § 35A.63.140.]

RCW 35A.63.145 Prohibitions on manufactured homes--Review required--"Designated manufactured home" defined.

(1) Each comprehensive plan which does not allow for the siting of manufactured homes on individual lots shall be subject to a review by the city of the need and demand for such homes. The review shall be completed by December 31, 1990.

(2) For the purpose of providing an optional reference for cities which choose to allow manufactured homes on individual lots, a "designated manufactured home" is a manufactured home constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes, which:

(a) Is comprised of at least two fully enclosed parallel sections each of not less than twelve feet wide by thirty-six feet long;

(b) Was originally constructed with and now has a composition or wood shake or shingle, coated metal, or similar roof of not less than 3:12 pitch; and

(c) Has exterior siding similar in appearance to siding materials commonly used on conventional site-built uniform building code single-family residences.

(3) Nothing in this section precludes cities from allowing any manufactured home from being sited on individual lots through local standards which differ from the designated manufactured home as described in this section, except that the term "designated manufactured home" shall not be used except as defined in subsection (2) of this section.

[1988 c 239 § 2.]

RCW 35A.63.149 Residential care facilities--Review of need and demand--Adoption of ordinances.

Each municipality that does not provide for the siting of residential care facilities in zones or areas that are designated for single family or other residential uses, shall conduct a review of the need and demand for the facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 31, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the *department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the *department of community development as to why such implementing ordinances were not adopted.

[1989 c 427 § 37.]

Notes:

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Severability--1989 c 427: See RCW 74.39.900.

RCW 35A.63.150 Public hearings.

The legislative body may provide by ordinance for such additional public hearings and notice thereof as it deems to be appropriate in connection with any action contemplated under this chapter.

[1967 ex.s. c 119 § 35A.63.150.]

RCW 35A.63.152 Public notice--Identification of affected property.

Any notice made under chapter 35A.63 RCW that identifies affected property may identify this affected property without using a legal description of the property including, but not limited to, identification by an address, written description, vicinity sketch, or other reasonable means.

[1988 c 168 § 10.]

RCW 35A.63.160 Construction--1967 ex.s. c 119.

This title is intended to implement and preserve to code cities all powers authorized by Article XI, section 11 of the Constitution of the state of Washington and the provision of this title shall not limit any code city from exercising its constitutionally granted power to plan for and to make and enforce within its limits all such local police, sanitary, and other regulations in

the manner that its charter or ordinances may provide.

[1967 ex.s. c 119 § 35A.63.160.]

RCW 35A.63.170 Hearing examiner system--Adoption authorized--Alternative--Functions--Procedures.

(1) As an alternative to those provisions of this chapter relating to powers or duties of the planning commission to hear and report on any proposal to amend a zoning ordinance, the legislative body of a city may adopt a hearing examiner system under which a hearing examiner or hearing examiners may hear and decide applications for amending the zoning ordinance when the amendment which is applied for is not of general applicability. In addition, the legislative body may vest in a hearing examiner the power to hear and decide those issues it believes should be reviewed and decided by a hearing examiner, including but not limited to:

(a) Applications for conditional uses, variances, subdivisions, shoreline permits, or any other class of applications for or pertaining to development of land or land use;

(b) Appeals of administrative decisions or determinations; and

(c) Appeals of administrative decisions or determinations pursuant to chapter 43.21C RCW.

The legislative body shall prescribe procedures to be followed by a hearing examiner. If the legislative authority vests in a hearing examiner the authority to hear and decide variances, then the provisions of RCW 35A.63.110 shall not apply to the city.

(2) Each city legislative body electing to use a hearing examiner pursuant to this section shall by ordinance specify the legal effect of the decisions made by the examiner. The legal effect of such decisions may vary for the different classes of applications decided by the examiner but shall include one of the following:

(a) The decision may be given the effect of a recommendation to the legislative body;

(b) The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative body; or

(c) Except in the case of a rezone, the decision may be given the effect of a final decision of the legislative body.

(3) Each final decision of a hearing examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Such findings and conclusions shall also set forth the manner in which the decision would carry out and conform to the city's comprehensive plan and the city's development regulations. Each final decision of a hearing examiner, unless a longer period is mutually agreed to in writing by the applicant and the hearing examiner, shall be rendered within ten working days following conclusion of all testimony and hearings.

[1995 c 347 § 424; 1994 c 257 § 7; 1977 ex.s. c 213 § 2.]

Notes:

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

Severability--1994 c 257: See note following RCW 36.70A.270.
Severability--1977 ex.s. c 213: See note following RCW 35.63.130.

RCW 35A.63.200 Conformance with chapter 43.97 RCW required.

With respect to the National Scenic Area, as defined in the Columbia River Gorge National Scenic Area Act, P.L. 99-663, the exercise of any power or authority by a city pursuant to this chapter shall be subject to and in conformity with the requirements of chapter 43.97 RCW, including the Interstate Compact adopted by RCW 43.97.015, and with the management plan regulations and ordinances adopted by the Columbia River Gorge commission pursuant to the Compact.

[1987 c 499 § 7.]

RCW 35A.63.210 Child care facilities--Review of need and demand--Adoption of ordinances.

Each municipality that does not provide for the siting of family day care homes in zones or areas that are designated for single family or other residential uses, and for the siting of mini-day care centers and day care centers in zones or areas that are designated for any residential or commercial uses, shall conduct a review of the need and demand for child care facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 31, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the *department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the *department of community development as to why such implementing ordinances were not adopted.

[1989 c 335 § 5.]

Notes:

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Findings--Purpose--Severability--1989 c 335: See notes following RCW 35.63.170.

Definitions for RCW 35A.63.210: See RCW 35.63.170.

RCW 35A.63.215 Family day-care provider's home facility--City may not prohibit in residential or commercial area.

No city may enact, enforce, or maintain an ordinance, development regulation, zoning regulation, or official control, policy, or administrative practice which prohibits the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family

day-care provider's home facility.

A city may require that the facility: (1) Comply with all building, fire, safety, health code, and business licensing requirements; (2) conform to lot size, building size, setbacks, and lot coverage standards applicable to the zoning district except if the structure is a legal nonconforming structure; (3) is certified by the office of child care policy licensor as providing a safe passenger loading area; (4) include signage, if any, that conforms to applicable regulations; and (5) limit hours of operations to facilitate neighborhood compatibility, while also providing appropriate opportunity for persons who use family day-care and who work a nonstandard work shift.

A city may also require that the family day-care provider, before state licensing, require proof of written notification by the provider that the immediately adjoining property owners have been informed of the intent to locate and maintain such a facility. If a dispute arises between neighbors and the family day-care provider over licensing requirements, the licensor may provide a forum to resolve the dispute.

Nothing in this section shall be construed to prohibit a city from imposing zoning conditions on the establishment and maintenance of a family day-care provider's home in an area zoned for residential or commercial use, so long as such conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone and the establishment of such facilities is not precluded. As used in this section, "family day-care provider" is as defined in RCW 74.15.020.

[1995 c 49 § 2; 1994 c 273 § 16.]

RCW 35A.63.220 Moratoria, interim zoning controls--Public hearing--Limitation on length.

A legislative body that adopts a moratorium or interim zoning ordinance, without holding a public hearing on the proposed moratorium or interim zoning ordinance, shall hold a public hearing on the adopted moratorium or interim zoning ordinance within at least sixty days of its adoption, whether or not the legislative body received a recommendation on the matter from the planning agency. If the legislative body does not adopt findings of fact justifying its action before this hearing, then the legislative body shall do so immediately after this public hearing. A moratorium or interim zoning ordinance adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium of interim zoning ordinance may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

[1992 c 207 § 3.]

RCW 35A.63.230 Accessory apartments.

Any local government, as defined in RCW 43.63A.215, that is planning under this chapter shall comply with RCW 43.63A.215(3).

[1993 c 478 § 9.]

RCW 35A.63.240 Treatment of residential structures occupied by persons with handicaps.

No city may enact or maintain an ordinance, development regulation, zoning regulation or official control, policy, or administrative practice which treats a residential structure occupied by persons with handicaps differently than a similar residential structure occupied by a family or other unrelated individuals. As used in this section, "handicaps" are as defined in the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3602).

[1993 c 478 § 21.]

RCW 35A.63.250 Watershed restoration projects--Permit processing--Fish habitat enhancement project.

A permit required under this chapter for a watershed restoration project as defined in RCW 89.08.460 shall be processed in compliance with RCW 89.08.450 through 89.08.510. A fish habitat enhancement project meeting the criteria of *RCW 75.20.350(1) shall be reviewed and approved according to the provisions of *RCW 75.20.350.

[1998 c 249 § 6; 1995 c 378 § 9.]

Notes:

***Reviser's note:** RCW 75.20.350 was recodified as RCW 77.55.290 pursuant to 2000 c 107 § 129.

Findings--Purpose--Report--Effective date--1998 c 249: See notes following RCW 77.55.290.

RCW 35A.63.260 Planning regulations--Copies provided to county assessor.

By July 31, 1997, a code city planning under RCW 36.70A.040 shall provide to the county assessor a copy of the code city's comprehensive plan and development regulations in effect on July 1st of that year and shall thereafter provide any amendments to the plan and regulations that were adopted before July 31st of each following year.

[1996 c 254 § 4.]

RCW 35A.63.270 General aviation airports.

Adoption and amendment of comprehensive plan provisions and development regulations under this chapter affecting a general aviation airport are subject to RCW 36.70.547.

[1996 c 239 § 4.]

RCW 35A.63.280 Conditional and special use permit applications by parties licensed or certified by the department of social and health services or the department of corrections--Mediation prior to appeal required.

A final decision by a hearing examiner involving a conditional or special use permit application under this chapter that is requested by a party that is licensed or certified by the department of social and health services or the department of corrections is subject to mediation under RCW 35.63.260 before an appeal may be filed.

[1998 c 119 § 2.]

Chapter 35A.64 RCW
PUBLIC PROPERTY, REAL AND PERSONAL

Sections

35A.64.010 Acquisition of by conditional sales contracts.
35A.64.020 Purchase of products made by blind.
35A.64.180 Disinfection of property.
35A.64.200 Eminent domain by cities.

RCW 35A.64.010 Acquisition of by conditional sales contracts.

A code city may exercise the powers relating to acquisition of real or personal property under executory conditional sales contracts as authorized by RCW 39.30.010.

[1967 ex.s. c 119 § 35A.64.010.]

RCW 35A.64.020 Purchase of products made by blind.

A code city may exercise the powers relating to the acquisition of products made by the blind as authorized by RCW 19.06.020.

[1967 ex.s. c 119 § 35A.64.020.]

RCW 35A.64.180 Disinfection of property.

Every code city shall disinfect or destroy all infected trees or shrubs growing upon public property within the city's jurisdiction and may expend city funds in carrying out the provisions of this section, and shall otherwise be governed by the provisions of chapter 15.08 RCW relating to horticultural pests and diseases.

[1967 ex.s. c 119 § 35A.64.180.]

RCW 35A.64.200 Eminent domain by cities.

A code city may exercise all powers relating to eminent domain as authorized by chapters 8.12 and 8.28 RCW in accordance with the procedures therein prescribed and subject to any limitations therein provided.

[1967 ex.s. c 119 § 35A.64.200.]

Chapter 35A.65 RCW
PUBLICATION AND PRINTING

Sections

35A.65.010 Public printing.
35A.65.020 Publication of legal notice.

RCW 35A.65.010 Public printing.

All printing, binding and stationery work done for any code city shall be done within the state and all proposals, requests and invitations to submit bids, prices or contracts thereon and all contracts for such work shall so stipulate subject to the limitations contained in RCW 43.78.130 and 35.23.352.

[1967 ex.s. c 119 § 35A.65.010.]

RCW 35A.65.020 Publication of legal notice.

The publication of a legal notice required by general law or by a code city ordinance shall be in a newspaper of general circulation within the city having the qualifications prescribed by chapter 65.16 RCW and shall be governed by the provisions thereof as the same relate to a city of any class.

[1967 ex.s. c 119 § 35A.65.020.]

Chapter 35A.66 RCW
HEALTH AND SAFETY--ALCOHOL

Sections

35A.66.010 Alcoholism--Standards for institutions.
35A.66.020 Liquors, local option on sale of--Enforcement of state laws, sharing proceeds of liquor profits and excise tax.

RCW 35A.66.010 Alcoholism--Standards for institutions.

In addition to regulating the use of alcoholic beverages, a code city may exercise the powers relating to prescribing standards for institutions for treating alcoholism as authorized by RCW 71.12.550.

[1967 ex.s. c 119 § 35A.66.010.]

RCW 35A.66.020 Liquors, local option on sale of--Enforcement of state laws, sharing proceeds of liquor profits and excise tax.

The qualified electors of any code city may petition for an election upon the question of whether the sale of liquor shall be permitted within the boundaries of such city as provided by chapter 66.40 RCW, and shall be governed by the procedure therein, and may regulate music, dancing and entertainment as authorized by RCW 66.28.080: PROVIDED, That every code city shall enforce state laws relating to the investigation and prosecution of all violations of Title 66 RCW relating to control of alcoholic beverages and shall be entitled to retain the fines collected therefrom as therein provided. Every code city shall also share in the allocation and distribution of liquor profits and excise as provided in RCW 82.08.170, 66.08.190, and 66.08.210, and make reports of seizure as required by RCW 66.32.090, and otherwise regulate by ordinances not in conflict with state law or liquor board regulations.

[1967 ex.s. c 119 § 35A.66.020.]

Notes:
State liquor control board: Chapter 66.08 RCW.

Chapter 35A.67 RCW
RECREATION AND PARKS

Sections
35A.67.010 Parks, beaches and camps.

RCW 35A.67.010 Parks, beaches and camps.

In addition to exercising all powers relating to the acquisition of land, the improvement and operation thereof, or cooperation with other taxing districts in connection with park or recreation facilities, any code city may exercise the powers relating to acquisition and operation of recreational facilities, establishment and operation of public camps, and contracting with other taxing or governmental agencies for the acquisition or operation of public parks, camps and recreational facilities as authorized by chapter 67.20 RCW, in accordance with the procedures prescribed in and authorized by RCW 79.08.080 and 79.08.090 in the application for use of state-owned tide or shorelands for a municipal park or playground purposes.

[1967 ex.s. c 119 § 35A.67.010.]

Notes:
Acquisition of interests in land for conservation, protection, preservation, or open space purposes by cities: RCW 64.04.130.

Chapter 35A.68 RCW
CEMETERIES AND MORGUES

Sections
35A.68.010 Acquisition--Care and investment of funds.

RCW 35A.68.010 Acquisition--Care and investment of funds.

A code city may exercise the powers to acquire, own, improve, manage, operate and regulate real and personal property for the operation of the city morgue, cemetery or other place for the burial of the dead, to create cemetery boards or commissions, to establish and manage funds for cemetery improvement and care and to make all necessary or desirable rules and regulations concerning the control and management of burial places and the investment of funds relating thereto and accounting therefor as is authorized by chapter 68.52 RCW, RCW 35.22.280, 35.23.440, *35.24.300 and 35.27.370(2) in accordance with the procedures and requirements prescribed by said laws and authority to be included within a cemetery district as authorized and conformed to the requirements of Title 68 RCW.

[1987 c 331 § 80; 1967 ex.s. c 119 § 35A.68.010.]

Notes:

***Reviser's note:** RCW 35.24.300 was recodified as RCW 35.23.452 pursuant to 1994 c 81 § 90.

Effective date--1987 c 331: See RCW 68.05.900.

Chapter 35A.69 RCW
FOOD AND DRUG

Sections
35A.69.010 Powers and duties prescribed.

RCW 35A.69.010 Powers and duties prescribed.

Every code city shall have the powers, perform the functions and duties and enforce the regulations prescribed by general laws relating to food and drugs for any class of city as provided by Title 69 RCW; relating to water pollution control as provided by chapter 90.48 RCW; and relating to food fish and shellfish as provided by *Title 75 RCW.

[1999 c 291 § 31; 1994 c 143 § 512. Prior: 1983 1st ex.s. c 46 § 177; 1983 c 3 § 71; 1967 ex.s. c 119 § 35A.69.010.]

Notes:

***Reviser's note:** Title 75 RCW was recodified, repealed, and/or decodified in its entirety by 2000 c 107.

See Comparative Table for Title 75 RCW in the Table of Disposition of Former RCW Sections, Volume 0.

Chapter 35A.70 RCW
HEALTH AND SAFETY

Sections

35A.70.010 Waters within city--City's water supply.
35A.70.020 Regulating boarding homes.
35A.70.040 Buildings, construction standards.
35A.70.050 City electrical code--State safety regulations.
35A.70.060 Elevators, moving walks.
35A.70.070 Public health and safety, general laws applicable.

RCW 35A.70.010 Waters within city--City's water supply.

Every code city shall have authority to protect waters within the city or comprising part of the city's water supply pursuant to the authority provided therefor by RCW 9.66.050, 54.16.050, 69.30.130, *57.08.010, 8.12.030, 70.54.010 and 70.54.030.

[1996 c 230 § 1606; 1967 ex.s. c 119 § 35A.70.010.]

Notes:

***Reviser's note:** RCW 57.08.010 was repealed by 1996 c 230 § 1703, effective July 1, 1997. For later enactment, see RCW 57.08.005.

Part headings not law--Effective date--1996 c 230: See notes following RCW 57.02.001.

RCW 35A.70.020 Regulating boarding homes.

A code city may exercise the powers relating to enforcement of regulations for boarding homes as authorized by *RCW 18.20.100, in accordance with the procedures therein prescribed and subject to any limitations therein provided.

[1967 ex.s. c 119 § 35A.70.020.]

Notes:

***Reviser's note:** RCW 18.20.100 was repealed by 2000 c 47 § 10, effective July 1, 2000.

RCW 35A.70.040 Buildings, construction standards.

In addition to other provisions of the law granting authority and imposing duties, a code city may exercise the powers relating to providing standards for the construction of buildings as provided in chapter 70.86 RCW and shall report the issuance of building permits for new construction as required by *RCW 36.21.040 through 36.21.060.

[1967 ex.s. c 119 § 35A.70.040.]

Notes:

***Reviser's note:** RCW 36.21.040 through 36.21.060 were repealed by 1989 c 246 § 8.

RCW 35A.70.050 City electrical code--State safety regulations.

Every code city may adopt ordinances regulating or otherwise controlling the installation of electrical wiring, equipment, apparatus or appliances as authorized by *RCW 19.28.360 and by other general law and shall obey, observe and comply with every order, approval, direction or requirement made by the director or the commission under authority of chapter 19.29 RCW.

[1967 ex.s. c 119 § 35A.70.050.]

Notes:

***Reviser's note:** RCW 19.28.360 was recodified as RCW 19.28.141 pursuant to 2000 c 238 § 102.

RCW 35A.70.060 Elevators, moving walks.

All conveyances owned or operated by code cities as defined by the provisions of chapter 70.87 RCW, shall be subject to the provisions of that chapter to the extent specifically provided for therein.

[1967 ex.s. c 119 § 35A.70.060.]

RCW 35A.70.070 Public health and safety, general laws applicable.

Every code city may exercise the powers authorized and shall perform the duties imposed upon cities of like population relating to the public health and safety as provided by Title 70 RCW and, without limiting the generality of the foregoing, shall: (1) Organize boards of health and appoint a health officer with the authority, duties and functions as provided in chapter 70.05 RCW, or provide for combined city-county health departments as provided and in accordance with the provisions of chapter 70.08 RCW; (2) contribute and participate in public health pooling funds as authorized by chapter 70.12 RCW; (3) control and provide for treatment of *venereal diseases as authorized by chapter 70.24 RCW; (4) provide for the care and control of tuberculosis as provided in chapters 70.28, 70.30, **70.32, and 70.54 RCW; (5) participate in health districts as authorized by chapter 70.46 RCW; (6) exercise control over water pollution as provided in chapter 35.88 RCW; (7) for all code cities having a population of more than twenty thousand serve as a primary district for registration of vital statistics in accordance with the provisions of chapter 70.58 RCW; (8) observe and enforce the provisions relating to fireworks as provided in chapter 70.77 RCW; (9) enforce the provisions relating to swimming pools provided in chapter 70.90 RCW; (10) enforce the provisions of chapter 18.20 RCW when applicable; (11) perform the functions relating to mentally ill prescribed in chapters 72.06 and 71.12 RCW; (12) cooperate with the state department of social and health services in mosquito control as authorized by RCW 70.22.060; and (13) inspect nursing homes as authorized by RCW 18.51.145.

[1987 c 223 § 4; 1985 c 213 § 12; 1981 1st ex.s. c 2 § 25; 1979 c 141 § 42; 1967 ex.s. c 119 § 35A.70.070.]

Notes:

Reviser's note: *(1) The term "venereal diseases" was changed to "sexually transmitted diseases" by 1988 c 206.

**(2) Chapter 70.32 RCW was repealed and/or recodified in its entirety pursuant to 1999 c 172.
Savings--Effective date--1985 c 213: See notes following RCW 43.20.050.
Severability--Effective date--1981 1st ex.s. c 2: See notes following RCW 18.51.010.

Chapter 35A.74 RCW
WELFARE

Sections
35A.74.010 General law applicable.

RCW 35A.74.010 General law applicable.

Code cities may exercise authority granted by general law and available to any class of city for the relief of the poor and destitute, including, but not limited to the provisions of *RCW 74.04.390 through 74.04.470.

[1967 ex.s. c 119 § 35A.74.010.]

Notes:
***Reviser's note:** RCW 74.04.390 through 74.04.470 were repealed by 1991 c 126 § 11.

Chapter 35A.79 RCW
PROPERTY AND MATERIALS

Sections
35A.79.010 Powers to acquire, use and manage.

RCW 35A.79.010 Powers to acquire, use and manage.

A code city shall have all powers provided by general law to cities of any class relating to the receipt of donations of money and property, the acquisition, leasing and disposition of municipal property, both real and personal, including, but not limited to, the following: (1) Intergovernmental leasing, transfer or disposition of property as provided by chapter 39.33 RCW; (2) disposition of unclaimed property as provided by chapters 63.32 and 63.21 RCW; (3) disposition of local improvement district foreclosures as provided by chapter 35.53 RCW; (4) materials removed from public lands as provided by RCW 79.90.150; (5) purchase of federal surplus property as provided by chapter 39.32 RCW; and (6) land for recreation as provided by *chapter 43.99 RCW. A code city in connection with the acquisition of property shall be subject to provisions relating to tax liens as provided by RCW 84.60.050 and 84.60.070. The general law relating to the damage or destruction of public property of a code city or interferences with the duties of a police or other officer shall relate to code city's properties and officers to the same extent as such laws apply to any class of city, its property or officers.

[1983 c 3 § 72; 1979 ex.s. c 30 § 3; 1967 ex.s. c 119 § 35A.79.010.]

Notes:

***Reviser's note:** Chapter 43.99 RCW was recodified as chapter 79A.25 RCW pursuant to 1999 c 249 § 1601.

Chapter 35A.80 RCW
PUBLIC UTILITIES

Sections

35A.80.010 General laws applicable.
35A.80.020 Electric energy.
35A.80.030 Hydroelectric resources--Separate legal authority--Creation by irrigation districts and cities, towns, or public utility districts.
35A.80.040 Code cities encouraged to provide utility customers with landscaping information and to request voluntary donations for urban forestry.

RCW 35A.80.010 General laws applicable.

A code city may provide utility service within and without its limits and exercise all powers to the extent authorized by general law for any class of city or town. The cost of such improvements may be financed by procedures provided for financing local improvement districts in chapters 35.43 through 35.54 RCW and by revenue and refunding bonds as authorized by chapters 35.41, 35.67 and 35.89 RCW and Title 85 RCW. A code city may protect and operate utility services as authorized by chapters 35.88, 35.91, 35.92, and 35.94 RCW and may acquire and damage property in connection therewith as provided by chapter 8.12 RCW and shall be governed by the regulations of the department of ecology as provided in RCW 90.48.110.

[1988 c 127 § 2; 1967 ex.s. c 119 § 35A.80.010.]

RCW 35A.80.020 Electric energy.

Any code city is authorized to enter into contracts or compacts with any commission or any operating agency or publicly or privately owned utility for the purchase and sale of electric energy or falling waters as provided in RCW 43.52.410 and chapter 35.84 RCW and to exercise any other authority granted to cities as provided in chapter 43.52 RCW.

[1967 ex.s. c 119 § 35A.80.020.]

RCW 35A.80.030 Hydroelectric resources--Separate legal authority--Creation by irrigation districts and cities, towns, or public utility districts.

See RCW 87.03.825 through 87.03.840.

RCW 35A.80.040 Code cities encouraged to provide utility customers with landscaping information and to request voluntary donations for urban forestry.

(1) Code cities providing utility services under this chapter are encouraged to provide information to their customers regarding landscaping that includes tree planting for energy conservation.

(2) Code cities providing utility services under this chapter are encouraged to request voluntary donations from their customers for the purposes of urban forestry. The request may be in the form of a check-off on the billing statement or other form of a request for a voluntary donation.

[1993 c 204 § 3.]

Notes:

Findings--1993 c 204: See note following RCW 35.92.390.

Chapter 35A.81 RCW
PUBLIC TRANSPORTATION

Sections

35A.81.010 Application of general law.

RCW 35A.81.010 Application of general law.

Motor vehicles owned and operated by any code city shall be exempt from the provisions of chapter 81.80 RCW, except where specifically otherwise provided. Urban passenger transportation systems shall receive a refund of the amount of the motor vehicle fuel tax paid on each gallon of motor vehicle fuel used in such systems to the extent authorized by chapter 82.36 RCW. Notwithstanding any provision of the law to the contrary, every urban passenger transportation system as defined in RCW 82.38.080 shall be exempt from the provisions of chapter 82.38 RCW which requires the payment of use fuel taxes.

[1983 c 3 § 73; 1967 ex.s. c 119 § 35A.81.010.]

Chapter 35A.82 RCW
TAXATION--EXCISES

Sections

35A.82.010 State shared excises.
35A.82.020 Licenses and permits--Excises for regulation.
35A.82.025 Authority to regulate massage practitioners--Limitations.
35A.82.030 City and county retail sales excise tax and use tax.
35A.82.040 City and town license fees and taxes on financial institutions.
35A.82.042 City license fees or taxes on certain business activities to be at a single uniform rate.

35A.82.050 License fees or taxes upon certain business activities to be at single uniform rate.
35A.82.055 License fees or taxes on telephone business to be at uniform rate.
35A.82.060 License fees or taxes on telephone business--Imposition on certain gross revenues authorized--Limitations.
35A.82.065 Taxes on network telephone services.
35A.82.070 Taxes on telephone business--Deferral of rate reduction.

RCW 35A.82.010 State shared excises.

A code city shall collect, receive and share in the distribution of state collected and distributed excise taxes to the same extent and manner as general laws relating thereto apply to any class of city or town including, but not limited to, funds distributed to cities under RCW 82.36.020 relating to motor vehicle fuel tax, RCW 82.38.290 relating to use fuel tax, and RCW 82.36.275 and 82.38.080(3).

[1998 c 176 § 2; 1995 c 274 § 4; 1985 c 7 § 102; 1983 c 3 § 74; 1967 ex.s. c 119 § 35A.82.010.]

Notes:

Rules--Findings--Effective date--1998 c 176: See RCW 82.36.800, 82.36.900, and 82.36.901.

RCW 35A.82.020 Licenses and permits--Excises for regulation.

A code city may exercise the authority authorized by general law for any class of city to license and revoke the same for cause, to regulate, make inspections and to impose excises for regulation or revenue in regard to all places and kinds of business, production, commerce, entertainment, exhibition, and upon all occupations, trades and professions and any other lawful activity: PROVIDED, That no license or permit to engage in any such activity or place shall be granted to any who shall not first comply with the general laws of the state.

No such license shall be granted to continue for longer than a period of one year from the date thereof and no license or excise shall be required where the same shall have been preempted by the state, nor where exempted by the state, including, but not limited to, the provisions of RCW 36.71.090 and chapter 73.04 RCW relating to veterans.

[1967 ex.s. c 119 § 35A.82.020.]

RCW 35A.82.025 Authority to regulate massage practitioners--Limitations.

(1) A state licensed massage practitioner seeking a city license to operate a massage business must provide verification of his or her state massage license as provided for in RCW 18.108.030.

(2) The city may charge a licensing or operating fee, but the fee charged a state licensed massage practitioner shall not exceed the licensing or operating fee imposed on similar health care providers, such as physical therapists or occupational therapists, operating within the same city.

(3) A state licensed massage practitioner is not subject to additional licensing

requirements not currently imposed on similar health care providers, such as physical therapists or occupational therapists.

[1991 c 182 § 2.]

Notes:

Reviser's note: 1991 c 182 directed that this section be added to chapter 35A.11 RCW. This section has been codified as a part of chapter 35A.82 RCW, which relates more directly to code city licensing authority.

RCW 35A.82.030 City and county retail sales excise tax and use tax.

See chapter 82.14 RCW.

RCW 35A.82.040 City and town license fees and taxes on financial institutions.

See chapter 82.14A RCW.

RCW 35A.82.042 City license fees or taxes on certain business activities to be at a single uniform rate.

See RCW 35.21.710.

RCW 35A.82.050 License fees or taxes upon certain business activities to be at single uniform rate.

Any code city which imposes a license fee or tax upon business activities consisting of the making of retail sales of tangible personal property which are measured by gross receipts or gross income from such sales, shall impose such tax at a single uniform rate upon all such business activities. This section shall not apply to any business activities subject to the tax imposed by chapter 82.16 RCW. For purposes of this section, the providing to consumers of competitive telephone service, as defined in RCW 82.04.065, shall be deemed to be the retail sale of tangible personal property.

[1983 2nd ex.s. c 3 § 34; 1981 c 144 § 7; 1972 ex.s. c 134 § 7.]

Notes:

Construction--Severability--Effective dates--1983 2nd ex.s. c 3: See notes following RCW 82.04.255.

Intent--Severability--Effective date--1981 c 144: See notes following RCW 82.16.010.

RCW 35A.82.055 License fees or taxes on telephone business to be at uniform rate.

Any code city which imposes a license fee or tax upon the business activity of engaging in the telephone business, as defined in RCW 82.04.065, which is measured by gross receipts or gross income from the business shall impose the tax at a uniform rate on all persons engaged in the telephone business in the code city.

This section does not apply to the providing of competitive telephone service as defined in RCW 82.04.065.

[1983 2nd ex.s. c 3 § 36; 1981 c 144 § 9.]

Notes:

Construction--Severability--Effective dates--1983 2nd ex.s. c 3: See notes following RCW 82.04.255.
Intent--Severability--Effective date--1981 c 144: See notes following RCW 82.16.010.

RCW 35A.82.060 License fees or taxes on telephone business--Imposition on certain gross revenues authorized--Limitations.

Any code city which imposes a license fee or tax upon the business activity of engaging in the telephone business, as defined in RCW 82.04.065, which is measured by gross receipts or gross income may impose the fee or tax, if it desires, on one hundred percent of the total gross revenue derived from intrastate toll telephone services subject to the fee or tax: PROVIDED, That the city shall not impose the fee or tax on that portion of network telephone service, as defined in RCW 82.04.065, which represents charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services, or for access to, or charges for, interstate services, or charges for network telephone service that is purchased for the purpose of resale.

[1989 c 103 § 3; 1986 c 70 § 4; 1983 2nd ex.s. c 3 § 38; 1981 c 144 § 11.]

Notes:

Severability--1989 c 103: See note following RCW 35.21.714.
Effective date--1986 c 70 §§ 1, 2, 4, 5: See note following RCW 35.21.714.
Construction--Severability--Effective dates--1983 2nd ex.s. c 3: See notes following RCW 82.04.255.
Intent--Severability--Effective date--1981 c 144: See notes following RCW 82.16.010.

RCW 35A.82.065 Taxes on network telephone services.

Notwithstanding RCW 35.21.714 or 35A.82.060, any city or town which imposes a tax upon business activities measured by gross receipts or gross income from sales, may impose such tax on that portion of network telephone service, as defined in RCW 82.04.065, which represents charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll services, or charges for network telephone service that is purchased for the purpose of resale. Such tax shall be levied at the same rate as is applicable to other competitive telephone service as defined in RCW 82.04.065.

[1989 c 103 § 4; 1986 c 70 § 5.]

Notes:

Severability--1989 c 103: See note following RCW 35.21.714.
Effective date--1986 c 70 §§ 1, 2, 4, 5: See note following RCW 35.21.714.

RCW 35A.82.070 Taxes on telephone business--Deferral of rate reduction.

A city or town required by RCW 35.21.870(2) to reduce its rate of taxation on telephone

business may defer for one year the required reduction in rates for the year 1987. If the delay in rate reductions authorized by the preceding sentence is inadequate for a code city to offset the impact of revenue reductions arising from the removal of revenues from connecting fees, switching charges, or carrier access charges under the provisions of RCW 35A.82.060, then the legislative body of such code city may reimpose for 1987 the rates that such code city had in effect upon telephone business during 1985. In each succeeding year, the city or town shall reduce the rate by one-tenth of the difference between the tax rate on April 20, 1982, and six percent.

[1986 c 70 § 6.]

Chapter 35A.84 RCW
TAXATION--PROPERTY

Sections

35A.84.010 Procedure and rules relating to ad valorem taxes.
35A.84.020 Assessment for and collection of ad valorem taxes.
35A.84.030 Ex officio collector of code city taxes.

RCW 35A.84.010 Procedure and rules relating to ad valorem taxes.

The taxation of property in code cities shall be governed by general provisions of the law including, but not limited to, the provisions of: (1) Chapter 84.09 RCW, relating to the time for establishment of official boundaries of taxing districts on the first day of March of each year; (2) chapter 84.12 RCW relating to the assessment and taxation of public utilities; (3) chapter 84.16 RCW, relating to the apportionment of taxation on private car companies; (4) chapter 84.20 RCW, relating to the taxation of easements of public utilities; (5) *chapter 84.24 RCW, relating to the reassessment of property; (6) chapter 84.36 RCW, relating to property subject to taxation and exemption therefrom; (7) chapter 84.40 RCW relating to the listing of property for assessment; (8) chapter 84.41 RCW, relating to reevaluation of property; (9) chapter 84.44 RCW, relating to the taxable situs of personalty; (10) chapter 84.48 RCW, relating to the equalization of assessments; (11) chapter 84.52 RCW, relating to the levy of taxes, both regular and excess; (12) chapter 84.56 RCW, relating to the collection of taxes; (13) chapter 84.60 RCW, relating to the lien of taxes and the priority thereof; (14) chapter 84.69 RCW, relating to refunds and claims therefor against the code city; and (15) RCW 41.16.060, relating to taxation for firemen's pension fund.

[1967 ex.s. c 119 § 35A.84.010.]

Notes:

***Reviser's note:** Chapter 84.24 RCW was repealed by 1994 c 124 § 42.

RCW 35A.84.020 Assessment for and collection of ad valorem taxes.

For the purpose of assessment of all property in all code cities, other than code cities having a population of more than twenty thousand inhabitants, the county assessor of the county wherein such code city is situated shall be the ex officio assessor, and as to the code cities having a population of more than twenty thousand inhabitants such county assessor shall perform the duties as provided in *RCW 36.21.020.

[1967 ex.s. c 119 § 35A.84.020.]

Notes:

***Reviser's note:** RCW 36.21.020 was repealed by 1994 c 301 § 57.

RCW 35A.84.030 Ex officio collector of code city taxes.

The treasurer of the county wherein a code city is situated shall be the ex officio collector of such code city's taxes and give bond, and account for the city's funds as provided in chapter 36.29 RCW.

[1967 ex.s. c 119 § 35A.84.030.]

Chapter 35A.88 RCW
HARBORS AND NAVIGATION

Sections

35A.88.010 Discharge of ballast.
35A.88.020 Wharves and landings.
35A.88.030 General laws applicable.

RCW 35A.88.010 Discharge of ballast.

A code city may exercise the powers relating to regulation of discharge of ballast in harbors within or in front of such city as authorized by RCW 88.28.060.

[1967 ex.s. c 119 § 35A.88.010.]

RCW 35A.88.020 Wharves and landings.

A code city shall have and exercise all powers granted by general laws to cities and towns of any class relative to docks and other appurtenances to harbor and shipping, including but not limited to, the provisions of RCW 35.22.280, 35.23.440, *35.24.290, and 88.24.030.

[1967 ex.s. c 119 § 35A.88.020.]

Notes:

***Reviser's note:** RCW 35.24.290 was repealed by 1994 c 81 § 89.

RCW 35A.88.030 General laws applicable.

General laws relating to harbor areas within cities, including but not limited to, chapter 36.08 RCW relating to transfer of territory lying in two or more counties; RCW 79.92.110 relating to disposition of rental from leasehold in the harbor areas; and RCW 88.32.240 and 88.32.250 relating to joint planning by cities and counties shall apply to, benefit and obligate code cities to the same extent as such general laws apply to any class of city.

[1985 c 7 § 103; 1983 c 3 § 75; 1967 ex.s. c 119 § 35A.88.030.]

Chapter 35A.90 RCW
CONSTRUCTION

Sections

35A.90.010 Becoming code city--Rights, actions saved--Continuation of ordinances.
35A.90.020 Invalidity of part of title not to affect remainder.
35A.90.030 Title, chapter, section headings not part of law.
35A.90.040 Effective date--1967 ex.s. c 119.
35A.90.050 Severability--1971 ex.s. c 251.

RCW 35A.90.010 Becoming code city--Rights, actions saved--Continuation of ordinances.

Unless otherwise provided by this title, the election by a city or town to become a code city and to be governed by this title shall not affect any right or liability either in favor of or against such city or town existing at the time, nor any civil or criminal proceeding involving or relating to such city or town; and all rights and property of every description which were vested in such city or town immediately prior to becoming a code city shall continue to be vested in such code city; and all charter provisions, ordinances, resolutions, rules, regulations, or orders lawfully in force in such city or town at the time of becoming a code city, and not inconsistent with or repugnant to this title, shall continue in force in such code city until amended or repealed as provided by law.

[1967 ex.s. c 119 § 35A.90.010.]

RCW 35A.90.020 Invalidity of part of title not to affect remainder.

If any provision, section, or chapter of this title or its application to any person or circumstance is held invalid, the remainder of the provision, section, chapter, or title, or the application thereof to other persons or circumstances is not affected.

[1967 ex.s. c 119 § 35A.90.020.]

RCW 35A.90.030 Title, chapter, section headings not part of law.

Title headings, chapter headings, and section or subsection headings, as used in this title, do not constitute any part of the law.

[1967 ex.s. c 119 § 35A.90.030.]

RCW 35A.90.040 Effective date--1967 ex.s. c 119.

The effective date of this act shall be July 1, 1969.

[1967 ex.s. c 119 § 35A.90.040.]

RCW 35A.90.050 Severability--1971 ex.s. c 251.

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

[1971 ex.s. c 251 § 17.]

Title 36 RCW
COUNTIES

Chapters

36.01 General provisions.
36.04 County boundaries.
36.05 Actions to establish boundaries.
36.08 Transfer of territory where city's harbor lies in two counties.
36.09 New county--Liability for debts.
36.12 Removal of county seats.
36.13 Classification of counties.
36.16 County officers--General.
36.17 Salaries of county officers.
36.18 Fees of county officers.
36.21 County assessor.
36.22 County auditor.
36.23 County clerk.
36.24 County coroner.
36.26 Public defender.
36.27 Prosecuting attorney.
36.28 County sheriff.
36.28A Association of sheriffs and police chiefs.
36.29 County treasurer.
36.32 County commissioners.
36.33 County funds.